

**Outcome of Fitness to Practise Panel impairment hearing held on
Monday 31 July, Tuesday 1 and Wednesday 2 August 2023**

Name	Olateju Eguntola
Registration number	4008896
Part of Register	Support Workers in a Housing Support Service Support Workers in Care at Home Service
Current or most recent town of employment	Edinburgh
Sanction	Removal
Date of effect	23 August 2023

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

1. 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 31 July, Tuesday 1 and Wednesday 2 August 2023 by remote videoconference.
2. At the hearing, the Panel decided that all of the allegations against you were proved, that your fitness to practise is impaired and made the decision to impose a Removal Order on your Registration in the parts of the Register for Support Workers in a Housing Support Service and Support Workers in Care at Home Service.

Matters taken into account

3. In coming to its decision, the Panel had regard to these documents:
 - the Regulation of Care (Scotland) Act 2001 (the Act)
 - the Code of Practice for Social Services Workers Revised 2016 (the Code)
 - Scottish Social Services Council (Fitness to Practise) Rules 2016 as amended by the Scottish Social Services Council (Fitness to Practise) (Amendment) Rules 2017 and 2021 (the Rules)
 - Decisions Guidance for Fitness to Practise Panels and Scottish Social Services Council staff dated November 2016 (the Decisions Guidance).

Allegations

4. The allegations against you at the hearing were as follows:

while employed as a Support Worker with [information redacted], and during the course of that employment, you did:

1. on or around 7 April 2022, while supporting service user AA, use AA's bank card without his permission to purchase a takeaway for yourself from [information redacted] for a sum of £25.90
2. on or around 9 April 2022, while supporting service user AA, use AA's bank card without his permission to:
 - a. make a purchase from [information redacted] 1354 for a sum of £100.00
 - b. make a purchase from [information redacted] for a sum of £200.00
3. by your behaviour at allegation 1. and 2. above, act dishonestly

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

Representation

5. The SSSC was represented by ZZ, Solicitor
6. You were neither present nor represented.

Findings of Fact

7. You did not admit any of the facts alleged.

Allegation 1.

8. Proved.
9. The Panel found that you were present at AA's home address on 7 April 2023. You were employed by [information redacted] as a registered support worker to provide support to AA in his home from 7am on 7 April 2022 to 7am on 8 April 2022. You were Registered with the SSSC as a Support Worker in Care at Home Service from 4 March 2020 and Support Worker in a Housing Support Service from 24 September 2020. The Panel relied on the evidence of YY that he did a handover to you on 7 April 2022 and that, from his knowledge, that was the first shift you had done with AA so he showed you the ropes. You do not deny that you were present at

AA's home on 7 April 2022. The Panel found however that you had done some other shifts in 2021 with AA.

10. The Panel found that YY was a credible witness. He was straightforward in his answers and had worked with AA for a number of years. The Panel also found that AA was a credible witness. AA has a condition that means that his speech is impaired, but his support workers have no difficulty in understanding him. AA answered questions readily and when answering questions from the Panel he was prepared to have his support worker assist the Panel in fully understanding his answers. The Panel had no difficulty in finding that AA was a credible witness.
11. The Panel found that AA had his own Wi-Fi and that AA would allow support workers to use his Wi-Fi if they requested it. YY explained that the Wi-Fi box was in the sitting room and that the password was on the box. He confirmed that if someone had previously logged on using the password then it would automatically log you back in on the same phone or device. The Panel found therefore that AA's Wi-Fi was easily accessible to you and you did access AA's Wi-Fi.
12. The Panel also found that AA's bank card was in his [information redacted] and that you and AA had used the bank card to measure up a blind. The Panel found that you could have and did access AA's bank card.
13. The Panel found that a transaction took place from AA's IP address on 7 April 2022 in the sum of £25.90 for a takeaway at [information redacted]. The Panel relied on the evidence of AA and YY that the bank had confirmed that the transaction dated 7 April 2022 to [information redacted] was made from AA's IP address. The Panel also relied on the screenshots of AA's bank account that confirmed that the sum of £25.90 had been paid from AA's account to [information redacted]. Your evidence was that a transaction had taken place with a takeaway restaurant but that AA himself had ordered the takeaway for his own purposes. Your evidence was that the Tesco delivery had not arrived and therefore AA ordered a takeaway.
14. AA's evidence was that you ordered a takeaway to his home on 7 April 2022 for your own consumption and that he had not given you permission to use his card to pay for that takeaway. YY confirmed that when he was discussing the payments made from AA's bank account on 11 April 2022, AA had told him that you had ordered a takeaway on 7 April 2022 shift. The Panel put to AA your position, namely that he had ordered the takeaway as Tesco had not delivered that day. AA did not remember whether Tesco had delivered but he was clear that he had not ordered the takeaway and that you had ordered it for your own consumption. He explained that it was not unusual for a support worker to order in their own food.

