

Outcome of Fitness to Practise Panel impairment hearing held on Monday 7 August, Monday 13, Wednesday 15, Thursday 16, Friday 17, Monday 20 November 2023.

Name	Kally June Smith
Registration number	4019677
Part of Register	Support Workers in a Day Care of Children Service
Current or most recent town of employment	Arbroath
Sanction	Removal
Date of effect	12 December 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 7 August, Monday 13, Wednesday 15, Thursday 16, Friday 17 and Monday 20 November 2023 by video conference.
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 part of the Register for Support Workers in a Day Care of Children Service.

Your right of appeal

3. You can appeal against this decision to impose Removal Order, in terms of section 51 of the Regulation of Care (Scotland) Act 2001 (the Act). If you decide to appeal it, you must make the appeal to the Sheriff at Dundee Sheriff Court, Sheriff Court House, 6 West Bell Street, Dundee, DD1 9AD. You must make the appeal by 11 December 2023.

Matters taken into account

4. 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)
- 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

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

The allegations against you are that while employed as a support worker by [information redacted] in Arbroath and during the course of that employment you did:

1. on more than one occasion between around September 2019 and 24 January 2020:
 - a. grab child AA by his arm and pull him with force
 - b. grab child BB by his arm and pull him with force
 - c. grab child CC by his arm and pull him with force
2. between around 23 and 24 January 2020, shout in the faces of children AA, BB and CC to 'be quiet and sit down' or words to that effect.
3. on more than one occasion between around September and December 2019, regarding child GG, who lived with [information redacted] and was non-verbal:
 - a. take GG's hat off and place it on your head
 - b. by your actions at allegation 3.a. above cause GG distress
 - c. when GG looked up and tapped his head for his hat, laugh and say to GG 'it's nothing' or words to that effect

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

Representation

6. The SSSC was represented by Rebecca Mudie, solicitor (the Presenter).

7. You were represented by Sarah Cooper, solicitor at Thorntons Law (your Representative).

Findings in Fact

8. You did not admit any of the facts alleged. The Panel heard oral evidence from ZZ, YY and you.

ZZ

9. ZZ is an Early Years Assistant in a nursery and has been in that position for a period of three years. While a student at college studying NC Early Education and Childcare, she spent three days at [information redacted] in Arbroath ("the nursery"). In oral evidence, ZZ said she started the placement on 18 January 2020. ZZ worked there on the Thursday and Friday of one week and Friday of the following week. Her first impression of the nursery was of chaos, children running around, toys everywhere and food on the floor and on surfaces. The staff were not welcoming. ZZ described you as forceful and blunt. You spoke to the children in a loud, bordering on angry tone.
10. ZZ described an incident which took place during her time at the nursery. She described sitting on a sofa reading to a child. The snack area was behind her. She heard shouting and then saw you drag one child and then another across the floor by their wrist and with force. One child lost his footing as he was dragged. You then put them on the ground and while holding their wrist shouted in their faces. You shouted, "sit down and stay there". The children were cringing and upset. They looked terrified. The children were dragged five to six metres and placed close to where ZZ was sitting on the sofa. In oral evidence ZZ thought the children were BB and CC. When taken to her statement provided to the SSSC and then the statement she provided to the Police she was less clear about the identity of the children. While initially suggesting it was AA, she then dismissed that idea as AA would have been too young. It could have been CC or even GG. She accepted that due to the passage of time it was difficult to recollect which children were involved. She was clear that two children (and not three) were dragged. Her Police statement says that three children were playing before going on to describe each child being dragged across the room. The implication was that all three children were dragged. In oral evidence she was adamant that she only saw two children being dragged.
11. ZZ did not do anything on the day of the incident, but she did speak to XX (a fellow student) about her concerns and XX told her of things which concerned her further. In her statement to the SSSC ZZ stated that XX thought what was happening at the nursery was normal. It was suggested to ZZ that she had influenced XX who had no concerns until ZZ spoke to

her. She disagreed. She then reported the matter to her college tutor. The matter was escalated, and ZZ did not return to the nursery. ZZ explained that as a student she did not feel she could intervene on the day. Others were present and she thought they would have taken the lead. ZZ said that WW was there, and she was not sure if VV and UU were also there. She could not recollect if TT was there.

