

## Notice of Decision

<b>Registrant</b>	Colin Devlin
<b>Registration number</b>	4064866
<b>Part of Register</b>	Practitioners in Day Care of Children Services
<b>Town of employment</b>	[information redacted]
<b>Sanction</b>	Removal
<b>Date of effect</b>	27 February 2024

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:

1. On 2 March 2023 at Stirling Sheriff Court you were convicted of a contravention of Section 3 of the Sexual Offences (Scotland) Act 2009, namely:
  - a. on 28<sup>th</sup> May 2022 at [information redacted], you did sexually assault a female C/o Police Service of Scotland, St Ninians Road, Stirling in that you did touch her vagina over her clothing

and in light of the above, your fitness to practice is impaired because of your conviction at allegation 1.

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

1. Your fitness to practise is impaired because:
  - a. Social service workers must not act in a way, inside or outside of work, which questions their suitability to work in the social services profession. You have been convicted of a sexual offence, which was committed outside of work. Your conviction raises significant concerns about your underlying values and whether they are compatible with the values and standards of conduct expected from registered social service workers.
  - b. Your conviction is serious because you have been convicted of a sexual offence. A conviction of this nature amounts to serious criminality. Part 10 of the SSSC's Decisions Guidance identifies types of behaviour where more serious action may be required. Your conviction falls within parts 10.1, sexual misconduct, and 10.6, behaviour that is fundamentally incompatible with professional registration, of the Decisions Guidance. The conviction raises significant concerns about your underlying values. If similar behaviour were to be repeated in the future, it is likely others would be placed at a significant risk of emotional harm. Registered social service workers hold a position of trust within society. Although your offence occurred outside of work, your conviction undermines your suitability to continue working in a position of trust or responsibility. You have not provided comments to the SSSC. Although this may have allowed some assurances to be taken that similar behaviour may not be repeated in future, these would have been limited due to the serious nature of the offence and the values concerns that arise from it. Prior to the offence, you had worked in a social services role for around 2 years without any concerns being raised about your practise. Although this is a positive factor, sufficient assurances cannot be drawn from this. There are continuing public protection concerns. Reasonable and informed members of the public would be alarmed if the SSSC did not make a finding of impairment in this case. A finding of impairment is necessary to uphold the public interest and reaffirm the expected standards of conduct from registered social service workers. Failure to do so would undermine the reputation of the profession, and of the SSSC as an effective regulator.
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**

- You have been convicted of a serious offence.
- The nature of the offence gives rise to significant concerns about your underlying values.
- The behaviour leading to your conviction is fundamentally incompatible with continued professional registration.
- You have not provided comments to the SSSC.

### **Factors in your favour**

- The behaviour occurred outside of work.
- You had worked in the social services sector since 2020 without any previous concerns being raised about your practise.

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

- A warning would not be appropriate as the conviction is serious and a warning would not adequately manage the public protection and public interest risks in this case.
- A condition would not be appropriate because your conviction raises significant concerns about your underlying values. The nature of the conviction is fundamentally incompatible with continuing professional registration. There are no workable and enforceable conditions that would adequately manage the serious public protection and public interests risks in this case.
- A warning plus conditions would not be appropriate due to the reasons outlined above.
- A Suspension Order would not be appropriate because your conviction is fundamentally incompatible with continuing registration. A suspension

order would not sufficiently address the serious public interests risks in this case.

- 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 9 January 2024, 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 27 February 2024.