

## Notice of Decision

<b>Registrant</b>	Kirsty Sutherland
<b>Registration number</b>	4024523
<b>Part of Register</b>	Practitioners in Day Care of Children Services
<b>Town of employment</b>	Stonehaven
<b>Sanction</b>	Removal
<b>Date of effect</b>	26 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 impose a Removal Order removing your registration from the part of the SSSC Register for Practitioners in Day Care of Children Services.

### Findings of fact

We decided there is evidence that:

On 15 February 2023 at Aberdeen Sheriff Court, you were convicted of:

1. acting contrary to sections 23 and 24 of the Sexual Offences (Scotland) Act 2009 in that you did on an occasion between 1 March 2022 and 20 April 2022, both dates inclusive, intentionally direct a sexual verbal communication at AA, [a child], for the purposes of obtaining sexual gratification or of humiliating, distressing or alarming them in that you did tell them that you had urinated in front of and tell them that you did show your breasts to a person by way of a video call and did cause them to look at a sexual image for the purposes of obtaining sexual gratification or of humiliating, distressing or alarming them in that you did show them a live

video of a person masturbating his naked penis

2. acting contrary to sections 23 and 24 of the Sexual Offences (Scotland) Act 2009 in that you did on an occasion between 1 March 2022 and 20 April 2022, both dates inclusive, intentionally direct a sexual verbal communication at BB, [a child], for the purposes of obtaining sexual gratification or of humiliating, distressing or alarming them in that you did tell them that you had urinated in front of and tell them that you did show your breasts to a person by way of a video call and did cause them to look at a sexual image for the purposes of obtaining sexual gratification or of humiliating, distressing or alarming them in that you did show them a live video of a person masturbating his naked penis
3. acting contrary to section 23 of the Sexual Offences (Scotland) Act 2009 in that you did on 12 April 2022, intentionally cause CC, [a child], to look at a sexual image in that you showed him a video of pornographic nature
4. acting contrary to section 23 of the Sexual Offences (Scotland) Act 2009 in that you did on 12 April 2022, intentionally cause DD, [a child], to look at a sexual image in that you showed him a video of pornographic nature

and your fitness to practise is impaired because of your convictions as set out in allegations 1-4.

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

1. Your fitness to practise is impaired because:
  - a. Social services workers must not behave, while in or outside work, in a way which would bring their suitability to work in social services into question, and they must not put themselves or others at unnecessary risk. You have been convicted of directing sexual verbal communication at young children and of causing young children to look at sexual images. Your behaviour placed those children at serious risk of harm and suggests that you have deep-seated attitudinal and values issues. The behaviour is fundamentally incompatible with professional registration.
  - b. The behaviour is serious and amounts to sexual misconduct involving children. Your actions placed young children at serious risk of emotional harm and repetition of the behaviour would carry a substantial risk of harm. Your behaviour was deliberate and indicates a

significant values issue on your part.

- c. Your actions amount to a pattern of behaviour as they were deliberate and occurred on two separate occasions involving four different children. The behaviour is indicative of serious values issues on your part and this type of behaviour is considered to be more difficult to remedy. The risk of the behaviour being repeated is considered to be high.
  - d. The behaviour raises significant public protection concerns. There is a clear need to protect vulnerable users of services, in particular young children, from the risks associated with your behaviour. There would be substantial concerns if you were allowed to continue to work with vulnerable people.
  - e. Your behaviour is entirely incompatible with professional registration. It falls far below the standards expected of you and brings the reputation of the profession into disrepute. If no action were taken to protect against the risks posed by your behaviour the public would be entitled to call into question the integrity of the SSSC as the regulator of the profession. There is a clear need to reaffirm the standards of conduct expected from registered social services workers and to uphold the proper standards of conduct and behaviour expected.
2. You have failed to follow parts 5.7 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

- Your behaviour was deliberate and amounts to a complete disregard for the Codes of Practice.
- Your conduct appears to have taken place outside of work however the seriousness of the behaviour is such that it has potential to impact upon the reputation of the profession, particularly given your role at the time as

a Nursery Practitioner.

- Your actions constitute a pattern of behaviour which involved four different children on two separate occasions.
- The consequences of your behaviour were significant. You placed the children involved at an extremely high risk of harm and would have caused them considerable emotional distress. Your actions brought the reputation of the profession into disrepute.
- While your behaviour did not take place during the course of your employment, it was a clear abuse of the trust placed in you in relation to the children who were in your care at the time.

Factors in your favour

- You have no prior negative history with the SSSC.

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

- A warning would not be appropriate as it would not adequately address the impairment of your fitness to practice. The behaviour is extremely serious. A warning would give no protection to service users or the public.
- A condition would not be appropriate because there are no conditions which could be placed on you which would address why your fitness to practice has been impaired. The behaviour is indicative of deep-seated values issues on your part and is not the type of behaviour which conditions would rectify.
- A warning plus conditions would not be appropriate due to the reasons outlined above.
- A Suspension Order would not be appropriate as your behaviour/impairment of your fitness to practice is fundamentally incompatible with continuing registration. The interests of people who use services and the public would not be sufficiently protected by any period of suspension.
- 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 Order**

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 13 July 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 26 August 2023