YY

12. YY works as a support practitioner in an after-school project. She has been in that position for a period of two months. Before that she worked at [information redacted]. From August 2018 until December 2019, she was a student studying Early Education and Childcare. As part of her course YY was placed in the nursery. YY did not complete the course deciding for a number of reasons that it was not for her. In particular she said that she did not learn anything on placement and things were not done as she was being taught in college. Her placement at the nursery took place from the end of August 2019 for a couple of months. She attended two days per week between approximately 9am and 4pm. YY's first impression of the nursery was of a place which was unorganised, and which did not have a focus on developing children. It was akin to a bunch of friends babysitting. The staff seemed close, speaking about nights out in front of the children. She did however feel welcomed by the staff. She spoke to her college tutor and asked to leave telling her that she did not feel that she was learning and that things were not being done as she had expected. She described children being left to the side if upset and a child covered in soup not being changed before being expected to play outside.
13. YY was not on the placement with any other students. She knew XX from high school. She did become aware of other students that had made complaints, but this was after matters had been taken further. YY described attending college on one occasion after she had left the course to act as a model for a friend doing a hair and beauty course. XX spoke to her and indicated that she was likely to be asked to give evidence about what she had seen.
14. YY met you at the nursery. She did not otherwise know you. She gave evidence about GG. GG was [information redacted] to communicate. He lived with [information redacted] and was very set in his ways. He took comfort from his hat, coat and bag. YY described witnessing you wearing GG's hat. GG was touching his head to symbolise hat and looked frustrated as to why you were wearing it. He was making a noise "oh". You brushed it off as if it was nothing. When asked when this had happened YY said on one or two occasions. The second incident was similar to the first although GG was a lot calmer as you were quicker to give him the hat back.
15. YY was referred to her Police statement and her statement to the SSSC. She thought her Police statement would be most accurate being closer to

the time. The Police statement stated that you shouted all the time at BB and CC. In oral evidence YY could not recall any specific incidences of that. YY said that she did not discuss the details of what she had seen with XX but rather the practical matters such as court dates. It was suggested that her statement to Police had been tainted by discussions, which she denied.

16. At the conclusion of the evidence on behalf of the SSSC, the Presenter invited the Panel to have regard to the papers contained in the bundle. In particular, the Panel should consider the evidence of TT and XX and the statement of a Police Officer who confirmed taking Police statements from the witnesses. The Panel was also referred to the late paper bundle from the SSSC which contained the efforts made by the SSSC to have TT attend to give evidence and the communications with her.

Your evidence

17. You gave evidence on your own account. You denied the allegations and told the Panel that they did not happen. You are currently employed in [information redacted]. You have been there for a period of one month. You started at the nursery as an assistant Early Years Practitioner in December 2018 and left in February 2020 when you were suspended. You worked initially 20 hours per week but by March 2019 you were working full time hours. You were interviewed by the Police in April 2020 and charged. Following a criminal trial, you were found not guilty of all charges against you.
18. You explained that your performance was monitored by the Early Years Practitioners. There were two managers, but they were not on site all the time. You did not consider the management to be effective. One attended about three times per week. You were studying for your SVQ as part of a modern apprenticeship. You were close to completion of that when you were suspended. Responsibility for your apprenticeship lay with [information redacted] would set written tasks for you and attend the nursery once every couple of weeks. You had received no negative comments about your work. You talked the Panel through the document you had prepared as part of your apprenticeship about GG.
19. You described the layout of the nursery and provided some information as to a typical day. You considered the nursery to be organised and you cleaned every day. You knew the children AA, BB, CC and GG. You described in some detail how you worked with GG.
20. You explained that ZZ arrived at the nursery in January 2020 for a couple of weeks. She spoke to everyone and even suggested lunch. You also had met YY when she worked at the nursery in August and September 2019. You had also met XX who was at the nursery from October 2019 until Christmas. You were aware that both ZZ and YY knew XX. You said that XX and ZZ travelled to court together for your trial. You thought ZZ was

jealous of you as you were younger than her and closer to completion of your qualification. You were told by someone else at the nursery that ZZ had expressed surprise at this.

