[2019] IEHC 773

THE HIGH COURT

[RECORD NO. 2018/449 MCA]

BETWEEN

LAVINIA O'SHEA

APPLICANT

AND

CORU

RESPONDENT

Written judgment of *ex tempore* ruling of Ms. Justice Ní Raifeartaigh delivered on 31st day of July, 2019

Nature of the case

1. This case came before me by way of an application by a social worker pursuant to s. 69 of the Health and Social Care Professionals Act, 2005 to cancel the directions of the Health and Social Care Professionals Council imposing a disciplinary sanction upon her arising from two separate inquiries which had been conducted in respect of two allegations made against her. The first inquiry resulted in a disciplinary sanction of a suspension for 9 months with conditions; the second inquiry imposed a 12 month suspension.

Background Legal Framework

2. The Health and Social Care Professionals Act, 2005 ("the Act of 2005"), as amended, provides for the establishment of the Health and Social Care Professionals Council and of Registration Boards in respect of certain health and social care professions; and for the registration of persons qualifying to use the title of a designated profession as well as the determination of complaints relating to their fitness to practice. The Council, known simply as CORU (which is not an acronym), was established by s. 6 of the Act of 2005. The function of the Social Workers Registration Board is to regulate the health and social care professions. Social work is a designated profession.

3. Section 50 of the Act of 2005 deals with instances of poor professional performance and any failure of a registered social worker (a "registrant") to meet the standards of competence that may reasonably be expected of registrants practising that profession. This section also defines professional misconduct and sets out the role of various relevant entities including: the Preliminary Proceedings Committee (or "PPC"); the Professional Conduct Committee (or "PCC"); the Social Workers Registration Board ("the Board); and the Health and Social Care Professionals Council also known as CORU.

4. Section 3 of the Act of 2005 defines the term "relevant medical disability" as a physical or mental disability (including addiction to alcohol or drugs) which may impair a registrant's ability to practice that profession or a particular aspect thereof.

5. Section 53(1) of the Act of 2005 provides that as soon as practicable after receiving a complaint, the Council *shall* refer the complaint to a PPC for its opinion on whether there is sufficient cause to warrant further action being taken in relation to the complaint. This is subject to certain exceptions, irrelevant to the present case, where the Council itself is required to act immediately to cancel the registration.

6. Section 56(1) states that where the PPC is of the view that there is sufficient cause to warrant further action in relation to a complaint, it must refer it to mediation or a committee of inquiry.

7. Section 58 sets out that a committee of inquiry is obliged to hear and determine the complaint *("shall hear a complaint").* Provision is made as to when the complaint should be heard in public and when in private. Section 59 provides for all the powers, rights and privileges that are vested in the High Court regarding the attendance of witnesses, examining witnesses on oath or otherwise and compelling the production of records; the Court may receive evidence orally, on affidavit or by video live or recorded.

8. Section 63 provides that on completing an inquiry into a complaint, a committee of inquiry shall make a written report on its findings to the Council, specifying the complaint, the evidence and its findings. Upon receiving the report, the Council shall either dismiss the complaint or request the registration board to recommend an appropriate sanction in accordance with s.64.

9. The registration board must then make a recommendation of a sanction within 30 days pursuant to section 65.

10. Section 66 sets out that the Council shall, after considering the committee's report and any recommendation made by the registration board concerned, direct the board to impose on the registrant one or more than one disciplinary sanction specified in the direction.

11. Section 69 states that a registrant affected by a direction to impose a disciplinary sanction (other than admonishment or censure) may apply to the Court for an order cancelling the direction. At the hearing of the application, the Court may consider any evidence adduced or argument made, whether or not adduced or made to a committee of inquiry. After hearing the application, the Court may make any order that it considers appropriate, including an order cancelling, confirming or modifying the direction, and give to the Council or the registration board concerned any direction that the Court considers appropriate. As noted earlier, this is the provision pursuant to which the applicant brings the present application to the Court.

