

Notice of Decision

Registrant	Graham Westwater
Registration number	4085697
Part of Register	Residential Child Care Workers
Town of employment	(Information redacted)
Sanction	Warning to stay on your registration for a period of nine months and conditions imposed
Date of effect	12 April 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 place a warning on your registration, on the part of the Register for Residential Child Care Workers for a period of nine months.
3. to place conditions on your registration, on the part of the Register for Residential Child Care Workers.

Findings of fact

We decided there is evidence that:

while employed by (Information redacted) as a residential childcare worker, and during the course of that employment, you did:

1. on or around 17 December 2022, fail to carry out the required number of observations on young people between around 8.00am and 1.15pm, or in the alternative, fail to take steps to see that the required checks were undertaken, in that:

- a. in relation to the young person in Room 1, AA, nine observations were undertaken when there should have been 21
 - b. in relation to the young person in Room 2, BB, seven observations were undertaken when there should have been 22
 - c. in relation to the young person in Room 3, CC, 10 observations were undertaken when there should have been 20
 - d. in relation to the young person in Room 4, DD, five observations were undertaken when there should have been 23
 - e. in relation to the young person in Room 5, EE, six observations were undertaken when there should have been 16
 - f. in relation to the young person in Room 6, FF, five observations were undertaken when there should have been 59
2. falsely record on observation check sheets that observations for the young people at 1. above had been carried out as required when this was not the case

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 should meet relevant standards of practice and work in a safe and effective way. They should not put people at unnecessary risk. You and a colleague were equally responsible for carrying out the requisite observations on six young people in their locked bedrooms within a secure care facility. Failure to complete the correct number of observations, or take steps to see that they were completed, had the potential to cause emotional and physical harm to the young people in your care.
 - b. (Information redacted). Frequent observations were required to monitor their condition and protect them. This level of supervision enabled the frequency of observations to be increased up to a constant level (Information redacted) were present. Failure to carry

out the observations as required meant you could have missed signs (Information redacted).

- c. young person FF had arrived in the service the night before. (Information redacted). His behaviours in his previous accommodation had put him and others at risk of physical harm. His current level of risk required to be assessed before he could be moved from five to fifteen-minute observations. A total of only five observations were carried out on him when there should have been 59.
- d. the young people knew the requisite number of observations had not been done and brought it to the attention of a senior member of staff. The lack of checks on their wellbeing could have made them feel unsafe in their environment. Also, they had close relationships with staff so having to raise the matter put them in a difficult position.
- e. you noted the observations as having been done as required in the relevant records. Your actions meant your employer did not have a correct overview of the condition of the young people during the period in question.
- f. your behaviour is serious but was isolated in nature and no actual harm occurred to any of the young people. The behaviour does not indicate deliberate neglect of the young people, as you appear to have been focused on other tasks you had to do. However, you should have prioritised the observations.
- g. you have not shown insight into how your behaviour could have affected the young people. You accepted in hindsight the requisite observations were not done but stated to the SSSC that in your professional opinion the young people appeared to be settled in their rooms, sleeping or relaxing, otherwise you would have been more vigilant. You could not have known this without carrying out the observations as instructed. This calls into question your awareness of safety and understanding of how important it is to adhere to observation procedures in a secure care environment.
- h. you worked in the care sector for a short time only after the behaviour occurred, so your subsequent practice is not sufficient to allay concerns. Given this and your lack of insight, we cannot be assured your behaviour would not be repeated were you to return to work in the care sector.

- i. the public would be concerned by a residential childcare worker having failed to carry out a significant number of observations on young people in a secure care environment. Young people are placed in secure care to ensure their safety because they are considered a risk to themselves and/or others. It is therefore crucial the public have confidence that measures put in place to safeguard them are prioritised and implemented. The behaviour needs to be marked as unacceptable to uphold public confidence in the profession and the reputation of the SSSC as regulator.
2. In relation to the findings of fact above, you have failed to follow parts 2.4, 5.7, 6.1 and 6.2 of the SSSC Code of Practice for Social Service Workers in force before 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 nine months and the conditions set out below.

The conditions

The conditions placed on your registration are:

1. You must tell your employer of these conditions within seven days of them coming into effect or within seven days of commencing in a role that is registerable with the SSSC.
2. If you commence employment with an agency, you must tell your agency supervisor as well as the agency you are employed with, within seven days of these conditions coming into effect.
3. Within seven days of meeting condition 1. or 2. above, you must provide evidence countersigned by your employer or agency that they are aware of the conditions placed on your registration.
4. Within two months of these conditions coming into effect, you must provide a reflective account to the SSSC which covers the following points:
 - a. your understanding of the risks associated with not following care or support plans correctly in relation to the observations required

- b. reflection upon the seriousness of your actions and what you should have done differently to ensure all observations were carried out
- c. the importance of liaising with your colleagues on shift in relation to specific duties and/or tasks
- d. your understanding of how your behaviour, by falsely recording records undermines the trust and confidence in you as a social care worker
- e. what you would do differently to reassure the SSSC that this type of behaviour will not be repeated

Reasons for the sanction

When making our decision we considered the following factors:

Factors of concern

- The behaviour happened at work while you were responsible for the care and support of vulnerable young people and had the potential to cause harm.
- The behaviour breached the trust placed in you as a social service worker.
- You have not shown insight into how your behaviour could have affected the young people in your care.

Factors in your favour

- The behaviour happened on one day only.
- You cooperated with the SSSC investigation.

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 28 February 2024 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 12 April 2024.