

**Outcome of Fitness to Practise Panel impairment hearing held on
Monday 11, Tuesday 12, Wednesday 13, Thursday 14 and Friday 15
March 2019**

Name	Stephen Allan
Registration number	3041460
Part of Register	Managers of a Care Home Service for Adults
Current or most recent town of employment	Falkirk
Sanction	Removal
Date of effect	6 April 2019

The Scottish Social Services Council (SSSC) Fitness to Practise Panel held on Monday 11, Tuesday 12, Wednesday 13, Thursday 14 and Friday 15 March 2019.

The decision of the Fitness to Practise Panel is below followed by the allegation.

The following allegation and decision may refer to the Scottish Social Services Council as 'the Council' or 'the SSSC'.

Decision

This is a Notice of the decision made by the Fitness to Practise Panel (the Panel) of the Scottish Social Services Council (the SSSC) which met on Monday 11, Tuesday 12, Wednesday 13, Thursday 14 and Friday 15 March 2019 at Compass House, 11 Riverside Drive, Dundee, DD1 4NY.

At the hearing, the Panel decided that some of the allegations against you were proved, that your fitness to practise is impaired, and to impose a Removal Order on your Registration in the part of the Register for Managers of a Care Home Service for Adults in terms of Rule 20.2.g of the Scottish Social Services Council (Fitness to Practise) Rules 2016 as amended by the Scottish Social Services Council (Fitness to Practise) (Amendment) Rules 2017 (the Rules).

Allegations

The allegations against you at the hearing were that between on or around 24 September 2016 and on or around 14 November 2016, while employed as a Locality Manager by Living Ambitions Ltd, at Hollybank Care Home, and during the course of that employment, you did:

- a. between on or around 29 September 2016 and 14 November 2016 fail to follow Adult Support and Protection Procedures in that you did:
 - i. fail to notify the Police as soon as you were made aware that £119.89 was missing from resident AA
 - ii. fail to immediately notify the Local Authority via an AP1 form when you were made aware that £119.89 was missing from resident AA
 - iii. fail to notify your regional director and quality manager as soon as you were made aware that £119.89 was missing from resident AA
- b. on date unknown withdraw £119.89 from the Hollybank Petty Cash account and credit this to resident AA without the authorisation of your regional director
- c. on or around 14 November 2016 give to Care Inspector XX an AP1 form in which you stated that you had contacted the Police as per a.i above on 30 September 2016 when you had not
- d. by your actions at allegation c., act dishonestly in that you deliberately sought to mislead XX into believing that you had contacted the police when you had not
- e. fail to appropriately respond to Adult Support and Protection concerns that your colleagues reported to you in that you did:
 - i. between on or around 11 October 2016 and on or around 14 November 2016 fail to report to the Police allegations that Support Worker ZZ had hit resident BB causing bruising to BB's arms
 - ii. between on or around 11 October 2016 and on or around 14 November 2016 fail to report to the Local Authority via an AP1 form allegations that Support Worker ZZ had hit resident BB causing bruising to BB's arms
- f. between on or around 14 November 2016 and on or around 16 November 2016 state to Care Inspector XX that you had submitted an AP1 form as per e.ii above when you had not in fact done this
- g. by your actions at allegation f., act dishonestly in that you deliberately sought to mislead XX
- h. on or around 13 October 2016 alter an Incident/Accident Report Form that had been completed by colleague YY for resident BB in relation to the incident referred to in allegation e. without making it clear that you had done so, in that you did:
 - i. change the date of the incident from "11.10.16" to "13.10.16"
 - ii. change the phrase "several bruises on the upper portion of his arms" to the phrase "bruises on the upper portion of both his arms"

- iii. change the phrase "sometimes (staff) ZZ hits me" to the phrase "sometimes (staff) ZZ and (s/u) CC hit me"
 - iv. insert the phrase "when we are messing about"
 - v. delete the sentence "He pointed to his bruises and said again that (service user) CC and (staff) ZZ had done this"
 - vi. change the wording "He again stated that staff ZZ had caused the bruises by 'hitting and play fighting' and that service user CC had also joined in" to the wording "He again stated that staff ZZ and s/u CC had caused the bruises by 'play fighting' "
 - vii. change the wording "YY then contacted line manager SA for advice" to "YY then contacted line manager SA for advice and support"
 - viii. change the wording "Inappropriate physical contact between service users and staff" to "Play fighting between staff and service users"
- i. between on or around 14 November 2016 and on or around 16 November 2016 present the Incident/Accident Report Form in the name of YY for resident BB that you had altered as described in h. above to Care Inspector XX
- j. your action at i. above was dishonest in that you deliberately sought to mislead XX into believing the altered Incident/Accident Form had been completed by YY
- k. between on or around 16 October 2016 and on or around 14 November 2016 fail to appropriately respond to Adult Support and Protection concerns that your colleagues reported to you in that you did:
- i. fail to report to the Police the further allegations of which you were made aware that Support Worker ZZ had physically and verbally abused BB
 - ii. fail to report to the local authority the further allegations of which you were made aware that Support Worker ZZ had physically and verbally abused BB

and in light of the above your fitness to practise is impaired because of your misconduct as set out in all of the allegations.

Findings of fact

Admission of hearsay evidence

At the conclusion of the oral and documentary evidence for the SSSC, the Presenter made an application for the admission of hearsay evidence.

SSSC's submissions

The Presenter submitted that the admission of hearsay evidence was a fact specific task and was subject to the common law requirements of relevance and

fairness. This was reflected in the Rules. An essential aspect of fairness was your right to cross-examine your accuser. This was in terms of Article 6 of the European Convention on Human Rights (the Convention) and the common law.

That said, the Presenter submitted that *Bonhoeffer v General Medical Council* [2011] EWHC 927 (Admin) confirmed that there was no absolute right under the Convention or at common law to cross-examine an accuser.

To assess what was fair in a specific case, the Presenter submitted that the Panel required to consider the nature and subject matter of the proceedings (*Bonhoeffer*).