Chronology of the CORU proceedings in this case
The first complaint made against the applicant Ms. O'Shea

12. A complaint was made about the applicant on 15th April, 2015 ("the first complaint" or "complaint number one") by Mr. Gerard Brophy of Tusla to CORU. The complaint was that the applicant had breached the Children First Guidelines by failing (between 1st January, 2015 and 14th September, 2016) to disclose the identity of two people alleged by her to be employees of the HSE or Tusla who had engaged in or were engaging in the abuse of an identified child; which failure was alleged to constitute a failure as a registrant to meet the standards of competency that may reasonably be expected of registrants practicing the profession of social work.

13. The Preliminary Proceedings Committee ("the PPC") considered the complaint of Mr. Gerard Brophy during a meeting on 15th September, 2016 and was of the opinion that there was sufficient cause to warrant further action being taken. The PPC sent it to the Professional Conduct Committee ("the PCC") for an inquiry on the ground of professional misconduct, poor professional performance, and relevant medical disability.

14. A significant amount of correspondence then followed as between the applicant and the respondent's solicitors. By emails dated 22nd and 24th October, 2016, the applicant requested additional documentation for the purposes of the inquiry. By letter dated 27th October, 2016, the respondent responded and indicated that if there was any documentation that the applicant required for her defence, she could apply to the PCC for a summons for the production of records; she was invited to make this application in writing or in person.

First case management hearing

15. On 7th February, 2017, the PCC met for the purposes of a case management hearing during which the application for certain production summonses was due to be dealt with. The applicant failed to appear; in fact, she did not appear at any of the hearings (although she did engage in extensive correspondence with them throughout the process). I should perhaps explain that the case management hearings (of which there were quite a number) were conducted by three Committee members, advised by a legal assessor (invariably a Senior Counsel). Also in attendance on each occasion was a legal team for the Registrar and a representative of CORU. The PCC refused the production summonses sought by applicant but said that she was a at liberty to make a further application if she could demonstrate that the documents sought were relevant and necessary. I have read the transcript of this case management hearing and it is apparent from the transcript that this option was left open to Ms. O'Shea.

Notice of Inquiry in respect of the first complaint

16. A Notice of Inquiry dated 1st June, 2017 relating to the first complaint was served on the applicant by registered post and email on 2nd June, 2017. The Notice of Inquiry is a formal document which sets out the type of hearing that would take place and what allegations would be considered. These were stated to be as follows; -

> "That you, being a registered Social Worker employed by TUSLA:
>
> 1. Between the 1st day of January 2015 and the 14th day of September 2016, both dates inclusive, despite one or more requests from your employer, did breach Children First Guidelines by failing, refusing or neglecting to disclose the identity of two people alleged by you to be employees of the HSE and/or Tusla who had engaged or were engaging in the abuse of an identified child; AND/OR
> 2. Between the 1st day of January 2015 and the 14th day of September 2016, both dates inclusive, despite one or more requests from your employer, did

refuse to disclose the identity of two people alleged by you to be employees of the HSE and/or Tusla who has engaged or were engaging in the abuse of an identified child".

The Notice of Inquiry also contained an allegation that the applicant suffered from a relevant medical disability in the form of a "physical or mental disability (including an addiction to alcohol or drugs" which had impaired the applicant's ability to practice the profession of social work.

17. The applicant was informed by letter dated 16th June, 2017 that the hearing would take place across 6th and 7th of September 2017. On 6th and 7th of July, 2017, the applicant sent emails to the respondent's solicitors indicating that she intended to apply for an adjournment of the inquiry pending the processing of her Garda vetting request form. The email outlined that the Garda vetting had been requested by Tusla and that she would be relying on the outcome as evidence at the hearing to rebut the allegations made against her. By letter dated 11th July, 2017, the solicitors for the respondent replied to the applicant indicating that in circumstances where the allegations for consideration by the PCC did not relate to Garda vetting, the respondent would be objecting to any application for an adjournment. The applicant responded by email on 11th July, 2017 stating that she would not attend the hearing unless the inquiry was adjourned.

