

**Outcome of Fitness to Practise Panel impairment hearing held on
Monday 26 August 2019**

Name	Janine Bleakley
Registration number	3030427
Part of Register	Support Workers in a Care Home Service for Adults
Current or most recent town of employment	Irvine
Sanction	Removal
Date of effect	19 September 2019

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

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 26 August 2019 at Compass House, 11 Riverside Drive, Dundee, DD1 4NY.

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 part of the Register for Support Workers in a Care Home Service for Adults.

Matters taken into account

In coming to its decision, the Panel had regard to these documents:

- the Act
- the Code of Practice for Social Services Workers Revised 2016 (the Code)
- the Scottish Social Services Council (Fitness to Practise) Rules 2016 as amended (the Rules)
- Decisions Guidance for Fitness to Practise Panels and Scottish Social Services Council staff dated December 2017 (the Decisions Guidance).

Allegations

The allegations against you are that while registered with the SSSC on the part of the Register for Support Workers in a Care Home Service for Adults, you:

1. on or around 25 August 2017, at Kilmaronock Sheriff Court were convicted of offences, namely:
 - a. without reasonable excuse, wilfully or recklessly destroying or damaging property belonging to another, contrary to section 52(1) of the Criminal Law (Consolidation) (Scotland) Act 1995
 - b. assault
 - c. having an offensive weapon with you in a public place, contrary to section 47(1) of the Criminal Law (Consolidation) (Scotland) Act 1995
 - d. having a bladed or sharply pointed article with you in public place, contrary to section 49(1) of the Criminal Law (Consolidation) (Scotland) Act 1995
2. on or around 19 October 2017, at Kilmaronock Sheriff Court, were convicted of an offence, namely behaving in a threatening or abusive manner, likely to cause a reasonable person to suffer fear or alarm, with the intention of causing fear or alarm, or in the alternative with recklessness as to whether your behaviour would cause fear or alarm, contrary to section 38(1) of the Criminal Justice and Licensing (Scotland) Act 2010
3. on or around 14 December 2017, at Kilmaronock Sheriff Court, were convicted of offences, namely:
 - a. having been granted bail, failing without reasonable excuse to comply with a condition imposed on your bail, contrary to section 27(1)(b) of the Criminal Procedure (Scotland) Act 1995
 - b. behaving in a threatening or abusive manner, likely to cause a reasonable person to suffer fear or alarm, with the intention of causing fear or alarm, or in the alternative with recklessness as to whether your behaviour would cause fear or alarm, contrary to section 38(1) of the Criminal Justice and Licensing (Scotland) Act 2010
4. between on or around 25 August 2017 and on or around 31 August 2018 fail to advise your regulatory body, the SSSC, of the convictions specified in allegations 1, 2 and 3

and in light of the above your fitness to practise is impaired because of your convictions at allegations 1-3 and your misconduct at allegations 4.

Findings of Fact

The Presenter submitted that the Panel should have regard to the Rules, in particular, Rule 32.8, which states that the findings of fact and certification of conviction of any criminal court in the United Kingdom are conclusive proof of the facts and conviction.

The Panel considered the bundle of documents, in particular, the extract convictions.

The Panel accepted these as conclusive proof of the facts and of your convictions. The Panel found allegations 1 to 3 proved against you.

The Presenter also submitted that you had signed your application form, binding you to advise the SSSC of convictions, charges, criminal proceedings or the alternatives to prosecution. The Presenter submitted this was evidence to support allegation 4 against you.

The Panel found allegation 4 to be proved against you.

Impairment

The Panel went on to consider the question of whether your fitness to practise is currently impaired.

Presenter's submissions

The Presenter made submissions that your Fitness to Practise is impaired because of your convictions and your failure to advise the SSSC of those. She referred the Panel to Rule 2.2(e) of the Rules.

The Presenter also referred the Panel to the Code.

The Presenter referred the Panel to the Decisions Guidance and case law relating to impairment.

It was submitted by the Presenter that the behaviour alleged is serious. Whilst the behaviour did not take place within the workplace, and there was no evidence that your professional work had been compromised by similar behaviour, you now have a number of criminal convictions against you which are of a violent and public nuisance nature.