15. The Panel had two conflicting accounts of what took place on 7 April 2022 in relation to the ordering of the takeaway food. In reaching its decision the Panel had to consider the balance of probabilities about what was more likely or not to have happened. Your account was that AA held a grudge against you because you supported a different football club to him. The Panel heard from YY however that AA did not hold grudges due to football but instead engaged in banter with those who supported different clubs to his one. YY also explained that if AA did not like a support worker, he would be clear with [information redacted] and ask for that support worker not to come back. AA had, in fact, asked for you to return for the Saturday shift, namely 9 April 2022. The Panel did not accept that AA held a grudge against you. When assessing which account in relation to the ordering of the takeaway was more credible, the Panel took into account the fact that AA had consistently engaged with the SSSC and had voluntarily participated in the SSSC hearing today. As explained above, the Panel found that AA was a credible witness and had no motive to make up stories about you.
16. The Panel noted that you had accepted an RPW for the transaction in allegation 1. You have said that you felt pressured to take the RPW rather than attend the police station as you were [information redacted]. The Panel did not accept that if you were wholly innocent you would accept an RPW for such a serious matter as theft. The Panel also noted that you failed to attend the SSSC hearing to give your own account of events. The Panel preferred the evidence of AA in respect of you ordering the takeaway for your own purposes. The Panel therefore thought it was more likely than not that the transaction made from AA's IP address on 7 April 2022 for a takeaway from the [information redacted] was made by you without permission from AA. The Panel therefore found allegation 1. proven.

Allegation 2.a.

17. Proved.
18. In relation to allegation 2.a. the Panel found that you were present at AA's home on 9 April 2022. The Panel accepted AA's evidence that you were his support worker from 7am on 9 April 2022 to 7am on 10 April 2022. The Panel also took into account the staff rota in the bundle which confirmed the position as above. Further, you did not deny that you were present at AA's home on the shifts in question.
19. The Panel found that a transaction for the amount of £100 to [information redacted] was made from AA's IP address using AA's bank card on 9 April 2022. The Panel accepted AA's evidence that he did not make that transaction. As above the Panel accepted AA's and YY's evidence that the bank had confirmed that the [information redacted] transaction was made from AA's IP address. The Panel found that you were present at AA's home and had access to his IP address. The Panel accepted that another support worker was present from midnight 8 April to 7am on 9 April 2022. The

Panel therefore had to consider whether it was more likely than not that you had made the purchase or someone else with access to AA's IP address. Given the Panel's finding that you had made a transaction on 7 April 2022 from AA's IP address without AA's permission and that you had accepted an RPW for unauthorised transactions, the Panel thought it more likely than not that you also accessed AA's bank account via AA's IP address on 9 April 2022.

20. The Panel therefore found that when you were on shift at AA's home on 9 April 2022 you made the [information redacted] transaction in the sum of £100 using AA's bank details without AA's permission.

Allegation 2.b.

21. Proved.
22. In relation to allegation 2.b. for the same reasons as above the Panel found that you were present and on shift at AA's home on 9 April 2022 from 7am till 7am the next day.
23. The Panel found that a transaction for the amount of £200 to [information redacted] was made from AA's IP address using AA's bank card. The Panel found that AA did not make the transaction. The Panel accepted both AA's assurance that he did not make the transaction but also YY's evidence that the nature of the transaction, namely a [information redacted], was extremely unlikely for AA to make. The Panel took into account the Panel's finding that you had made an unauthorised transaction on AA's IP address using his bank card details on 7 April 2022. The Panel also noted that you had accepted a RPW for making unauthorised transactions on AA's IP address and bank card in relation to the [information redacted] payment. The Panel had to decide whether it was more likely than not that you had made a purchase from [information redacted] for the sum of £200 from AA's IP address using his bank card details. The Panel, taking all of the above into account, found that you did make said purchase and therefore found allegation 2.b. proven.