Second case management hearing

18. On 26th July, 2017, the PCC held a second case management hearing. Again, the applicant did not attend the hearing. The PCC considered the application for an adjournment but ultimately deferred their decision on this issue to a future meeting.

Third case management hearing

19. On 16th August, 2017, the PCC met again for another case management hearing to consider the applicant's request to have the hearing adjourned. It considered the correspondence which had been exchanged between the applicant and the respondent since the second case management hearing. The PCC refused the adjournment and decided that the inquiry should proceed as scheduled on 6th and 7th of September 2017.

Fourth case management hearing

20. On 31st August, 2017, the PCC held another case management hearing. On this occasion, counsel for the respondent applied for an adjournment of the inquiry in circumstances where the applicant had made complaints to the Medical Council in respect of the consultant psychiatrist which the Council had intended to brief in respect of the allegation of relevant medical disability. I will have more to say about this issue below.

The Second Complaint in respect of the applicant Ms. O'Shea

21. On 29th September, 2017, the Registrar of the Social Workers Registration Board, Ms. Ginny Hanrahan, made a formal complaint ("the second complaint" or "complaint number

two") to the PPC, stating that the applicant had failed to cooperate with the preparation for the inquiry before the PCC and actively frustrated the Registrar in presenting the allegation of relevant medical disability. This arose in circumstances where three separate consultants were briefed to act, but Ms. O'Shea had made a complaint in respect of each of them (Ms. Brenda Wright, Mr. Paul O'Connell and Mr. Ciaran Corcoran) to the Medical Council despite none of the psychiatrists ever having met her or written a report about her. The effect of her making these complaints was that each of the consultant psychiatrists considered themselves disqualified from acting further in relation to the matter.

22. The PPC referred this second complaint to the PCC on 23rd November, 2017, having considered the documentation in relation to it and having addressed its mind to the test of whether there was sufficient cause to warrant further action being taken in accordance with the legislation.

23. A Notice of Inquiry of 11th December, 2017 regarding the second complaint was served on the applicant by registered post, file share and by email on 15th December, 2017. By letter dated 11th January, 2018, the applicant was informed that the hearing in respect of the second complaint would take place on 26th-28th February, 2018.

Fifth case management hearing

24. A fifth case management hearing was conducted by the PCC on 25th January, 2018. It was decided that the inquiry in respect of the first complaint would proceed in public with appropriate anonymising and that the second complaint would proceed in public without anonymising. The applicant did not attend this hearing. By email dated 26th January, 2018, the applicant requested that the inquiry be postponed until May 2018.

Sixth case management hearing

25. The PCC held a further case management hearing on 12th February, 2018. The applicant did not attend this hearing. The hearing dates for the inquiry were fixed for 5th-7th June 2018. The application was notified of these dates by letter dated 21st February, 2018.

Report of Dr. Parrott

26. By the same letter of 21st February, 2018, the applicant was invited to attend an appointment with Dr. Jane Parrott, an independent medical consultant based in the United Kingdom. The applicant responded by email dated 23rd February, 2018 in which she stated that the "CORU hearing is essentially a kangaroo court" and that having considered her options, she would "not engage any further with the process, until it goes to the High Court as the principles of natural justice and a fair trial will not apply in this instance". The email further stated: "[d]on't bother contacting me until after 'kangaroo court'".

27. Despite not having met with the applicant, Dr. Parrott ultimately prepared a report in respect of the relevant medical disability based on a review of all the documentation provided to her. On the basis of this paper review, she reached the conclusion that she

did “not consider that current evidence supports it being probable that Ms. O’Shea suffers from a relevant medical disability which would impair her ability to practice her profession”. In light of conclusion reached by Dr. Parrott, the allegation of relevant medical disability was not pursued at the inquiry.

Application for privacy by the applicant Ms. O’Shea

28. By emails dated 28th May, 2018 and 31st May, 2018, the applicant for the first time requested that the inquiries proceed in private. This was a change of position on her part, as her previous desire had been for the inquiry to proceed in public, as expressed in a number of emails.

