

## Notice of Decision

<b>Registrant</b>	Robert Fairley
<b>Registration number</b>	4044494
<b>Part of Register</b>	Support Workers in a Care Home Service for Adults
<b>Town of employment</b>	Wishaw
<b>Sanction</b>	Removal
<b>Date of effect</b>	25 May 2023

This is notice of a decision of the Scottish Social Services Council (SSSC).

## Our decision

We decided:

1. that based on the facts found your fitness to practise is impaired, as defined in Rule 2 of Part 1 of the Scottish Social Services Council (Fitness to Practise) Rules 2016 (the Rules) as amended by the Fitness to Practise (Amendment) Rules 2017 and the Fitness to Practise (Amendment) Rules 2021
2. to impose a Removal Order removing your registration from the part of the SSSC Register for Support Workers in a Care Home Service for Adults.

## Findings of fact

We decided there is evidence that:

1. on or around 6 September 2021, while employed as a Care Assistant by (Information redacted) at (Information redacted) in Wishaw, and during the course of your employment, you did:
  - a. shout at resident AA, "you're selfish, you're keeping everyone up", or words to that effect
  - b. point your finger at AA
  - c. when AA asked to go to the bathroom, refuse to take her

- d. say to AA, “no you’re at it you've just shat the bed 10 minutes ago so you don't need the toilet”, or words to that effect
- e. say to your colleague BB, in reference to AA, “I’ve had enough, I’m fucking sick of her”, or words to that effect

and your fitness to practise is impaired because of your misconduct as set out above.

### **Reasons for finding your fitness to practise has been impaired**

1. Your fitness to practise is impaired because:

- a. The behaviour is very serious. Social service workers are expected to communicate with service users in an appropriate way and must not abuse or harm people who use services. You shouted at resident AA, who was living with dementia, and spoke to her in an aggressive, crude and disrespectful manner. In doing so, you were abusive and failed to communicate appropriately.
- b. You refused to take AA to the bathroom when she requested. In doing so, you failed to respect AA’s wishes and provide an acceptable level of care. In addition, you spoke to your colleague about AA in a derogatory manner, which is indicative of a lack of respect and compassion for AA and a disregard for her dignity.
- c. Your behaviour is indicative of an attitudinal issue, which would prove more difficult to remedy and is incompatible with working in the social services sector. In addition, abusive behaviour falls under Paragraph 10 of the Decisions Guidance in which more serious behaviour may be required. Your behaviour violates fundamental values of the profession.
- d. You have not demonstrated insight, regret or remorse. This offers no reassurance that the behaviour will not be repeated. The risk of repetition has been assessed as moderate. Were your behaviour to be repeated, vulnerable service users would be put at risk of psychological harm.
- e. The reputation of the SSSC and the sector would be put at risk if the SSSC as a regulator did not mark this behaviour as unacceptable.

2. You have failed to follow parts 1.2, 1.4, 2.2, 5.1 and 5.8 of the SSSC Code of Practice for Social Service Workers in force from 1 November 2016.

### **Sanction**

After referring to our Decisions Guidance, we decided to impose a Removal Order, removing your registration from the SSSC Register.

### **Reasons for the sanction**

When making our decision we considered the following factors:

#### Factors of concern

- The conduct took place in the workplace and had a direct impact on AA.
- Your behaviour was an abuse of the trust placed in you.
- The behaviour caused or had the potential to cause AA emotional harm.
- There is a high risk of harm in terms of public interest and damage to the profession.

#### Factors in your favour

- You had been employed by the care home since September 2016 and had not been the subject of any previous concerns.
- You have co-operated with the SSSC and provided your comments.

### **Reasons why other sanctions are not appropriate**

- A warning would not be appropriate as the behaviour is extremely serious. You have not demonstrated insight, regret or remorse. A warning would give no protection to service users or the public.
- A condition would not be appropriate because the behaviour indicates an underlying values issue. There are no identifiable conditions which would adequately address this and accordingly this sanction is not considered appropriate to protect against the risks posed by you. In addition, you are not currently working in the sector.
- A warning plus conditions would not be appropriate due to the reasons outlined above.

- A Suspension Order would not be appropriate as your behaviour is fundamentally incompatible with continuing registration. A suspension would not offer any protection, in the long-term, against the risks you are deemed to pose.
- For the reasons outlined above a Suspension Order plus conditions would not be appropriate.
- The SSSC considers a Removal Order is the most appropriate sanction as it is both necessary and justified in the public interest and to maintain the continuing trust and confidence in the social service profession and the SSSC as the regulator of the profession.

### **Documents we have referred to**

- The Regulation of Care (Scotland) Act 2001
- Scottish Social Services Council (Fitness to Practise) Rules 2016 (the Rules) as amended by the Fitness to Practise (Amendment) Rules 2017 and the Fitness to Practise (Amendment) Rules 2021.
- Decisions Guidance for Fitness to Practise Panels and Scottish Social Service Council staff.

### **Imposing the Removal**

Under the Scottish Social Services Council (Fitness to Practise) Rules 2016 (the Rules) as amended by the Fitness to Practise (Amendment) Rules 2017 and the Fitness to Practise (Amendment) Rules 2021, we can impose a Removal Order if you do not ask for a hearing before a Fitness to Practise Panel.

We wrote to you on 24 March 2023 to tell you we wanted to place a Removal Order on your registration. After explaining the consequences and recommending you take legal advice, you have not asked for the case to be referred to a Fitness to Practise Panel. We are therefore permitted by the Rules to impose this Removal Order.

### **Date of effect**

The notice comes into effect on 25 May 2023.