Presenters submissions

21. The Presenter made submissions on behalf of the SSSC following the conclusion of the evidence at the Findings in Fact stage. The Presenter reminded the Panel that the burden of proof rests with the SSSC and it must establish the case on the balance of probabilities.
22. In respect of allegations 1. and 2. the evidence in support of the allegations comes from ZZ, XX and TT. ZZ said in oral evidence that she attended the nursery for three days from 18 January 2020. In her Police statement it was four days from 16 January on a Thursday and Friday. The Presenter submitted that the Police statement is likely to be the most reliable as being close in time to events. ZZ is clear that one of the children involved was BB. She confirms in her Police statement what was said. The Presenter submitted that ZZ is an entirely credible witness although there were some issues with her reliability. This is to be expected after four years and the lengthy process. It is suggested that ZZ was jealous as to the speed of your qualifications as a motive to fabricate allegations. This is completely disproportionate to the four years the complaint had taken. Given the evidence as to the identity of the children involved, the Presenter suggested an amendment to allegation 2. and if necessary to allegation 1. There would be no prejudice to you in doing so.
23. In relation to allegation 3., the Panel has the evidence of YY and XX. The Police statements are the best evidence. YY was an entirely credible witness but there were issues with her reliability.
24. The Presenter also referred the Panel to the evidence about the atmosphere and environment in the nursery.
25. The Presenter invited the Panel to find the allegations proved subject to amendment.

Your Representatives submissions

26. Your Representative made submissions on your behalf at the conclusion of the evidence at the Findings in Fact stage. The onus rests with the SSSC and the facts require to be proved on the balance of probabilities.
27. Your Representative advised the Panel that you had been through the criminal process and been acquitted on all charges. Your Representative proposed that weight should be given to that. Your Representative noted that TT knows XX from school and XX knows YY from work at [information redacted]. XX and YY travelled together to the court for your trial. Your Representative submitted that YY was evasive in evidence when asked

about the extent of her relationship with XX. They spoke on social media. ZZ acknowledged in her statement that XX's perception of what happened changed over time as initially she thought it was normal. Your Representative submitted that the witnesses were not independent of each other.

28. Your Representative dealt with each allegation in turn. She pointed to the inconsistencies in the evidence of ZZ as to the number of children involved, and their identity. Reference was also made to the apparent inconsistencies in the reaction of the children involved. As regards those inconsistencies the Panel was referred to the case of *Casey v General Medical Council* [2011] WL 5195536. Your Representative noted that ZZ did become upset in the course of her evidence but that was when she was challenged. Your Representative submitted that ZZ was a manifestly unreliable witness.
29. Your Representative opposed any amendment to the allegations. The identity of the children was a material part of the allegations.
30. The Panel was invited to find all the allegations not proved. You were a credible and reliable witness who answered all the questions put in a straightforward manner. Your Representative submitted that ZZ was jealous of the speed at which you were gaining your qualification.

Panel's decision

31. The Panel had regard to the oral evidence of the witnesses, to the bundle, and to the submissions of the parties. The Panel noted that the burden of proving the case rests with the SSSC and that where facts are in dispute the Panel must decide the facts on the civil standard of proof being on the balance of probabilities.
32. Your position in respect of each allegation was simply that the facts alleged did not happen. While you found the management of the nursery lacking, in general terms you saw no issues of concern. This is to be contrasted with the view of the two witnesses the Panel heard evidence from who attended the nursery at different times and yet described a chaotic environment which lacked a focus on child learning and development. Other witnesses whose hearsay evidence is before the Panel support that view. The Panel found the two witnesses for the SSSC to be credible. In the view of the Panel they tried, throughout their evidence, to be honest and in doing so at times could not recollect some of the details of events or gave certain details which were inconsistent with their earlier accounts. In the view of the Panel much of what were described as inconsistencies are explained by the significant passage of time since these events are said to have occurred and to the clear stress each of the witnesses was under. Both witnesses had been involved for a number of years in this matter, taken part in the criminal process as well as the investigation by the SSSC. It is to their credit that they attended the hearing when others who may

have had relevant evidence did not do so. In the view of the Panel the inconsistencies such as they were, did not detract from the clear evidence they both gave as to the main elements of the allegations against you. The Panel found no reason for the witnesses to fabricate such allegations. They had nothing to gain from doing so and indeed as students they might have been tempted to simply move on to other roles (or out of the profession) and put their placement at the nursery behind them. The Panel did not consider you to be a credible witness. You were not candid in speaking about the nursery in the face of the concerns expressed by a number of witnesses in writing and orally. The Panel preferred the evidence of ZZ and YY supported by the hearsay evidence which raised similar concerns.

Allegation 1.