Seventh case management hearing

29. On 5th June, 2018, the PCC met for a final case management hearing before the first inquiry. At this hearing, it was decided that both inquiries would take place in private.

The first inquiry regarding the complaint of Mr. Brophy (complaint no.1)

30. The first inquiry regarding the complaint of Mr. Gerard Brophy commenced in private on 6th June, 2018. Witnesses gave evidence. The applicant was not in attendance nor was she represented. The inquiry was adjourned until 6th July, 2018 to enable the applicant to make and send in written submissions.

31. On 6th July, 2018, the hearing of the first inquiry resumed and the PCC considered the submission which had been sent in Ms. O’Shea before reaching its decision. There were two allegations within the first complaint. The PCC found that the second allegation had been proven as to fact and further, that the facts found amounted to professional misconduct. The PCC did not make any finding in relation to the first allegation as it considered it to duplicate the second allegation.

32. The PCC reserved the receipt of submissions and making of a recommendation as to the appropriate sanction to a later date.

The second inquiry regarding the complaint of Ms. Ginny Hanrahan (complaint no.2)

33. The second inquiry (in relation to the obstruction of the Committee’s investigation of Ms. O’Shea’s mental capacity) also commenced in private before the PCC on 6th July, 2018. Once again, witnesses gave evidence, but the applicant was not in attendance nor was she represented. The inquiry was adjourned until 24th July, 2018.

34. On 24th July, 2018, the PCC was provided with additional correspondence received from the applicant since the previous hearing day, which it considered. It then gave its decision that the allegation was proven as to fact and further, that it amounted to professional misconduct. The PCC found that the applicant was aware of her obligations to cooperate with the inquiry into her professional conduct; that this issue was within the inquiry; that if the medical investigation found that she did not have any medical disability, then the

allegation would not form part of the inquiry any more (which is what ultimately happened); and was satisfied beyond a reasonable doubt that "this was a singular failure to cooperate with an investigation and/or inquiry into her professional conduct" such that it was a breach of regulations 20(b) (duty to cooperate) and 18(a) *(likely to damage public's confidence in her or the profession of social work)* of the Code of Professional Conduct and Ethics for Social Workers and constituted professional misconduct.

35. The PCC then reserved hearing submissions and making a recommendation as to an appropriate sanction until 30th July, 2018. By letter dated 24th July, 2018, the solicitors for the Registrar wrote to the applicant specifically inviting her to attend. The letter stated:

> "…please note that the Committee, in the course of providing its determination today, emphasised the benefit to the Committee of you attending before the Professional Conduct Committee on 30 July next, notwithstanding that you have declined to attend before the Committee to date. This will be an opportunity for you to address the Committee on the issue of sanction before any recommendations are made."

The PCC sanction recommendation hearing

36. On 30th July, 2018, the PCC reconvened for the purpose of hearing submissions on recommendation as to a sanction. This court has had the benefit of reading the transcript of the proceedings on that occasion (as well as all the other occasions). The attendees at the hearing included the three-person Committee itself; Ms. Patricia Dillon SC as the legal assessor to the Committee; Mr. Ronan Kennedy SC on behalf the Registrar; and a representative of CORU. The applicant was not present nor was she represented at the hearing. However, her email response to the request for her to attend the hearing was read aloud to the Committee. The Sanction Guidance Notes of January 2015 were then brought to the attention of the Committee and it was emphasised that the purpose of the sanction was the protection of the public interest (as opposed to punishing the registrant). The principle of proportionality was highlighted, and regard was had to mitigating and/or aggravating factors. Ms. Dillon SC repeatedly emphasised that the protection of the public was the primary consideration and she also referred to the case of *Dowling v. Bord Altranais* [2017] IEHC 641. Ms. Dillon SC went so far as to speculate as to what the applicant might have said if she was present and urged this on the committee members in mitigation of sanction. Having read the transcript, I consider this to be a very detailed hearing with full attention being paid to all the factors identified in both the *Dowling* judgment and the Sanction Guidance Notes as regards the selection of sanction.