The Presenter submitted that the following were relevant factors to assist the Panel in determining whether hearsay evidence should be admitted:

- Less weight could be attributed to hearsay evidence admitted because it was not subject to cross-examination (*Thorneycroft v Nursing and Midwifery Council* [2014] EWHC 1565 (Admin), paragraph 56).
- The fact that evidence was meant to be cross-examined as a starting point was there to protect a Worker's interests. However, the admissibility of the evidence required to be considered first. The weight to be attached to evidence admitted should be dealt with separately (*El Karout v Nursing and Midwifery Council* [2019] EWHC 28 (Admin), paragraph 128).
- The context in which evidence was obtained was very important when determining admissibility. The signed statements taken by the SSSC (F127–F142) were noted directly by the SSSC in its role as the professional regulator and in the course of its investigation. It was routinely explained to witnesses who provide such statements that the evidence can form part of a fitness to practise hearing and be disclosed to a Worker. This was different from the circumstances in the *El Karout* case (paragraph 130), where the context of an informal chat was criticised.
- The quality of the hearsay evidence was also relevant. This was in contrast to the circumstances in the *El Karout* case (paragraph 129). The SSSC statements had been returned signed and dated. The witnesses had had the opportunity to review the information and had confirmed its accuracy and that it was reflective of their position. This bolstered the quality of the hearsay evidence.
- Whether a good or valid reason existed for the non-attendance of a witness was relevant. That said, the absence of a good reason did not automatically result in the exclusion of that evidence. The late papers which were admitted included reasons for non-attendance. The reasons could be useful to determining the weight to be attached to the admitted evidence. Even in the absence of a good reason, this did not automatically result in the hearsay evidence being excluded (*Thorneycroft*).
- In relation to particular witnesses who had not attended the hearing, with VV and UU, their evidence was generally supportive of the allegations. There was supportive information in the employer's investigation report which broadly corroborated the content of the witness statements of both

VV and UU. The author of that report, TT, had not attended the hearing to give oral evidence, although his signed statement was in the hearing bundle. YY's evidence was bolstered by XX's evidence and supported by the documentary evidence, especially in relation to matters involving BB. SS's witness statement was more supportive of your position, in that it could be viewed as undermining the SSSC's case. There was no detriment to you in that statement being admitted because there was nothing in the statement that would establish any of the allegations. In relation to WW's notes, this could be viewed as hearsay evidence. However, the investigation was a joint one with XX. XX was able to speak to that investigation and the documents, including the contemporaneous notifications XX received through the Care Inspectorate's alert system.

- The seriousness of the allegations against a Worker was important. *Bonhoeffer* suggested that where the allegations were serious, especially if it involved a criminal offence and, if proved, would likely have grave adverse effects, there needed to be compelling reason to prevent cross-examination (paragraph 84). That said, it was submitted that the circumstances in *Bonhoeffer* were markedly different, in that they involved the sole source of evidence where a decision had been made not to call the witness in person. The SSSC had not made a decision not to call the witnesses. It was submitted that the SSSC had made reasonable efforts to secure the attendance of witnesses. The SSSC could not compel witnesses to attend. XX spoke directly to a number of the parts of the allegations. The SSSC was not looking to solely rely on hearsay evidence in the bundle as the sole or decisive evidence in relation to any of the allegations.
- *White v NMC* [2014] EWHC 520 (Admin) dealt with anonymous evidence being admitted. That case involved the admission of medical records when the identity of the author was not apparent. The case confirmed that where hearsay evidence was anonymous, it could be admitted. That was not, however, the situation here.
- In your SSSC Personal Statement Form and the Statement of Facts for the Parties, you accepted a number of the allegations or the component parts albeit perhaps not the intention. It was submitted that the Panel should be less likely to refuse to admit evidence where it was ancillary to other evidence or not challenged or disputed (*Razzaq v Financial Compensation Authority* [2014] EWCA Civ 770). In relation to the factual circumstances of matters relating to AA and BB, there was a lot that you did not dispute.
- The fact that you had not attended the hearing and were not here to cross-examine was not the correct point to start from. Under reference to *Thorneycroft*, it was submitted that even although you were not in attendance, the correct tests and standards needed to be applied. The Presenter and the Panel could test the evidence too. The testing should not be diluted due to your absence.
- In relation to the seven factors set out at paragraph 56 of *Thorneycroft*:
 - The evidence which was sought to be admitted was not the sole or decisive evidence.
 - You seemed to accept various component parts of the allegations.

- In relation to reasons witnesses had to fabricate allegations, the late papers included a response to your suggestion that certain employees had been dismissed, which was that there had been no dismissal.
- The seriousness of the allegations had been addressed under reference to the *Bonhoeffer* case.
- The late papers dealt with the reasons for the non-attendance of witnesses. Some of the reasons, on face of it, were perhaps more acceptable than others. This would be addressed when making submissions on weight, in the event of the evidence being admitted.
- The SSSC had taken reasonable steps to secure the attendance of witnesses. Witnesses could not be compelled to attend.
- It was not the case that you had no prior notice that the witness statements were to be read. You had received the hearing bundle and knew the content. This was an additional safeguard. These were not crucial witnesses.

Finally, the Presenter referred the Panel to the terms of Rule 32, in particular the reference to the Civil Evidence (Scotland) Act 1988 and the terms of Rule 32.2.

Legal advice

The Panel accepted the legal advice from the Chair.

Decision

The Panel decided to admit the hearsay evidence in terms of Rule 32.

This included SSSC signed witness statements of TT, YY, VV, UU and SS, and TT's Internal Investigation Report.

The reasons for the Panel's decision were as follows:

The Panel considered that the documents, including in particular the witness statements, were relevant and, in principle, admissible in terms of the Rules.

The Panel considered, in the round, that it was fair to admit the documents. In reaching this decision, the Panel took account of the principles referred to in the case law cited, including in particular *Bonhoeffer* and *Thorneycroft*. The Panel considered that it was fair to admit the hearsay evidence because:

- Neither the SSSC nor the Panel had the power to compel witnesses to attend.
- Reasonable efforts had been made to secure the attendance of the witnesses.
- Although reasons varied, it seemed clear to the Panel that none of the witnesses were willing, or able, to attend the hearing. This factor, and the reasons for non-attendance, would be borne in mind when assessing the weight which could properly be attached to the evidence.

- The Panel would also keep in mind, when assessing weight, the fact that the hearsay evidence could not be tested by way of questioning.
- You had been given a copy of all of the evidence in the bundle, including the witness statements.
- The witness statements had been taken by the SSSC and were signed by each of the witnesses.
- Whilst recognising the serious nature of the allegations, the hearsay evidence was not the sole or decisive evidence for any of the allegations.
- Further, the context was that you admitted a number of aspects of the allegations, although not all parts, including not admitting the dishonesty alleged.

Background

You are registered in the part of the SSSC's Register for Managers of a Care Home Service for Adults. You first applied for Registration with the SSSC in this part of the Register by portal application form dated 17 October 2014. You were originally registered by the SSSC in this part of the Register on 24 December 2014.

You are qualified with an SVQ 3 Management and SVQ 4 Leadership and Management for Care Services.

You commenced employment with Living Ambitions Ltd, part of the Lifeways Group, in January 2014. During your employment you took up the role of Registered Manager at Hollybank Care Home (the Home), before latterly working as Area Manager from 2016 covering the Home and other homes in the Group.

