

## Notice of Decision

<b>Registrant</b>	Derek Wilson
<b>Registration number</b>	3035872
<b>Part of Register</b>	Practitioners in a Care Home Service for Adults
<b>Town of employment</b>	Lossiemouth
<b>Sanction</b>	Warning to stay on your registration for a period of 12 months
<b>Date of effect</b>	30 July 2022

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 Practitioners in a Care Home Service for Adults, for a period of one year

### Findings of fact

We decided there is evidence that on exact dates unknown to the SSSC between November 2017 and August 2018 while employed as a Support Worker by [information redacted] at [information redacted] in Lossiemouth, and during the course of that employment, you did:

1. in or around January 2018 say in the presence of colleagues YY and ZZ and residents AA, BB and CC, and referring to resident BB, "who's bathing Chuggerton tonight then", or words to that effect
2. state to resident DD on a number of occasions when he sat with his legs crossed that he "crosses his legs like a lady", or words to that effect

3. tell resident AA that her food “looks like dog food”, or words to that effect
4. tell resident DD, in the presence of other residents, that his food “looks like dog food”, or words to that effect
5. state to your colleague WW, when she was making a meal containing fish, “between your legs probably smells better”, or words to that effect
6. state in the presence of colleagues and residents when referring to resident FF, who had recently passed away, “she is broon breed” and “nobody will go to the crematorium with her”, or words to that effect
7. a. refer to resident EE as a “little witch”, or words to that effect  
b. by your actions at 7.a cause upset to resident EE

and your fitness to practise is impaired because of your misconduct.

### **Reasons for finding your fitness to practise is impaired**

1. Your fitness to practise is impaired because:
  - a. Social service workers are expected to communicate in an appropriate manner and must treat others with dignity and respect. You have made derogatory comments about residents who trust you with their care. You made the comments in the presence of those residents, as well as other residents and colleagues. Social service workers must work openly with colleagues and treat them with respect. Making derogatory comments to colleagues is disrespectful. This behaviour had the potential to cause distress to those who you referred to, as well as to those who heard you make these comments. Such comments are also damaging to public confidence in social service workers.
  - b. Your behaviour was repeated on multiple occasions. The comments made raise significant concerns about your underlying values and calls into question your suitability to work in a registered role. There is concern that if you returned to a social services role that the behaviour will be repeated in the future.
  - c. We consider that the behaviour, while inappropriate, is capable of being remedied through demonstrating insight and regret. You have

had limited co-operation with the SSSC investigation and therefore it does not appear remediation has taken place.

- d. The misconduct fell below the standards expected of social service workers. You have spoken in a derogatory manner about residents in your care, and towards colleagues. There are public protection concerns arising from the behaviour. If the behaviour were to be repeated, other vulnerable residents, members of the public and colleagues could be put at risk of emotional harm.
  - e. We consider there to be a public interest concern in this matter. The reputation of the profession and public confidence in the profession could be damaged if no finding of impairment to your fitness to practise was made.
2. In relation to findings of fact 1-7 you have failed to follow parts 1.1, 1.2, 1.4, 2.2, 3.10, 5.5, 5.8, and 6.5 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 one year.

### **Reasons for the sanction**

When making our decision we considered the following factors:

#### **Factors of concern**

- The behaviour took place inside of work and in front of colleagues and residents
- There was a pattern of misconduct
- There was a risk of emotional harm to residents and colleagues
- There has been limited insight, and no regret or apology
- There were no references or testimonials provided

#### **Factors in your favour**

- No previous concerns had been reported about your practice to the SSSC

- You co-operated with the SSSC investigation by providing a Personal Statement form

### **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**

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

We wrote to you on 6 July 2022 to tell you we wanted to place a warning 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 and confirmed in writing that you do not wish to appeal the decision. We are therefore permitted by the Rules to impose this warning on your registration.

### **Date of effect**

The notice comes into effect on 30 July 2022.