37. A copy of the transcript was sent to the applicant together with a cover letter on 1st August, 2018.

38. On 7th August, 2018, the applicant emailed the solicitors for the Registrar outlining her concerns with the inquiry process. On the same day, the PCC signed reports setting out its recommendation as to sanction which were then sent to the Council. Regarding the

first inquiry, the PCC recommended that she be censured and that she undertake a specific re-training course. Regarding the second inquiry, it was recommended that her registration be cancelled.

Recommendation as to sanction by Social Workers Registration Board

39. In accordance with s. 64(1)(b) of the Act of 2005, the PCC requested the Social Workers Registration Board to recommend one or more sanctions to be imposed on the applicant. The Board held a meeting on 23rd August, 2018. The applicant was invited to attend and to make submissions. Again, she chose not to attend but did submit certain matters by email. The Board recommended cancellation of her registration in respect of both inquiries.

Decision of Council of CORU

40. In accordance with s. 66(1) of the Act of 2005, the Council held a hearing on 25th October, 2018. By letter dated 28th September, 2019, the applicant was invited to attend, and she was given an opportunity to submit written submissions in advance of the hearing. The applicant did not attend nor was she represented. In respect of the findings of the PCC in the first inquiry, the Council decided that the following sanctions be imposed on the applicant:

    i. Suspension for a period of 9 months
    ii. Implementation of the following conditions:

        (a) That she complete a specific retraining course, to be approved by the CEO, directed at compliance with the professional obligations of a social worker who is a designated person for the purpose of Children First and childcare legislation;
        (b) That the specific course be undertaken at the latest by the end of one month from the completion of the period of suspension;
        (c) That the CEO be notified of the fact of completion of the approved course within 14 days of completion;
        (d) That she does not work in front line duties until such time as she has completed the approved course;
        (e) That she notify any employer of the attachment of the condition until such time as she has complied with it.

41. In respect of the findings of the PCC in the second inquiry, the Council decided that the applicant be suspended for 12 months. The Council sent notification of the decision to the applicant by letter dated 2nd November, 2018 and informed her of her right to appeal to the High Court.

42. Thus, the ultimate sanction imposed by CORU was less severe than the cancellation sanction which had been recommended by the PCC and by the Board.

The applicant's overall position in these proceedings

43. The applicant represented herself in the proceedings before me and submitted that the whole CORU investigation and decision-making process was flawed and biased. Her position was perhaps summed up in her own description in correspondence with CORU itself, when she stated her opinion that it was a "kangaroo court". She said that there was a complicated background to the events which had led to the allegations being made against her, which the PCC had failed to consider. This complicated background included (on her evidence) the following matters:

- A campaign of intimidation against her and her niece by neighbours, which had gone on for years; this included matters, she said, as serious as an attempted petrol-bombing of her home;
- The making of complaints by her to An Garda Siochana;
- Her raising of concerns about her niece (then a child), who she said was being intimidated, and who ultimately made two suicide attempts in late 2013 and early 2014;
- Letters she had written to various schools and a creche;
- Certain District Court proceedings (apparently the Gardaí had charged her with certain offences, which were dropped upon her undertaking not to make any more statements to Gardaí);
- Various meetings with her employers (or agents of them/line managers); these were described by her in considerable detail and repeatedly during the course of her submission to the Court;
- An investigation by Ms. Ceile O'Callaghan which, she alleged, was entirely flawed because it failed to have proper regard to the definition of emotional abuse within the Children First Guidelines;
- Issues relating to occupational health interactions, a letter of Dr. Cahill dated the 17th June, 2014 setting out his conclusions with regard to her as of that time;
- Her experience of the grievance procedure (including an appeal to a Rights Commissioner); and
- Data protection requests made by her, on foot of which she received documentation relating to some of the above matters.