Statement of Facts for the Parties

In terms of the Statement of Facts for the Parties signed on 8 and 11 February 2019, the following facts were admitted and accepted to be true as between the parties:

1. Having been made aware that the sum of £119.89 was missing from resident AA, you withdrew £119.89 from the Hollybank Petty Cash account and credited it to AA without prior authorisation.
2. Between 11 October 2016 and 14 November 2016, having been made aware of an allegation that Support Worker ZZ had hit resident BB, causing bruising to BB's arms, you did not report this allegation to the Police.
3. You completed the Living Ambitions Incident/Accident Report Form that appears at pages F67-70 of the bundle of evidence relating to findings in fact for the Fitness to Practise Department.
4. You presented the Incident/Accident Report Form that appears at pages F67-70 to Care Inspector XX.

SSSC's evidence

Witnesses

The SSSC called one witness to give oral testimony, namely XX.

XX gave evidence in person. She is registered with the Nursing and Midwifery Council. She is a Senior Inspector employed by the Care Inspectorate. She has been employed by the Care Inspectorate since 2002, in particular as an Inspector between 2002-2010; a Practice Learning Assessor between 2010 and 2017; and a Senior Inspector since 2017.

XX, along with WW, Complaints Officer, carried out an investigation following an anonymous written complaint having been received by the Care Inspectorate on 31 October 2016 about matters at the Home. It was thought that the complaint had been made by a member of staff at the Home. The complaint was received at a time when XX had been due to carry out a planned, unannounced inspection of the Home on 14, 15 and 16 November 2016.

As Inspector for the Home, XX knew you in a professional capacity in your role as Manager of the Home.

XX gave evidence about her inspection and the investigations she carried out in relation to the complaint. She spoke also to some of the matters WW dealt with, the investigation being carried out jointly with him, and about her having received notification of certain matters through the Care Inspectorate's notifications alert system.

The matters on which XX gave evidence included concerns about Adult Support and Protection (ASP) matters involving residents AA and BB.

Documents

The Presenter addressed the Panel on documents within the hearing bundle, including:

- SSSC Personal Statement Form signed by you dated 22 February 2017, with paper apart (F145).
- Extracts from the Regulation of Care (Scotland) Act 2001 (F9).
- Your portal application for Registration with the SSSC dated 17 October 2014 (F13).
- Internal printout from SSSC Registration System confirming your Registration status (F19).
- Lifeways Internal Investigation Report by TT, [redacted], dated 6 January 2017 (F25).
- Forth Valley Multi Agency Protection Referral form [AP1] you completed in relation to AA dated 14 November 2016 (F45).

- Email from KK, Lifeways to SSSC dated 17 August 2017 with financial documents relating to AA (F49 and F51).
- Lifeways/Living Ambitions Incident/Accident Report Form completed by YY dated 11 October 2016 (F63).
- Lifeways/Living Ambitions Incident/Accident Report Form completed by YY and signed by you dated 13 October 2016 (F67).
- Forth Valley Multi Agency Protection Referral form [AP1] you completed in relation to BB dated 19 October 2016 (F71).
- Lifeways/Living Ambitions Incident/Accident Report Form completed by YY dated 16 October 2016 (F75).
- Living Ambitions Adult Protection Policy and Procedures (Scotland) dated 1 July 2015 (F79).
- Care Inspectorate Regulatory Plan dated 6 December 2016 (F101).
- Care Inspectorate email to Police sent 1 November 2016 (F107).
- Care Inspectorate email to Police sent 9 November 2016 (F109).
- Care Inspectorate email to Police sent 28 November 2016 (F111).
- Care Inspectorate memo on call from Police dated 29 November 2016 (F113).
- Care Inspectorate email response from TT, [redacted], Living Ambitions Ltd dated 2 December 2016 (F115).
- SSSC statement of XX signed on 17 May 2018, with Forth Valley Multi Agency Protection Referral form [AP1] you completed in relation to AA dated 14 November 2016 (F119 and F123).
- SSSC statement of TT signed on 28 March 2018 (F127).
- SSSC statement of VV signed on 27 November 2017 (F133).
- SSSC statement of UU signed on 10 November 2017 (F135).
- SSSC statement of RR signed on 16 November 2017 (F137).
- SSSC statement of SS signed on 16 November 2017 (F141).

The Presenter highlighted redaction errors and documents that ought not to have been included in the hearing bundle, including:

- F28 – reference to injuries sustained by resident AA (3.0).
- F34 – reference to staff member being downgraded (3.10).
- F36 – reference to communication issue (3.15).
- F37 – interview summary re QQ (3.17).
- F38 – reference to communications book entry (3.18).
- F41 – reference to injuries sustained by resident AA (3.21).
- F55 – Forth Valley Multi Agency Protection Referral form [AP1] you completed in relation to AA dated 18 November 2016.
- F59 – Lifeways/Living Ambitions Incident/Accident Report Form completed by YY dated 14 November 2016.
- F129 – paragraph 8.
- F146 – reference to allegation e.iii.
- F151 – reference to allegation i.

The Presenter submitted that the Panel should disregard these documents and parts of documents.

Your evidence

Although you did not attend the hearing and there was therefore no oral testimony from you, the Panel took account of your position as recorded in the documents, including:

- Lifeways Internal Investigation Report by TT, [redacted], dated 6 January 2017 (F25).
- SSSC Personal Statement Form signed by you dated 22 February 2017, with paper apart (F145).
- Statement of Facts for the Parties (F159).

The Panel also took account of the character references and testimonials which had been produced from PP, OO, NN, MM and LL (I7–I15), particularly given that the Panel required to decide allegations of dishonesty.

SSSC's closing submissions

In his closing submissions, the Presenter submitted that XX answered questions in a straightforward and candid manner. When asked questions she did not know the answer to, she was forthcoming where she had no knowledge of matters. She did not seek to embellish or to stray from matters within her knowledge. She did not stray into conjecture, for example in relation to the reasons why you had changed the Incident/Accident Report Form. She gave evidence on her interpretation of events. The Presenter invited the Panel to find that XX was a credible and reliable witness. He submitted that there were various times when she gave evidence without documents being in front of her to assist and gave dates which were spot on with the chronology shown in the documents.

In relation to the wording of the allegations, the Presenter submitted that it was within the remit of the Panel to amend so as to change your role to that of Registered Manager, or any other phrase the Panel felt appropriate.

In relation to the allegations, the Presenter submitted that each of the allegations was capable of being proved on the balance of probabilities. The Presenter addressed the Panel on the evidence which he submitted supported the proof of each of the allegations.

In concluding his submissions, the Presenter submitted that the Panel should have regard to the testimonials and references lodged. These were very positive in nature. He highlighted the terms of the reference from OO (I9), which referred to the calls being made on your time in working across different services.