33. Allegation 1. is found proved under deletion of allegation 1.a. and 1.c.; the addition of the words "and another [information redacted] child identity unknown" after "BB" in allegation 1.b.; the deletion of the words "on more than one occasion" and the deletion of the words "September 2019" to be replaced with the words "23 January".
34. The evidence in support of this allegation comes from the evidence of ZZ. The Panel found this witness to be credible. She had been consistent in respect of the main thrust of the allegations from the time of reporting her initial concerns set out in her handwritten statement. She makes specific reference to children being dragged and made to sit. The witness was clear in her oral evidence, her Police statement and her SSSC statement that two children were dragged across the floor. She was clear that one of them was BB. She was confused as to who the other might be and her SSSC statement did not assist in clarifying the identity of the other child. Her Police statement gave the impression that three children were involved but the witness was able to clarify that three children were involved in running around but only two were dragged across the floor. The Panel considered that there was a lack of clarity as to who the second child was. Given she was in the nursery for a period of a few days, four years ago this seemed to the Panel to be understandable. The identity of the children involved was, in the view of the Panel, not material to the allegation which was that two children were dragged by their arm and pulled with force. The witness was clear that this had occurred when she was on placement at the nursery. She was also clear despite suggestions to the contrary that each child had been pulled in turn. In terms of the dates, the witness, in her Police statement which was taken a matter of weeks after the alleged incident, sets out the dates when she attended the nursery. The Panel was satisfied on the balance of probabilities that the events described took place on either the Thursday or Friday, 23 or 24 January 2020 as provided in the Police statement. The statement of XX lends support to the evidence of ZZ. She shares the views of ZZ as to the state of the nursery. Although she did not witness the events described by ZZ she did witness similar actions on your part. Absent an opportunity to cross examine XX and a clear

explanation as to why she would not attend to give evidence, the Panel did not put significant weight on the evidence of XX. However, it is of note that she describes similar concerns. The evidence of ZZ is to be preferred to your evidence. The Panel did not consider the suggestion made by you as to ZZ's motivation to be credible and the Panel did not consider there was evidence to support the assertion that ZZ influenced other witnesses or colluded with them to the extent of convincing them to make false statements to the Police. It was clear that some witnesses knew others, but this is to be expected in a small town and where they are attending the same college or work together. The Panel placed no weight on the evidence of TT as she made no mention of these incidents until her statement to the SSSC and what she does say to the SSSC is very general in nature.

Allegation 2.

35. Allegation 2. is found proved under deletion of "AA' and "CC" and replacing "CC" with the words "another [information redacted] child identity unknown".
36. ZZ was the sole witness to this allegation. ZZ was a credible witness, and the Panel did not consider there to be a discernible reason as to why she would lie and give false statements to both the Police and the SSSC. It was apparent that she could not recollect who the second child was but that this allegation forms part of the same incident found proved in allegation 1. While the witness could not recollect the exact words used the tone and manner in which the children were spoken to was clear. The witness raised her hand to her face to describe how close you were to them when shouting. In her oral evidence ZZ could not recollect precisely what was said. In her Police statement she says that the children were told to "be quiet and sit down". It is clear from the evidence that you shouted in the faces of the children to be quiet and sit down or words to that effect. The Panel accepted ZZ's evidence.

Allegation 3.

37. Allegation 3. is found proved.
38. YY gave evidence to the Panel in respect of this allegation. She was able to speak about GG, the fact that he lived with [information redacted] and was non-verbal. These matters were not in dispute. YY spoke of two occasions during her time at the nursery between September and December 2019 when she witnessed you wearing GG's hat. In oral evidence she could not recall how you got his hat, although in her evidence to the Police and to the SSSC she said that you removed it from him. The witness spoke of his attachment to his hat (as did you) and his clear upset, distress and confusion as to why you were wearing it. She acknowledged that on the second occasion you were quicker to return it to him. This was a

concession she did not need to make and added to her credibility. XX also spoke of witnessing you behaving in this way with GG. Her evidence does lend support to the clear evidence of YY. The Panel considered that there was no reason as to why YY would make up such an allegation. It was an incident she mentioned to the Police. Although there is no mention of anything being said to GG in her statement to the Police, the witness does make reference to the comment and your demeanour in her SSSC statement. She confirmed that her statement to the SSSC was accurate. The Panel accepted the position of the witness in this regard.

Impairment

39. You did not admit that your fitness to practise is currently impaired. You did accept that your fitness to practise was impaired by reason of misconduct at the time of the allegations. There was no further evidence led by the Presenter or you at the Impairment stage. The Panel accordingly proceeded to hear submissions from the Presenter and your Representative in relation to impairment.