44. It seems that the applicant's position is that every person she interacted with during the above series of events was biased against her. She maintained that she was never properly listened to; that she was disbelieved from the outset and on an ongoing basis; and that she was unfairly characterised as being potentially mentally ill instead of raising genuine and serious concerns. She submitted that she would have needed numerous additional documents to properly show and explain to the PCC this complicated history,

and that a full understanding of the history would show that she had been victimised and disbelieved and would also explain why she had not wanted to give the names of the people in respect of whom she herself had made allegations of intimidation/harassment of her niece.

45. The applicant also submitted that it was unfair that she was not legally represented, stating that she had contacted upwards of 20 solicitors, but that all of them had refused to take her case.

46. When pressed by the Court as to who precisely she considered to be biased against her and whether this included people within the CORU disciplinary process, she responded by saying that "everybody" within the process was biased against her and that it would have been pointless to engage with the disciplinary process in person because they were not going to listen to her in any event.

Decision

47. From a legal point of view, the applicant's approach can be characterised in the following manner:

(1) She did not appear to understand the distinction between the actions of her employer, other grievance processes, and the disciplinary process of CORU. Many of her complaints are grievances against her employer and simply do not fall within the parameters of this s. 69 statutory process.

(2) She appeared not to appreciate the parameters of the statutory framework concerning complaints and how CORU must deal with them. For example, one of her complaints was that the respondent ought not to have accepted the complaint from TUSLA; this fails to appreciate that it has a statutory duty to consider all complaints.

(3) She failed to adequately distinguish between the specific allegations against her in the disciplinary process and the overall history of events. While I appreciate that she is a lay person, if she had attended in person before the PCC, she could have explained her position in layperson's term. It is clear that considerable efforts were being made by the PCC and its legal assessor to understand her position as best they could from her correspondence, and even if she did not have legal skills, she would have had no difficulty making herself understood if she had attended at the hearings.

48. From the transcripts of the CORU hearings, which were exhibited before the Court, it is clear that:

- The decision-making body had no connection with the applicant or anyone else involved in the factual matrix in question.

- The applicant was repeatedly invited to appear in person at the PCC hearings but refused to do so.

- Careful regard was given by the PCC to her correspondence at every stage of the process.

- Serious efforts were made by the PCC to consider matters from her point of view; but of course there is a limit to what a body can do in that regard if a person does not appear in person. A person is not entitled to absent themselves from a process and then complain that their voice was not properly represented during that process. To take one example, the applicant complained about the 'soft questioning' of witnesses before the Committee. If a person chooses to absent themselves and leave the questioning of witnesses to others, they cannot legitimately complain after the event about the adequacy of the questioning.

- At the case management meeting on 7th February, 2017 (at which the production summons request was dealt with) the Committee applied the appropriate ('relevant and necessary') test as best they could on the basis of the information before them, and although they refused the order sought, they indicated that the applicant could renew her application at a future date if she could show that the documents were relevant or necessary. The applicant never took up this invitation.

- At each decision-making point during the process, the PPC paused to give the applicant an opportunity to make submissions; and it is clear from the transcript that all the submissions made by her were considered.

49. From my reading of the transcripts, there is no evidence whatsoever of bias against her on the part of any of the decision-makers within the disciplinary process. On the contrary, the proceedings were conducted with formality, courtesy and considerable care. The PCC was advised by a legal assessor at every turn, all of them eminent Senior Counsel, one of whom is now the Attorney General.

50. Regarding the applicant's complaint about the absence of legal representation, this is a matter in respect of which the Court has no power to provide a remedy. The applicant was entitled to be represented if she could find a lawyer; but no one, including the Court, can compel any lawyer to take her on as a client if he or she does not wish to do so. Further, there is no right to legal aid, statutory or constitutional, in such cases. Indeed, the right to legal aid is extremely limited even with regard to cases heard in the courts, never mind cases before disciplinary bodies. I would also observe that the applicant was in fact well able to make her points in court in a clear and emphatic manner and at some length; even though lacking legal expertise, she would have had no difficulty making her voice heard before the decision-making bodies if she had actually attended in person. She also engaged in extensive correspondence in which the same points made to the Court now were made by her to the Committee with considerable force.

