

Notice of Decision

Registrant	Duncan Somerville
Registration number	4012448
Part of Register	Support Workers in a Housing Support Service Support Workers in Care at Home Service
Town of employment	Argyll & West Dumbarton
Sanction	Warning to stay on your registration for a period of 36 months and condition imposed
Date of effect	23 August 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 place a warning on your registration, on the part of the Register for Support Workers in a Housing Support Service and Support Workers in Care at Home Service for a period of 3 years
3. to place conditions on your registration, on the part of the Register for Support Workers in a Housing Support Service and Support Workers in Care at Home Service, which you must meet within the timescales as specified in each condition below.

Findings of fact

We decided there is evidence that:

1. between on or around 15 May 2019 and on or around 8 October 2019, while employed as a Support Worker by Key Housing Association Ltd at Key Community Supports - Argyll and West Dumbarton in Glasgow, and during the course of that employment, you did, on various unknown specific dates in relation to service user AA:

- a. sit on AA's couch and use your personal laptop, when you should have been supporting AA
 - b. fail to complete house tasks such as cleaning and making the bed
 - c. as a result of the conduct detailed at 1.a. and 1.b. above, cause AA to feel anxious if he was aware that you were going to be supporting him
2. on or around 15 January 2020, while applying for a position as a Support Worker with Alltogether Care Services Ltd in Clydebank, you did:
 - a. fail to advise that you were previously employed by Key Housing Association Ltd and had been subject to disciplinary proceedings
 - b. when asked "do you have any pending cautions, convictions or investigations by police or a professional body", answer "no", when you knew this was not true as you were the subject of a SSSC investigation at this time
 - c. act dishonestly with reference to the conduct as detailed at 2.a. and 2.b. above in that you tried to conceal that you had been the subject of disciplinary proceedings by Key Housing Association Ltd and that you were the subject of a SSSC investigation
3. in or around March 2022, while applying for a position as a Personal Assistant with Enable Scotland (Leading the Way) in Scotland: West, you did:
 - a. fail to declare that you were previously employed by Key Housing Association Ltd and that you had been subject to disciplinary proceedings, as required
 - b. fail to declare that you were previously employed by Alltogether Care Services Ltd and that you had been subject to disciplinary proceedings, as required
 - c. fail to declare that you were subject to a Fitness to Practise investigation by the SSSC, as required
 - d. act dishonestly with reference to the conduct as detailed at 3.a., 3.b., and 3.c. in that you tried to conceal that you had been the subject of disciplinary proceedings by Key Housing Association Ltd and Alltogether Care Services Ltd and that you were subject of a SSSC investigation

and your fitness to practise is impaired because of your misconduct as set out in allegations 1 – 3 above.

Reasons for finding your fitness to practise is impaired

1. Your fitness to practise is impaired because:

- a. social services workers are expected to meet relevant standards of practice and work in a lawful, safe and effective way. You used your personal laptop at work instead of supporting AA. You failed to complete household tasks. You have failed to meet the standards expected of you in that you have not carried out your required duties to support a vulnerable person. As a result of this, you have caused AA to feel anxious when they knew you were to be supporting them in the future.
- b. AA was placed at risk of harm, as if you were not paying attention and completing required tasks, AA may have attempted to do this on their own. By using your personal laptop when you should have been supporting AA you have shown a lack of caring attitude towards AA who was relying on you.
- c. social services workers are expected to be truthful, honest, open and trustworthy. You failed to advise a prospective employer of your prior employment, that you had been the subject of disciplinary proceedings, and that you were subject to an active SSSC investigation on two occasions. You have failed to meet these standards, as you tried to conceal information which was relevant to a prospective employer. By not disclosing this information, you were dishonest. This brings into question your decision-making and values, given that you tried to gain employment without being open and honest and falls short of the standards expected of you.
- d. your behaviour took place within a period of approximately a year and a half, and although they are not completely similar in nature, your actions show a lack of regard for the standards of the care profession on both occasions. It is considered that there is a pattern of dishonest behaviour which contributes to the standards expected of you as a social services worker not being met. Given that there are two separate occasions where the same behaviour has been displayed regarding dishonesty, it is reasonable to expect that you would have learnt from the first instance at allegation 2. However, it does not seem that this is the case given that allegation 3 was then referred. While we acknowledge these were the only concerns raised during your employment in the sector, it is expected that someone with 3 years of experience at the time of the first allegations would have had a better understanding of the expectations of a social services worker.
- e. as you have chosen not to provide comments to the SSSC on allegations 1 - 2, and without any reassurances that you have learned from your actions in relation to allegations 1 - 3, or demonstrated any insight, remorse or evidence of remediation, the SSSC is unable to take any assurances that you would not repeat the same behaviour in the future if you were to return to working in care. There is a risk of this being repeated.