Presenter's submissions

40. The Presenter submitted that Rule 19. sets out the procedure to be followed. In relation to Rule 19.4., the Presenter is to present the case against you on the question of impairment of fitness to practise. The Panel must have regard to Rule 2. For the purposes of the Rules, the Worker is fit to practise if they meet the standards of character, conduct and competence necessary for them to do the job safely and effectively with particular regard to the Code. The Rules provide that a Worker's fitness to practise may be impaired on a number of grounds including misconduct.
41. The Presenter submitted that your fitness to practise is impaired on the grounds of misconduct. The Presenter submitted that there was no definition in the rules of misconduct and the Panel was referred to the case of *Roylance v General Medical Council* (no. 2) [2000] 1 AC 111. In relation to the issue of seriousness, the Panel was referred to the case of *Mallon v General Medical Council* [2007] CSIH 17, para 18. The Presenter submitted that the conduct was in breach of parts 1.4, 2.2, 2.4, 3.10, 5.1, 5.2, 5.3, 5.7, 5.8 and 6.1 of the Code. The Panel was invited to conclude that the conduct was serious and in breach of the Code and as such amounted to misconduct. The Presenter invited the Panel to note that the test of impairment is a current one and that a finding of misconduct does not necessarily lead to a finding of impairment.
42. There has been a breach of multiple parts of the Code. The behaviour was very serious amounting to abusive, aggressive and violent, as well as mocking and goading, behaviour towards small children. Emotional harm was caused to GG and there was the risk of physical and emotional harm to two others. Although a course of conduct was not found proved there was

a pattern of abusive behaviour. The Presenter considered the lack of insight and remorse, the circumstances surrounding the behaviour, the fact that the behaviour was serious and had taken place in work, the consequences of the behaviour and that it was an abuse of trusts were all aggravating factors. You had however co-operated with the SSSC and provided positive testimonials albeit those testimonials were from those with no experience of you in a nursery setting. The Presenter accepted that as a Temporary Suspension Order (TSO) was in place, you could not have demonstrated remediation by work in the sector. The Panel was referred to the cases of *Cohen v General Medical Council* [2008] EWHC 581, *Council for Healthcare Regulatory Excellence v Nursing and Midwifery Council and Grant* [2011] EWHC 927 (Admin) and *General Medical Council v Khetyar* [2018] EWHC 813 (Admin).

43. The Presenter submitted that there was a need to protect the public and to uphold standards in the profession. The conduct was serious and attitudinal in nature and the public would expect a finding of impairment to be made in the circumstances.

Your Representatives submissions

44. Your Representative made reference to the Decisions Guidance. It was submitted that there was no previous history of misconduct on your part and you had been unable to work in the sector and so bound up a history of good practice because of the imposition of the TSO. You were found not guilty in the criminal court. You had fully co-operated with the SSSC and taken the matter very seriously. You were just starting out in your career and had not been supported by the management at the nursery. There is a question as to whether there was appropriate training.
45. Your Representative made reference to the positive testimonials. Those giving the references were fully aware of the allegations against you. [information redacted] had known you since you were young and trusted you with her own child.
46. There was no dispute as to the legal principles to be applied.
47. The Panel was referred to the case of *Kamberova v Nursing and Midwifery Council* [2016] EWHC 2955 (Admin) in respect of proportionality.

Panel decision

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

Reasons

49. In reaching its decision, the Panel had regard to the bundle, the oral evidence, case law, Decisions Guidance and the submissions of the Presenter and your Representative. In relation to the allegations proved, the Panel considered that the conduct amounts to misconduct.
50. The Panel had regard to Rule 2. as to the meaning of fitness to practise and impairment. The Panel noted that a Worker is fit to practise if they meet the standards of character, conduct and competence necessary for them to do their job safely and effectively with particular regard to the Code. In terms of Rule 2., your fitness to practise may be impaired on one or more grounds including misconduct.
51. The Panel considered that there was a significant breach of trust in the manner in which very young children were treated by you. Their parents entrusted them to your care in the nursery and were entitled to expect that they would be treated with dignity and not abused physically dragged and shouted at or goaded in the matter established in the allegations. This conduct caused GG distress and had the potential to cause physical and emotional harm to BB and the other child involved. You put the children at risk and behaved in a manner which called into question your suitability to work in social services. The Panel considered that the conduct amounted to breach of parts 1.4, 2.2, 3.10, 5.1, 5.2, 5.3, 5.7, 5.8 and 6.1 of the Code.
52. The Panel went on to consider whether your fitness to practise is currently impaired as at today's date.
53. The Panel considered that the conduct was very serious.
54. The Panel had regard to the mitigating and aggravating factors identified in the Decisions Guidance. In relation to insight, regret and apology, the Panel noted that it had no evidence before it which demonstrated any insight, regret or apology. You denied the allegations as is your right. As a consequence, however, you had failed to apologise or accept that mistakes were made and had taken no steps to remediate the conduct or to explain how you might have acted differently. The Decisions Guidance indicates that insight might be shown where a Worker apologises at an early stage, admits the facts, accepts that they ought to have behaved differently and shows reflection, understanding and empathy. Insight is a significant factor as it is important to be able to stand back and accept that with hindsight they should have behaved differently and to demonstrate that the conduct will not happen again.
55. The Panel could not be satisfied that you had shown insight into the conduct. Accordingly, although the conduct was remediable the Panel did not consider that the conduct had been fully remediated. On that basis, the Panel did not consider that it could say that the risk of repetition was low.
56. The Panel noted that in relation to your previous history you had no previous issues of misconduct before the SSSC although this was in