Amendment of the allegations

Before making its findings of fact, the Panel gave consideration as to whether to amend the allegations in light of the evidence adduced, in particular:

1. In the preamble to the allegations, by deleting "as a Locality Manager by Living Ambitions Ltd" and substituting "by the Lifeways Group as Registered Manager".
2. At allegation b., by deleting "£119.89" and substituting "£119.77".

SSSC's submissions

The Presenter had no further submissions to make.

Legal advice

The Panel accepted the legal advice given by the Chair.

Decision

The Panel decided to amend the allegations as set out above in terms of Rule 17.2.

The reasons for the Panel's decision were as follows:

The Panel considered that the amendments reflected the evidence as adduced at the hearing. The Panel was satisfied that the amendments were fair and caused no material prejudice to you.

Findings of fact

The Panel reminded itself that the burden of proof rested upon the SSSC, and that the SSSC required to prove the facts in dispute on the balance of probabilities.

In reaching its decision, the Panel accepted the legal advice from the Chair. This included disregarding the documents and parts of documents which ought to have been redacted or not included in the bundle, including the reference to your previous convictions and the documents and parts of documents highlighted by the Presenter, and other parts of documents.

In reaching its decision on the dishonesty alleged, the Panel applied the test set out in *Ivey v Genting Casinos* [2017] UKSC 67, paragraph 74.

The Panel found that the following facts had been proved on the basis of the Statement of Facts for the Parties and the evidence adduced, in particular:

1. Between on or around 24 September 2016 and on or around 14 November 2016, you were employed as Registered Manager at Hollybank Care Home (the Home) by the Lifeways Group.
2. Findings of fact 3-12 occurred during the course of that employment.
3. Between on or around 29 September 2016 and 14 November 2016 you failed to follow Adult Support and Protection Procedures in that you:
 - a. failed to notify the Police as soon as you were made aware that £119.89 was missing from resident AA
 - b. failed to immediately notify the Local Authority via an AP1 form when you were made aware that £119.89 was missing from resident AA
 - c. failed to notify your Regional Director and quality manager as soon as you were made aware that £119.89 was missing from resident AA.
4. On a date unknown you withdrew £119.77 from the Hollybank Petty Cash account and credited this to resident AA without the authorisation of your Regional Director.
5. On or around 14 November 2016 you gave to Care Inspector XX an AP1 form in which you stated that you had contacted the Police as per finding of fact 3.a. on 30 September 2016 when you had not.
6. By your actions at finding of fact 5., you acted dishonestly in that you deliberately sought to mislead XX into believing that you had contacted the Police when you had not.
7. You failed to appropriately respond to Adult Support and Protection concerns that your colleagues reported to you in that you:
 - a. between on or around 11 October 2016 and on or around 14 November 2016 failed to report to the Police allegations that Support Worker ZZ had hit resident BB causing bruising to BB's arms
 - b. between on or around 11 October 2016 and on or around 14 November 2016 failed to report to the Local Authority via an AP1 form allegations that Support Worker ZZ had hit resident BB causing bruising to BB's arms.
8. Between on or around 14 November 2016 and on or around 16 November 2016 you stated to Care Inspector XX that you had submitted an AP1 form as per finding of fact 7.b. when you had not in fact done this.
9. On or around 13 October 2016 you altered an Incident/Accident Report Form that had been completed by colleague YY for resident BB in relation to the incident referred to in finding of fact 7. without making it clear that you had done so, in that you:

- a. changed the date of the incident from "11.10.16" to "13.10.16"
 - b. changed the phrase "several bruises on the upper portion of his arms" to the phrase "bruises on the upper portion of both his arms"
 - c. changed the phrase "sometimes (staff) ZZ hits me" to the phrase "sometimes (staff) ZZ and (s/u) CC hit me"
 - d. inserted the phrase "when we are messing about"
 - e. deleted the sentence "He pointed to his bruises and said again that (service user) CC and (staff) ZZ had done this"
 - f. changed the wording "He again stated that staff ZZ had caused the bruises by 'hitting and play fighting' and that service user CC had also joined in" to the wording "He again stated that staff ZZ and s/u CC had caused the bruises by 'play fighting'"
 - g. changed the wording "YY then contacted line manager SA for advice" to "YY then contacted line manager SA for advice and support"
 - h. changed the wording "Inappropriate physical contact between service users and staff" to "Play fighting between staff and service users".
10. Between on or around 14 November 2016 and on or around 16 November 2016 you presented the Incident/Accident Report Form in the name of YY for resident BB that you had altered as described at finding of fact 9. to Care Inspector XX.
11. Your action at finding of fact 10. was dishonest in that you deliberately sought to mislead XX into believing the altered Incident/Accident Form had been completed by YY.
12. Between on or around 16 October 2016 and on or around 14 November 2016 you failed to appropriately respond to Adult Support and Protection concerns that your colleagues reported to you in that you:
- a. failed to report to the Police the further allegations of which you were made aware that Support Worker ZZ had physically and verbally abused BB
 - b. failed to report to the Local Authority the further allegations of which you were made aware that Support Worker ZZ had physically and verbally abused BB.

Reasons

In relation to the witness who attended the hearing to give oral testimony, XX, the Panel considered that she was a credible and reliable witness. She gave her evidence in a straightforward and considered manner. She gave her evidence confidently and was clear when she didn't recall information or when she didn't have knowledge of matters she was asked about. The Panel had no hesitation in accepting her evidence.

In relation to the hearsay evidence admitted, including in particular the SSSC witness statements, the Panel considered that, in general terms, weight could be

placed on these documents. The witness statements had been signed by each of the witnesses. Whilst some of the reasons for the non-attendance of the witnesses was not entirely satisfactory, the Panel did not consider that this materially undermined the reliance which could be placed on the content of the witness statements. Further, there were a number of documents referred to in the witness statements which the Panel had before it and could consider and assess for itself.

The Panel did not consider that there was credible evidence to support your belief or understanding that TT was dismissed in untoward circumstances. Lifeways had confirmed that he had not been dismissed.

The Adult Protection Policy and Procedures (Scotland) document sets out the actions required of staff when dealing with adult protection matters. This includes:

- Notifying the Police and social work if there are concerns that an adult is at risk of exposure to criminal activity. (3.3)
- The expectation that where the perpetrator of abuse is a member of staff, an internal investigation will not take precedence over reporting concerns to allow social work and/or the Police to investigate. (5.5)
- Abuse includes physical and financial abuse. (5.1, 6.1 and 6.3)
- If a criminal act is suspected, for example physical abuse, the Police should be contacted immediately. (7.1.4)
- Any concerns that staff have regarding the safety or wellbeing of an adult at risk of harm should be brought to the attention of their line manager/named person immediately. This should be done for all instances of suspected abuse, for example abuse by another service user or by a member of staff. (7.2)
- The line manager/named person will telephone the relevant social work services location and give details of the alleged abuse. In accordance with the Multi Agency Adult Protection Procedures, the information should be followed up in writing within 24 hours using the Local Authority Agency Referral Form. (7.4.5)
- All concerns of an adult protection nature should be reported to the relevant social work office. It is the responsibility of the designated manager to ensure that all instances of alleged or suspected harm to an adult seen to be at risk and requiring protection are treated seriously and that appropriate liaison with social work and/or the Police is undertaken. (7.5.1)
- Where the alleged abuser is a member of staff, investigatory and disciplinary procedures should be followed but will not supersede an adult protection referral to, and investigations by, statutory agencies. (7.6.3)

Taking the allegations in turn:

a.i. – a.iii.