Allegation 3.

24. Proved.
25. Given the Panel's findings in relation to you making unauthorised purchases using AA's bank card for your own financial gain, the Panel had no difficulty in finding that your actions amount to dishonest behaviour.

Impairment

26. You did not admit that your fitness to practise is currently impaired.

Panel decision

27. The Panel finds that your fitness to practise is currently impaired by reason of misconduct.

Reasons

28. When making its decision the Panel had regard to the Rules and to Rule 19 which sets out the procedure for considering impairment. The Panel considered impairment in the context of Rules 2.1, 2.2 and 2.3.
29. The Panel considered that your actions fell far short of the standards set out in the Code. You have breached the following codes 2.1, 2.4, 3.10, 5.2, 5.3, 5.7, 5.8 and 6.1. The Panel also found that your conduct amounted to dishonesty as per the Panel's finding in relation to allegation 3. above.
30. Based on the breaches of the Code identified and the finding of dishonesty, the Panel concluded that the behaviour is serious. The behaviour falls short of what is proper in the circumstances and the behaviour found amounts to misconduct in the Panel's view. As such the Panel decided that your actions amounted to misconduct.
31. The Panel then had to consider whether as at the date of the hearing your fitness to practise is impaired.
32. The Panel reminded itself of the relevant case law as set out in the bundle. The Panel considered whether your behaviour had been put right, whether you had taken any action to improve your practise, whether you had in fact taken such action and whether the behaviour itself is capable of being put right. The Panel also considered whether you had shown any insight into your behaviour and considered the aggravating and mitigating factors set out in the Decisions Guidance.
33. The Panel also reminded themselves of the important considerations of public protection and public interest when considering whether your fitness to practise is impaired.
34. Turning first to the issue of public protection, the Panel decided that there were serious public protection concerns if you were to work in social services unrestricted.
35. In reaching that decision the Panel found that your behaviour in abusing the trust of a vulnerable service user was extremely serious. The behaviour involved dishonesty and breached several important Codes as stated above but in the Panel's view the most egregious breaches were that of Codes 2.1, 5.2, 5.3 and 5.8. The Panel found that you abused the trust of a vulnerable service user AA by exploiting him for financial gain. Further

the abuse of trust took place in circumstances where you were working in his home, you were there to assist AA and to ensure that he was safe and supported. In the Panel's view your behaviour brings into question your suitability to work in social services.

36. The Panel decided that there was a risk of repetition of the behaviour. You did not appear before the Panel and so the Panel could not assess whether you had put right your behaviour or taken any steps to attempt to put right your behaviour. The Panel was of the view that the nature of the behaviour indicates character and values issues which are not easily put right. You have denied the allegations and yet you accepted a RPW from Police Scotland. The Panel had difficulty in reconciling those two positions as on the one hand, on the face of it, you accepted to the Police that the behaviour had occurred but later to the SSSC you denied that the behaviour took place. Therefore, it appeared to the Panel, given your denial of the behaviour to the SSSC, that you did not have any insight. The Panel had no information to suggest that you would not behave in a similar manner in the future and therefore came to the view that there was a risk of repetition were you to work in social services in the future.
37. If the behaviour were to be repeated, then other vulnerable service users would be put at risk of both emotional and financial harm. The Panel was of the view therefore that there were serious public protection concerns were you to return to working in social services on an unrestricted basis.
38. In relation to the public interest, the Panel decided that there were public interest concerns if you were to return to work in social services unrestricted. In reaching that view the Panel decided that a reasonable person in possession of the facts of this case would take the view that your behaviour is very serious, and a significant abuse of the trust placed in you as a social service worker. They would form the opinion that action should be taken in this case to reaffirm the professional standards expected of social service workers.
39. The Panel were of the view that the reputation of the profession was likely to be damaged and the reputation of the SSSC as a professional regulator if you were allowed to return to the sector unrestricted.

Aggravating/mitigating factors relevant to the case

40. The Panel considered the Decisions Guidance and weighed up the aggravating and mitigating factors in your case:
 - Insight, regret and apology: you deny the behaviour and yet accepted an RPW. The Panel found that you have shown no insight, regret or apology and that is an aggravating factor.