51. Quite apart from the *procedures* employed during the process (dealt with above), I have had regard to the actual *decisions* taken in the course of the disciplinary process, although it is not clear to me to what extent the merits of decisions should be under review in the course of the s. 69 procedure. Even if, in ease of the applicant, I make the

assumption that the Court is entitled to engage in a full merits-based review, I am not persuaded that there was anything wrong with the conclusions reached by any of the decision-making bodies engaged in the process. In the first instance, there was nothing irrational about the PCC decision on the production of documents. They knew that the applicant had received a lot of documentation as a result of her Data Protection requests, and she has failed to identify to the Court any particular document or set of documents which she did not get through Data Protection requests and which were relevant to the disciplinary process. Further, she has failed to satisfy the Court more generally that the inquiry was deprived of any particular document or set of documents which were relevant and necessary to the disciplinary process.

52. Secondly, regarding the PCC's conclusion in respect of the second complaint (in respect of failing to provide the name of person(s) who she said was an employee of HSE/Tusla who was intimidating her niece), I would agree with the PCC that this is serious matter. Although the applicant's argument before me was that she had good reason for not giving the name in question, namely the acrimonious history of the relationship between her and the various people/neighbours, her 'defence' in this regard was in fact something which was considered by the PCC; however, they deemed it not to constitute sufficient justification for her failure (over a considerable period of time) to furnish the names in question. I see no reason to criticise the PCC's conclusion. I agree with the PCC that it is a very serious matter to suggest that certain employees of a body entrusted with safeguarding children were engaging in the intimidation of a child, and then to fail to provide their names, which might have enabled the body to investigate the allegation and take appropriate action.

53. Thirdly, since there was no finding of medical disability (and indeed the allegation was not pursued after the report of Dr. Parrott was drawn up), it is difficult to see what complaint the applicant has in this area. One version of her complaint appears to be that the allegation should never have been made against her but, as already noted, there is a statutory duty to investigate complaints made, and the PPC obviously has no control over the making of a complaint or raising of a concern. Or it may be that the essence of her complaint here is that the issue of whether she was under a medical disability should not have been referred on from the PPC to the PCC. In this regard, the applicant repeatedly said that Dr. Cahill had found no evidence of mental illness. I have looked at the report of Dr. Cahill, and while it is true that Dr. Cahill noted in relation to a telephone call on 17th June, 2014 that there was no evidence of psychosis, he added "*I would welcome any additional information you have to support any future referral for mental health assessment*" and said, "*Follow up; suggest review at your discretion as needed*". Thus, Dr. Cahill was leaving the door open to a follow-up appointment if Ms. O'Shea's employer continued to have concerns. Her employer did in fact continue to have concerns in this regard. She refused to comply with suggestions for further assessment, and when the PPC itself asked her to go to an independent occupational health assessment, she again refused to co-operate. Against this background, the Committee decided that, in circumstances where her employer was concerned that she might have an underlying health issue and she had refused to submit to assessment, this part of the complaint

warranted further investigation. I do not see that this was in any way unreasonable. If a person about whom a concern has been raised refuses to co-operate with the very process which might allay the concern, they have only themselves to blame if the concerns continue to subsist.

54. Fourthly, as regards the conclusion that the applicant's complaints to the Medical Council about three separate consultant psychiatrists in the circumstances described amounted to professional misconduct, I am of the view that this conclusion was well within the discretion of decision-making body. Indeed, in my opinion it is very worrying and somewhat shocking that a person who continues to serve in the profession of social worker would take this attitude to the inquiry process being conducted by their own disciplinary body and that she would make complaints to the professional bodies about three other professionals in the circumstances described above.

55. Fifthly and finally, it seems to me that the ultimate sanction itself was proportionate. I have already mentioned that the original recommendation was for cancellation of her registration but that the Council opted for the lesser sanctions described above. In this regard, she was fortunate, and I see no reason to take the view that the sanction was disproportionately severe having regard to her conduct as found by the PCC.

56. In all of the circumstances, my conclusion is to uphold the decision of CORU.