From the agreed Statement of Facts, you admit having been made aware that £119.89 was missing from resident AA.

In your SSSC Personal Statement Form, you admitted that you did not advise the Local Authority about the missing money, although your position was that you notified the placement authority. Your position was that you did notify the Police. In relation to notifying your employer's Regional Director and quality manager, you admitted that you did not notify these people, stating that it was not intentional but a lapse in memory.

Having regard to the covering email sent with them, and the other evidence before the Panel, the Panel was satisfied that the financial records produced in the bundle related to AA. The four sheets appeared to comprise two sets of entries, when regard was had to the dates shown at F51 and F53 and the number of columns stretching over two sheets of A4 (F51-F52 and F53-F54). These records showed £119.89 going missing around 25/26 September 2016.

The Adult Protection Policy and Procedures (Scotland) document makes clear the expectations on you in cases of suspected or actual abuse.

In his signed SSSC witness statement TT, [redacted], sets out the expectation that you should have completed an AP1 form because a service user had come to financial harm, and sent it to the Local Authority. You should also have notified the Local Authority that was funding the placement. Further, you should have notified the Police. TT explained that you should also have reported matters internally to him and to the quality manager, but you did not. He was clear that you would have been familiar with what was expected of you in the face of such concerns.

Further, the first page of the AP1 Form you completed, which is dated 14 November 2016, makes clear that suspected or actual harm must immediately be reported to your line manager, and the legal duty to report concerns to the Council social work services if it is known or believed that a person is at risk and protective action is needed. Part A of the Form must be completed within one working day from becoming aware of the suspected or actual harm. The form records the matter having been passed on to you by staff following nightshift checks on 29 September 2016.

During her oral testimony, XX spoke to the Care Inspectorate notification to her which narrated details of a call WW had with the Police. This records the Police advising that the service had not contacted them about the matter. The first the Police were aware of matters was an email from the Care Inspectorate on 1 November 2016. XX spoke also to the Care Inspectorate Regulatory Plan (F101). She was the document owner for that plan. This records that the Local Authority ASP team advised WW on 17 November 2016 that no ASP issues had been reported since 2015. It was not until 14 November 2016, the first day of the Care Inspectorate inspection, that AA's social worker confirmed that an AP1

form had been received. You were vague when XX asked you about the report you said you had made to the Police.

Whilst recognising that you appeared to have completed and submitted an AP1 form to the incorrect authority, the Panel was satisfied that it had been established that you did not notify the parties referred to in the allegations in accordance with the required ASP procedures and timeframes, and that you should have done so.

b.

In the Statement of Facts, you admitted that you withdrew £119.89 from the Hollybank Petty Cash account and credited it to AA without prior authorisation, although the Panel found, taking account of AA's financial records, that the correct sum credited was in fact for £119.77, 12 pence less. You also admitted this in your Personal Statement Form.

In his witness statement, TT detailed the expectation that you should have discussed this with [redacted] being your Regional Manager.

c.

During her evidence XX spoke about the AP1 form you passed to her and her discussions with you on 14 November 2016 and your vagueness when asked about the detail of the notification you told her you had made to the Police, which was recorded on the form as occurring on 30 September 2016. The Care Inspectorate Regulatory Plan records that you told XX on 14 November 2016 that you had contacted the Police on 2 October 2016, but had no information as to where you phoned or who you spoke to. You had no incident number.

As narrated at a., the contact which the Care Inspectorate had with the Police was that the Police had not received notification of this matter from you.

The Panel considered that it was established you had not notified the Police about this matter.

d.

The Panel considered that you had been dishonest as alleged in your dealings with XX about you having contacted the Police. The Panel was satisfied that you had not notified the Police. In stating otherwise on the form, this was dishonest.

e.i. and e.ii.

In the Statement of Facts, you admit that you did not report this allegation to the Police. Albeit with differing dates, you also appeared to admit this in your Personal Statement Form.

The Adult Protection Policy and Procedures (Scotland) document makes clear the expectations on you in cases of suspected or actual abuse.

In your Personal Statement Form, you explained that you reported this directly to BB's social worker with the relevant forms. There were Incident/Accident Report Forms before the Panel, namely one YY completed dated 11 October 2016 and a version you had made changes to dated 13 October 2016. There was an AP1 Form you completed dated 19 October 2016 which refers to you having notified the social worker, SS, on 19 October 2016.

The evidence supported the fact that this was not submitted to the Local Authority ASP team. XX gave evidence about the Care Inspectorate Regulatory Plan, of which she was the document owner, which included an entry dated 17 November 2016 in which the ASP team at the Local Authority had not received any ASP reports since 2015. In his witness statement, TT was clear that similar notifications should have been made as was the case with AA's missing money.

Having regard to the Adult Protection Policy and Procedures (Scotland) document, and the evidence from XX and in TT's witness statement, and whilst recognising that there was a suggestion you had returned from a period of annual leave, the Panel was satisfied that it had been established that you did not notify the parties referred to in accordance with the required ASP procedures and timeframes, and that you should have done so.

f.

The Panel accepted XX's evidence that you told her you had submitted the AP1 Form to the Local Authority, when you had not in fact done this. The ASP team at the Local Authority had not received any ASP reports since 2015.

g.

In relation to the dishonesty alleged, the Panel did not consider that this had been established. The Panel was not satisfied that it had been established that you had deliberately sought to mislead XX about this matter. XX herself spoke about her impression that you appeared to be less than clear about to whom the Local Authority AP1 forms should be submitted, that is correctly to the Local Authority ASP team rather than the placement authority or social worker. Further, the Panel felt that some weight could be given to what was said in SS's SSSC witness statement, which could be seen as consistent with this, when he stated that, at one point, he was receiving a number of AP1 forms from you, including about BB.

h.- j.

In the Statement of Facts for the Parties you admitted that you completed the Incident/Accident Report Form at F67-F70 of the evidence bundle. You admitted also that you presented this Form to Care Inspector XX.