- f. there is a requirement to maintain confidence in the profession. Your actions would bring into question the confidence of the public in social services workers and may damage the reputation of the profession. Dishonesty is a serious matter and is not easily remedied. Furthermore, it indicates an issue with your judgement, integrity and values. Your behaviour concerning AA took place within the workplace, and again while applying for a new position within the care sector. A reasonable person in possession of all of the facts would be concerned if the SSSC did not make a finding of impairment. Accordingly, there is a requirement to reaffirm clear standards of professional conduct in this case.
2. In relation to findings of fact you have failed to follow parts 2.1, 2.2, 2.4, 2.5, 3.10, 5.7, 5.8 and 6.1 of the SSSC Code of Practice for Social Service Workers in force from 1 November 2016.

The sanction

After referring to our Decisions Guidance, we decided the appropriate sanction is to place a warning on your registration for a period of 3 years and the conditions set out below.

The conditions

The conditions placed on your registration are:

1. you must provide the SSSC with signed evidence that your employer knows about the outcome of the SSSC investigation into your behaviour, and the subsequent conditions added to your registration. You must do this within seven days of:
 - a. these conditions coming into effect, or
 - b. starting a job that needs registration with the SSSC
2. you must provide the SSSC with evidence that you have undertaken refresher learning. You must do this within two months of these conditions coming into effect. The refresher learning must cover the following areas:
 - a. professional conduct & communication
 - b. the SSSC Codes of Practice
 - c. the Health & Social Care Standards

You should discuss with your employer, the most effective way of completing this learning and training. It can be face to face study or on-line training, mentoring, supervision and/or independent study.

The evidence that you have completed this learning must be:

- signed by your employer
 - sent to the SSSC within seven days of finishing it.
3. within 1 month of completing condition 2, you must submit a reflective account to the SSSC. Your reflective account must:
- focus on the impact your behaviours have had or could have had on service users, their families, the general public and your colleagues.
 - use learning from the training topics you completed in condition 2.
 - be to the satisfaction of the SSSC

In your account, you should think about your actions by writing about each of the points below:

- a. what you have learnt from the training and how you will use this in your day to work.
- b. the impact and distress caused to the service user you were responsible for, by your behaviour.
- c. your understanding of your responsibility as a Social Services worker to conduct yourself in a professional manner at all times.
- d. how your behaviour breached the SSSC Code of Practice for Social Service Workers.
- e. why failing to declare during a job interview with Alltogether Care Services on or around 15 January 2020, that you had been subject to disciplinary proceedings in your post with Key Housing Association, and were also subject to an investigation by the SSSC could raise concerns for service users, carers and colleagues regarding:
 - your honesty and integrity
 - whether they can place their trust and confidence in you
 - your ability to work in ways that are lawful and safe
 - your good character and conduct and your suitability to work in social services
 - how the SSSC can be assured that you will be open and honest in the future.

Reasons for the sanction

When making our decision we considered the following factors:

Factors of concern

- You should have learned from what happened at allegation 2, but you do not appear to have done so, resulting in the concerns at allegation 3
- The behaviour took place while at work, and when applying for new employment in the sector
- While you have been employed in the sector with no practise concerns being raised, you have been dishonest with two prospective employers about your previous employment and the SSSC investigation. This took place while the investigation was on-going meaning no assurances can be taken from your subsequent behaviour.
- There is a clear pattern of dishonest behaviour and not declaring matters that might affect your chances of employment in the sector
- By intentionally failing to notify two prospective employers on two separate occasions of the reasons your previous employment was ended and of the SSSC investigation, you have attempted to conceal your wrongdoing
- As a result of your actions, two employers offered you employment with vulnerable people, when they may not have done so had you been open and honest with them. This could have placed vulnerable people at an increased risk of harm, as the employers were not able to carry out an accurate risk assessment when deciding whether to you employ you.

Factors in your favour

- You have provided comments in relation to the most recent allegations at allegation 3
- You had been employed in the sector for 10 years with no prior fitness to practise concerns.

Documents we have referred to

When making our decision, we referred to the documents:

- 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 warning and conditions

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 warning and conditions on your registration if you do not ask for a hearing.

We wrote to you on 11 July 2023 to tell you we wanted to place a warning and conditions on your registration. After explaining the consequences of not asking for a hearing, and recommending you take legal advice, you have not asked that the case is referred to a Fitness to Practise Panel. We are therefore permitted by the Rules to impose this warning and conditions on your registration.

Date of effect

The notice comes into effect on 23 August 2023.