- Previous history: the Panel accepted that there was no evidence of such behaviour in the past and the Panel found this to be a mitigating factor.
 - Circumstances leading up to the behaviour: the Panel found this to be an aggravating factor given that you were working alone with AA in his home. You should have been aware that such behaviour was completely unacceptable.
 - Length of time since behaviour and subsequent practice: the Panel had no evidence as to what you had been doing since the allegations. You have been suspended from the Register since June 2023 and so could not have been working in the social services sector. The Panel found that this was a neutral factor.
 - Conduct inside or outside work: the conduct was at your place of work and in AA's home. AA should have been able to feel safe and supported in his home. The Panel viewed this as an aggravating factor.
 - Duress: there is nothing to suggest that you were under duress, so this factor is not relevant.
 - References and testimonials: you have not provided any references or testimonials so the Panel found this was a neutral factor.
 - Cooperation with the SSSC: you have cooperated with the SSSC to a degree, but you did not appear at the hearing and as such the Panel found this to be a neutral factor.
 - Isolated incident or a pattern: the Panel saw your behaviour as a pattern of behaviour given that there was one transaction on 7 April 2022 and two transactions on 9 April 2022. The Panel therefore found this to be an aggravating factor.
 - Consequences of behaviour: the Panel found that a serious abuse of trust had taken place. The Panel heard evidence that AA still trusted his support workers but that he might not trust new people who came into his home. The Panel found the consequences of your behaviour upon AA to be an aggravating factor.
 - Concealment of wrongdoing: you did not take active steps to conceal your wrongdoing and so the Panel did not think this factor relevant.
41. The Panel weighed up all of the aggravating and mitigating factors. The Panel also took into consideration the public protection concerns and the public interest as described above.

42. The Panel decided that your fitness to practise is impaired.

Sanction

Panel decision

43. The Panel decided to impose a Removal Order on your Registration.

Reasons

44. In reaching its decision the Panel took into account the findings in fact, decision on Impairment, the evidence previously presented, all papers in the bundle and the submissions from the Presenter. The Presenter referred the Panel to Rule 20.9. She reminded the Panel that any sanction imposed was not intended to be punitive and that the Panel should bear in mind the protection of the public, the public interest but also the principle of proportionality. She submitted that whilst hardship to you is a relevant factor, the reputation of the profession is more important than the reputation of an individual within a profession. She submitted that the Panel should weigh up your interests against the interests of the public and the profession. She also submitted that the Panel should have regard to the aggravating and mitigating factors as found above.
45. You were not present at the hearing, but the Panel took into account your representations made in your correspondence to the SSSC contained in the bundle.
46. The Panel also took into account the Rules and the Decisions Guidance. It had regard to the seriousness of the impairment to your fitness to practise, the protection of the public, the public interest in maintaining confidence in social services and the issue of proportionality. The Panel considered the aggravating and mitigating factors. It considered each of the possible disposals in turn starting with the least restrictive.
47. To impose no sanction would not be appropriate as there were no exceptional circumstances in this case to justify a decision of no further action.
48. A warning would not be appropriate as it would not adequately address the impairment of your fitness to practise. The Panel found that the behaviour is extremely serious in that it amounts to financial abuse and the abuse of trust of a vulnerable service user in his home. The Panel found that a warning would not give sufficient protection to service users or the public nor would it mark the seriousness of your behaviour.
49. A condition would not be appropriate as your conduct is not the type of behaviour which conditions are likely to rectify. The Panel could not think of any conditions which could be placed on you which would address why your

fitness to practise has been impaired given the attitudinal and values issues identified by the Panel.

50. A warning plus conditions would not be appropriate due to the reasons outlined above.
51. A Suspension Order would not be appropriate as you have shown no insight into your behaviour and there is no evidence that a period of suspension would allow you to remedy the cause of the impairment of your fitness to practise. Further, the Panel decided that the interests of people who use services and the public would not be sufficiently protected by any period of suspension given the serious nature of the behaviour.
52. For the reasons outlined above a Suspension Order plus conditions would not be appropriate.
53. The Panel considers that 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. The Panel had found that your behaviour fell within section 10.3 of the Decisions Guidance which states that a Panel may consider removal to be the appropriate outcome. The Panel did not hear evidence from you of the hardship that would occur were the Panel to remove you from the Register as you chose not to attend the hearing. The Panel accepted however that there was likely to be both reputational and financial hardship to you if a Removal Order were imposed. The Panel reminded themselves that they had to act proportionately but considered that protecting the public and the public interest in the profession outweighed any hardship to you.