Further, in your SSSC Personal Statement Form, with the exception of allegation h.v., you accepted that you had made the changes narrated, although you denied that this was done to mislead or dilute the seriousness of the incident. Rather it was mostly done to make matters more accurate and to give a full account, as you saw things, following discussions you had had with BB. In relation to allegation h.v., you stated in your Personal Statement Form that you did not remember omitting the words in question or why you would have done that. You stated that, on reflection, you shouldn't have changed the words as alleged at allegation h.viii. You also stated on that Form that in giving the form to XX, this was not to mislead or misinterpret the facts, but to be a fully completed version.

The Panel had before it the Form in question, which was dated 13 October 2016. The Panel accepted XX's evidence in relation to these allegations, which included that you did not make clear to her that the Form was a version initially completed by YY and which you had changed. The Panel considered that the Form did indeed not make clear that there had been changes made.

The Panel considered that weight could properly be given to YY's SSSC witness statement. It had been signed by her. In that statement YY spoke about the version of the Form as originally completed by her, a copy of which was also before the Panel and was dated 11 October 2016. She spoke also about her impression that you didn't see the matter as a massive concern. This impression was consistent with the changes you had made to the Form which, to the Panel, did appear to reduce the seriousness of what YY had originally recorded.

The Panel considered that it was more likely than not that you altered the Form as narrated at allegation h.v. It was at a part of the Form where you had made alterations at either side of the deletion in question and was analogous in nature to some of the other changes. In her witness statement YY confirmed that she did not make the changes to the Form.

In relation to the dishonesty alleged, the Panel considered that this had been established. XX gave evidence that she considered she had been misled about the Form. The Panel considered that the Form was misleading. The Panel did not consider that your explanation as to why and how the changes came to be made was credible. There was evidence from XX, and in YY's and TT's witness statements, that the Form should not have been altered in the manner you did, unless there had been discussion and agreement with YY, the author of the Form. It appeared to the Panel that you had indeed deliberately sought to downplay and minimise the events as originally recorded by YY, and to mislead XX about that.

k.i. – k.ii.

The Panel had before it the Incident/Accident Report Form dated 16 October 2016 in which YY recorded further concerns about BB, further to the Form she completed dated 11 October 2016. The AP1 Form you completed dated 19 October 2016 made no mention of the 16 October 2016 concerns. There was no evidence of any other AP1 Form in relation to this matter. XX gave evidence about the Care Inspectorate Regulatory Plan, which included an entry dated 17 November 2016 in which the ASP team at the Local Authority had not received any ASP reports since 2015. In your Personal Statement Form, you stated that you thought this was part of the same incident in relation to BB, when in fact it was not. This would explain your failure to respond appropriately to this matter. Having regard to the terms of your Employer's Adult Protection Policy and Procedures (Scotland) document, and the witness evidence from XX and the expectations on you as referred to in TT's SSSC signed witness statement, the Panel considered that you did not, and should have, reported matters to the Police and to the Local Authority.

Allegations proved/not proved

Accordingly, the Panel found that allegations a.i., a.ii., a.iii., b., c., d., e.i., e.ii., f., h.i., h.ii., h.iii., h.iv., h.v., h.vi., h.vii., h.viii., i., j., k.i. and k.ii. were proved. Allegation g. was not proved.

Finding on impairment of fitness to practise

In light of the Panel's findings of fact, the Panel went on to consider whether your fitness to practise is impaired.

There was no admission of impairment of your fitness to practise.

Further evidence

The SSSC did not call any witnesses. There was no further documentary evidence. The Panel already had a copy of the impairment bundle of papers (I1-I16).

SSSC's submissions

The Presenter submitted that the Panel should have regard to the character references and testimonials at I1-I16. These made reference to the wider context when the events took place. The Presenter highlighted the reference from OO (I9) which referred to you having to balance workloads.

The Presenter referred to Rule 19 on finding on impairment of fitness to practise.

The Presenter submitted that the Panel first had to determine whether a ground of impairment was made out. He submitted that the relevant ground was misconduct.

In relation to misconduct, the Presenter submitted that there was no definition. The Presenter cited *Roylance v General Medical Council* [1999] UKPC 16 and *Mallon v General Medical Council* 2007 SC 426. He submitted that the Panel should apply its own experience and expertise when reaching a decision on misconduct.

The Presenter submitted that dishonesty could raise attitudinal issues. He cited *Remedy v General Medical Council* [2010] EWHC 1245 (Admin), paragraph 37, and *Spencer v General Osteopathic Council* [2012] EWHC 3147 (Admin), paragraph 23. He referred to the two principal kinds of misconduct, namely misconduct involving sufficiently serious misconduct in the exercise of professional practice going to fitness to practise, and misconduct involving conduct of a morally culpable or otherwise disgraceful kind. The latter would include dishonesty. The Presenter submitted that consideration of whether behaviours would result in public disgrace or be classed as shameful conduct was relevant in relation to dishonest behaviour.

The Presenter submitted that the Panel should find that your fitness to practise is currently impaired. He submitted that there was no definition of impairment. It was a value judgment for the Panel, applying its skills and experience.

In addressing the Panel on whether your fitness to practise is currently impaired, the Presenter referred to principles from *Cohen v General Medical Council* [2008] EWHC 581 (Admin).

The Presenter submitted that the Panel required to consider whether the behaviours had been remedied or were capable of being remedied. He submitted that dishonesty raised issues in relation to underlying attitudes and values. In your registered manager role, you were in a position of significant authority and trust. You attempted to mislead a professional regulator about investigations into serious ASP allegations. It was submitted that the Panel should treat such behaviour as being at the highest end of the spectrum of dishonest behaviour. The misconduct found had not been remedied. You denied dishonesty.

In relation to the likelihood of the behaviour being repeated, the Presenter submitted that, on the basis there were underlying issues in relation to attitude and values, the risk of repetition was high. There was limited acceptance of wrong doing or insight demonstrated.

In relation to insight, the Presenter cited *Bevan v General Medical Council* [2005] All ER (D) 74, paragraph 39, and *Kimman v General Medical Council* [2016] EWHC 1808 (Admin), paragraphs 66 and 71. He submitted that insight was most material. He submitted that there was no meaningful insight

demonstrated, especially in relation to the dishonesty. Your non-attendance could come close to professional suicide.

The Presenter submitted that the Panel had to consider current impairment. The Presenter cited *Yeong v General Medical Council* [2009] EWHC 1923 (Admin), paragraphs 19, 50 and 51. He submitted that the Panel was entitled to take account of past behaviour in considering how you were likely to act in future. You had been dishonest on more than one occasion. The Presenter submitted that it was likely to happen again. Reassurance could not be taken. The Panel should consider the public interest and the trust placed in registered social service workers, particularly in relation to ASP concerns involving actual financial, physical and emotional harm of service users. Not to take action was concerning, but to then be dishonest about your actions didn't just dilute trust, it destroyed its foundation.