circumstances where you had limited experience in the sector. Nevertheless, you had some experience as a childminder and in the voluntary sector as spoken to in your references which are positive and as such the Panel considered this factor to be mitigating.

57. The circumstances leading to the conduct were relevant. In the view of the Panel the behaviour could not be described as spontaneous. You had dragged two children one after the other and shouted at each of them in turn, and the incident involving GG had happened on more than one occasion. Although you lacked experience in the sector the students who reported concerns as to your behaviour also lacked experience but were nevertheless concerned. While you were concerned as to the lack of management supervision you described your more senior work colleagues as supportive. As such, the circumstances are an aggravating factor. The conduct was not isolated and while it may not be described as a course of conduct there was a pattern of inappropriate conduct involving the children in the nursery.
58. You have co-operated with the SSSC and attended this hearing over a number of days which is to your credit. The conduct did constitute a breach of trust although there was no evidence that you had attempted to conceal any wrongdoing.
59. The Panel noted that a significant period of time had passed since the allegations. However, as a consequence of the imposition of a TSO, you were not in a position to demonstrate good practice in the sector during the period since the allegations. This is accordingly a neutral factor. The conduct had taken place inside work and, in the view of the Panel, was sufficiently serious for this to amount to an aggravating factor.
60. The references provided by you were very positive in nature and the Panel considered these to be a mitigating factor. The individuals appeared to know you well and were aware of the allegations against you.
61. The Panel accordingly acknowledge that, while there are mitigating factors, there are significant aggravating factors and as such, the Panel was of the view that a finding of impairment was necessary to protect the public. The conduct involved the physical and emotional abuse of young children and there had not been sufficient remediation and insight shown by you to satisfy the Panel that the conduct would not be repeated. The Panel also considered that there was a public interest in making a finding in the circumstances with a view to upholding standards in the profession, confidence in the profession and the SSSC as regulator. The Panel considered that a finding of current impairment was proportionate in all the circumstances.
62. The Panel accordingly consider that you are currently impaired on the grounds of misconduct.

Sanction

63. In light of the Panel's findings on impairment of fitness to practise, the Panel went on to consider mitigation and sanction. The Presenter and your Representative did not lead any further evidence or call any further witnesses.

Panel's decision

64. The Panel decided to impose a Removal Order.

Reasons

65. 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 your Representative and the Presenter. It also took into account the Rules and the Decisions Guidance. It had regard for 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. The Panel recognised that any sanction imposed was not intended to be punitive in its effect although it might have such consequences.
66. 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.
67. A warning would not be appropriate. The conduct was very serious. The conduct could not be said to be at the lower end of the scale where a warning could have been considered appropriate. A warning would not address the public protection or public interest concerns. It is appropriate where there has been insight and the behaviour has been corrected, which is not the case here.
68. A condition would not be appropriate as conditions are considered appropriate where insight has been shown and not where there has been a denial of wrongdoing and a lack of reflection. The Panel did not consider that there were workable or enforceable conditions which could be imposed. You do not work in the sector and have said that you do not intend to do so in the future.
69. A warning plus conditions would not be appropriate due to the reasons outlined above.

70. A Suspension Order would not be appropriate as 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 as you do not work in the sector. There is little evidence that you acknowledge your failings and you have not shown a significant and developed sense of insight.
71. For the reasons outlined above a Suspension Order plus conditions would not be appropriate.
72. The Panel considered that a Removal Order is the most appropriate sanction as it is both necessary and justified to protect the public, 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.