The Presenter submitted you failed to notify the SSSC of your convictions and that fell short of what is expected of a social service Worker. She submitted

that this had a direct bearing on your fitness to practise and amounted to misconduct.

The Presenter submitted that this behaviour falls within the category of serious, in terms of the Decisions Guidance. She stated that such behaviour is fundamentally incompatible with Registration. She submitted that your criminal convictions are serious and of a violent nature and that there are ongoing public protection concerns. There would be loss of confidence and trust in the SSSC as regulator if your fitness to practise was found not to be impaired. The Presenter also submitted there was a high risk of this behaviour being repeated.

The Presenter submitted that the Panel should consider your fitness to practise as currently impaired.

The Panel took into account Rule 2.2(e) and considered that because of your convictions your fitness to practise may be impaired. The Panel considered the nature of your convictions and considered the convictions to be serious.

The Panel also considered whether your failure to inform the SSSC of your convictions contributed to impairment of your fitness to practise.

The Panel considered whether you were currently impaired to date. The Panel considered that there is a risk of repetition. The type of behaviour suggested fundamental problems with values and the principles of care, forming the core of Registration in the social services profession. It is not the type of behaviour that is easily remediable.

The Panel considered that there was a real public protection risk arising from the behaviour. The Panel also considered that the public would be concerned by your actions. The behaviour is fundamentally incompatible with the standard of behaviour expected of a registered care worker. The public would expect some action to be taken to uphold the public interest.

In light of the seriousness of the behaviour and the damage caused to the reputation of the profession, no amount of insight could avoid a finding of current impairment. The behaviour breached Parts 2.1, 2.2, 2.4, 5.7, 5.8 and 6.1 of the Code. Your failure to inform the SSSC about your convictions breached Part 6.3 of the Code.

The Panel, in all of the above circumstances, found that your fitness to practise is currently impaired because of your convictions and failure to tell the SSSC about them.

Sanction

The Panel decided to impose a Removal Order.

Presenter's submissions

The Presenter stated that there was a list of potential sanctions contained within the relevant Rules. She submitted that the Panel required to consider the evidence presented throughout the hearing at the sanction stage. She submitted the Panel was also to consider the seriousness of the impairment of fitness to practice.

She submitted that the Panel required to be fair and reasonable in considering all of the information and also proportionate in its approach to sanctions. She submitted that the Decisions Guidance gives some useful considerations about the appropriate level of sanction. She submitted that the Panel must first consider the least restrictive sanction.

The Presenter took the Panel through the various potential sanctions and identified the reasons why the SSSC ultimately sought your removal from the Register.

The Panel considered all of the evidence presented to it at the hearing. The Panel also noted that you had not engaged at any stage of this process. Therefore, the Panel had no information before it as to the circumstances leading to your convictions and failure to inform the SSSC of them.

The Panel considered that:

- There are no exceptional circumstances which would justify taking no further action in terms of your Registration.
- 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 condition would not be appropriate as there are no conditions which could be placed on you which would address why your fitness to practice is impaired. The behaviour demonstrated a serious breach of the trust placed in you as a care Worker. The type of behaviour at issue is not the type of behaviour which conditions would rectify. You are not currently working in the sector and any condition would not be workable or enforceable.
- A warning plus conditions would not be appropriate due to the reasons outlined above.
- A Temporary Suspension Order (TSO) would not be appropriate as there are underlying issues about values demonstrated by your behaviour. The behaviour 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. There is no evidence

that a period of suspension would allow you to remedy the cause of the impairment of your fitness to practise.

- For the reasons outlined above a suspension order plus conditions would not be appropriate.
- The Panel considers that a Removal Order is the most appropriate sanction as the behaviour demonstrates a serious breach of trust and departure from relevant professional standards. A Removal Order 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.

Legal Advice

FINDING IN FACTS STAGE

- Rule 32
- Rule 18(2)
- Code of Conduct

IMPAIRMENT STAGE

- Rule 19
- Decisions Guidance Part A

SANCTION STAGE

- Rule 20
- Decisions Guidance parts 10, 13, 15

The Panel accepted the legal advice given by the Chair.