Under reference to *Bolton v The Law Society* [1994] 1 WLR 512, the Presenter reminded the Panel that a profession's most valuable asset is its collective reputation. This was more important than the fortunes of any individual member.

The Presenter submitted that your fitness to practise is currently impaired based on the seriousness; the fact the misconduct was not easily remediable; and the wider public interest concerns. He submitted that there would be damage to the reputation of the SSSC if there was no firm declaration of expected standards. Your behaviour fell far below those standards.

The Presenter highlighted that there were two applicable Codes, given that the facts found proved straddled the date the current Code came into effect, namely on 1 November 2016.

In relation to the Decisions Guidance, the Presenter referred to the factors set out at section 8. He submitted that your case fell within the terms of section 10, which involves cases where more serious action may be required.

Legal advice

The Panel accepted the legal advice from the Chair.

Decision

The Panel decided that your fitness to practise is impaired on the grounds of misconduct.

In reaching its decision the Panel took into account its findings of fact, the evidence previously adduced and the SSSC's submissions.

The Panel took into account the terms of Rule 2.1:

"...a worker is fit to practise if they meet the standards of character, conduct and competence necessary for them to do their job safely and effectively with particular regard to the Codes".

The Panel kept in mind that impairment is a matter for the skilled judgment of the Panel.

The Panel took into account the terms of the Codes.

The Panel considered that, on the allegations found proved, your conduct fell short of the standards expected.

In acting as you did you breached parts 2.1, 2.2, 2.4, 3.2, 3.3, 3.8, 5.1, 5.7, 5.8, 6.1 and 6.2 of the Code in force prior to 1 November 2016 and parts 2.1, 2.2, 2.4, 3.2, 3.3, 3.6, 3.10, 5.1, 5.7, 5.8, 6.1 and 6.2 of the Code in force from 1 November 2016.

The Panel recognised that breaches of the Code do not automatically result in a finding of misconduct. The Panel took account of the guidance in *Roylance*:

"Misconduct is a word of general effect, involving some act or omission which falls short of what would be proper in the circumstances."

The Panel took account of the guidance in *Mallon* in connection with the Panel's judgment in considering the seriousness of the facts found proved.

In all the circumstances, the Panel was satisfied that the allegations found proved fall far short of the standards expected and amount to misconduct.

Having found misconduct, the Panel next considered whether, in all the circumstances, your fitness to practise is impaired as a result of that misconduct.

The Panel had regard to the fact that it had to decide, exercising its skilled judgment and in the light of the misconduct found, whether your fitness to practise is currently impaired.

The Panel had regard to the guidance in *Cohen* and *Grant*, including a consideration of the need to protect the public and the need to declare and uphold proper standards so as to maintain public confidence in social services. The Panel considered whether the behaviour was remediable, whether it had in fact been remedied, and the risk of repetition. It had regard to the importance of insight when carrying out its assessment.

The Panel took account of the Decisions Guidance, including the factors referred to at section 8 in so far as relevant to the question of impairment.

The Panel considered that the allegations found proved were serious, including in particular the dishonesty found, which occurred in work, and the fact that the allegations relate to ASP procedures which are among the most important procedures in social services.

In considering whether the behaviours underlying the misconduct found had been, or could be, remedied, the Panel was not satisfied that there was evidence that the behaviours had already been remedied, or that they were easily remediable. Whilst not impossible to remedy, dishonest behaviour was in the category of behaviour that was less capable of remediation. You had denied some of the allegations, including the dishonesty alleged, which you were of course entitled to do. This necessarily limited the insight which you could demonstrate. You had chosen not to attend the hearing, which again limited the extent to which insight could be addressed in light of the Panel's findings. There was some, but limited, evidence of insight, for example in your SSSC Personal Statement Form. Given that the misconduct found involves dishonesty, and despite the positive character references, the Panel had concerns about your underlying values and attitudes, particularly when the dishonesty occurred in a professional context.

In relation to public protection, the Panel could not be satisfied that there was no, or a low, risk of repetition of the behaviours underlying the misconduct found. On the contrary, you did not appear to have a proper understanding of the increased risks for service users and the potential consequences of your actions and inactions. The dishonesty gave rise to concerns about your underlying values and attitudes. The Panel considered that there were real public protection risks.

In considering the public interest, social service workers must uphold public trust and confidence in the profession and the SSSC. The Panel considered that the need to uphold and declare proper standards and to maintain confidence in the social services workforce and the SSSC as an effective regulator would be undermined in the event of no finding of impairment being made. The misconduct found is serious, involving as it does what amounts to dishonesty in work, an abuse of trust and failures relating to vital ASP procedures. The nature and seriousness of the misconduct found was such that reasonable and properly informed members of the public would expect a finding of impairment. Were no such finding made, there would be damage to the reputation of the profession and the SSSC as a responsible regulator. The Panel considered that a finding of impairment was required on public interest grounds.

In all the circumstances, the Panel decided that your fitness to practise is impaired on the grounds of misconduct.

Mitigation and sanctions

In light of the Panel's finding on impairment of fitness to practise, the Panel went on to consider mitigation and sanctions.

Evidence

The Presenter did not lead any further evidence or call any further witnesses.

SSSC's submissions

The Presenter referred to section 13 of the Decisions Guidance. He submitted that the Panel should start with a consideration of the least restrictive sanction. The Presenter reminded the Panel that the purpose of sanctions was not to be punitive. He submitted that the Panel should have public protection and the public interest at the forefront of its mind.

In addressing the Panel on which sanction should be imposed, the Presenter submitted that:

- It was not appropriate for no action to be taken. There were no exceptional circumstances in your case which would justify a decision to take no further action. The misconduct found included dishonesty, which was among the types of cases where more serious action may be required, as set out at section 10 of the Decisions Guidance.
- A warning was not appropriate. The impairment was not at the lower end of the scale of seriousness. The dishonesty found was inherent to your position and involved a professional regulator. This was towards the top end of the spectrum of seriousness.
- Conditions were not appropriate. Under reference to section 15 of the Decisions Guidance, this was not a case of performance issues which could be improved by training and support. In relation to the possibility of a reflective account, having regard to the factors at paragraph 15.1, these suggested that your case may not be appropriate for conditions. Dishonesty could imply underlying values and attitudinal issues, which applied here. This was less capable of remediation. Any benefit of conditions was significantly curtailed. Conditions would not adequately protect the public or maintain and uphold the public interest.
- For the reasons already given individually, a warning and conditions was not appropriate.
- A Suspension Order was not appropriate. Dishonesty was less capable of remediation. Suspension would not be adequate. There would be no benefit of a suspension, as it would not address the underlying issues which caused the misconduct, which involved underlying values and attitude concerns. The public would be offered no protection.
- For the reasons already given individually, conditions and a Suspension Order was not appropriate.

- A Removal Order was the only sanction to address the public protection concerns and uphold and maintain public confidence in the profession and the SSSC as the regulator. The dishonesty found was fundamentally related to your position of responsibility and was such a fundamental core principle in relation to ASP procedures. These are central to all work which social service workers do, which is concerned with protecting and maintaining the welfare and safety of all service users. Not to do that, and to be dishonest about that, was most serious.

In relation to the Temporary Suspension Order (TSO) currently imposed on your Registration, this was due to expire on 27 April 2019. No application was made to extend the order.

The Presenter confirmed that he did not have any information about your present work circumstances.

Legal advice

The Panel accepted the legal advice from the Chair.

Decision

The Panel decided to impose a Removal Order on your Registration in the part of the Register for Managers of a Care Home Service for Adults in terms of Rule 20.2.g of the Rules.

In reaching its decision, the Panel had regard to the evidence, the SSSC's submissions and the factors referred to at Rule 20.9:

- the seriousness of your impairment of fitness to practise
- the protection of the public
- the public interest in maintaining confidence in social services
- the issue of proportionality.

The Panel took account of the Decisions Guidance, including Part A, sections 6, 7 and 8; Part B, section 13; and Part D, section 15.

The Panel kept in mind that any sanction required to be proportionate. The decision on sanction was a matter for the Panel, exercising its skilled judgment. The Panel recognised that any sanction imposed was not intended to be punitive in its effect, although it may have such consequences.

The Panel considered that mitigating factors present in your case were:

- There was no evidence of you previously having been found to have committed misconduct or had your fitness to practice found to be impaired.
- You had expressed some regret for your actions and inactions.
- There was evidence that, at the time, you were covering a number of

services, including the Home, which was a relatively new role for you and which appeared to present challenges for you in fulfilling your role.

- You had submitted a number of testimonials which spoke positively about your practice.
- You had co-operated with the SSSC during its investigation, for example completing the Personal Statement Form and agreeing the Statement of Facts, albeit you had not attended the hearing.

The Panel considered that aggravating factors in your case were:

- There was limited evidence of insight, as referred to in the Panel's decision on impairment. It was unfortunate that you had not attended the hearing so that the Panel could see you in person and have the opportunity to ask you about the allegations and wider issues relating to your professional practice, values and attitudes.
- The fact that the dishonesty found proved was associated with your professional practice and involved the Care Inspector being misled was particularly concerning.
- Whilst not a pattern of behaviour, it could not be said that your behaviour was isolated. There were two instances of dishonesty related to your work and several instances of poor and concerning practices in relation to ASP procedures.
- Your behaviour created increased risk of harm for AA and BB, who were already alleged to have been at risk of financial and physical harm.
- There was a significant abuse of the trust placed in you as a social service worker, particularly given your role as a Manager and the responsibility that role brings.
- Your dishonesty involved an attempt to conceal your failure to adhere to ASP procedures and the fact that you had altered YY's Incident/Accident Report Form.

The Panel considered that the other factors suggested in the Decisions Guidance were either neutral, not present or not relevant to matters.

In relation to the character references and testimonials you had submitted, these were in positive terms and spoke highly of you and your practice with both colleagues and service users. It was regrettable that you had not attended the hearing so that the Panel could have had the opportunity to try to reconcile the misconduct found against the individual described in the testimonials, and to consider whether, as you suggested, this was an out of character period for you.

In considering and balancing the aggravating and mitigating factors in your case, the Panel consider that the aggravating factors outweighed the mitigating ones.

The Panel started with a consideration of the least restrictive outcome. The Panel took account of the indicative factors set out at paragraph 13.2 and sections 10 and 15 of the Decisions Guidance. The Panel considered that:

- In light of the impairment found and the aggravating factors present in your case, it was not appropriate that no further action was taken. Action was necessary in order to protect the public and to serve the public interest. There were no exceptional circumstances in your case which would justify a decision to take no action.
- A warning was not appropriate. The indicative factors suggested in the Decisions Guidance as appropriate for a warning were absent. Your behaviour was not at the lower end of the scale of impairment. There was limited evidence of insight and nothing to satisfy the Panel that your behaviour had been corrected. There were concerns about your attitude and values which gave rise to risks to the public.
- Conditions were not appropriate. They would not address the public protection and public interest concerns in your case. The indicative factors listed in the Decisions Guidance were absent in your case. Although there had been some admissions, there was a denial of the more serious wrongdoing relating to dishonesty. Dishonesty, whilst not impossible to remediate, was in general terms not so easily remediated. You had shown limited insight. Remediation appeared unlikely. On the basis of the information available to the Panel, there were concerns about your underlying attitude and values. Your behaviour was a serious breach of the trust placed in you as a social service worker in a management role.
- A warning and conditions would not be appropriate for the reasons already given.
- A Suspension Order was not appropriate. Members of the public would not be adequately protected by a period of suspension. The public interest in maintaining confidence in social service workers and the SSSC as an effective regulator would not be served. The impairment of your fitness to practise is serious, involving significant departures from the Code. There was no evidence that your failings were realistically capable of being remedied during any period of suspension. There was limited evidence of insight. There were concerns about your underlying attitude and values.
- Conditions and a Suspension Order would not be appropriate for the reasons already given.
- A Removal Order was the appropriate and proportionate sanction in your case. It was necessary in order to protect members of the public and to serve the public interest in upholding proper standards and maintaining confidence in the social services profession and the SSSC as an effective regulator. Your behaviour is fundamentally incompatible with continuing Registration with the SSSC. Several of the indicative removal factors at paragraph 13.2 of the Decisions Guidance were present, including serious and deliberate behaviour; a significant abuse of your power and the trust placed in you as a social service worker in a management role; limited evidence of insight into the seriousness of your actions and the actual and potential consequences for people who use services and colleagues; a serious departure from the relevant professional standards set out in the Codes; and no evidence that there had been, or was likely to be, remediation. The Panel considered that your case was one where more serious action was required, in accordance with paragraph 10.3 of the

Decisions Guidance. Dishonesty, particularly when associated with professional practice, is highly damaging to your suitability and to public confidence in social services. Although the Panel had no information about your present personal and work circumstances, the Panel recognised that financial and reputational hardship may result from you being removed from the Register. In your Personal Statement Form, you spoke about your love for your work in social services. There was, however, no other way to protect the public, to uphold standards and to maintain confidence in the social services workforce and the SSSC as an effective regulator.

The Panel decided that it was appropriate that the TSO remain in place until the Removal Order comes into effect and to allow for any appeal being marked.