

**Outcome of Fitness to Practise Panel impairment hearing held on
Monday 5, Tuesday 6 and Wednesday 7 April 2021**

Name	Callum Graham
Registration number	3015663
Part of Register	Support Workers in a Care Home Service for Adults
Current or most recent town of employment	Glasgow
Sanction	Removal
Date of effect	28 April 2021

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 5, Tuesday 6 and Wednesday 7 April 2021 by videoconference.

At the hearing, the Panel decided that some of the allegations against you were proved, that your fitness to practise is impaired, and made the decision to impose a Removal Order and a TSO on your Registration in the part of the Register for Support Workers in a Care Home Service for Adults and to revoke the TCO currently in place.

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 at the hearing were as follows:

1. On or around 28 July 2019 while employed as a Care Assistant at Haydale Care Home and during the course of that employment you did:
 - a. strike resident AA on the legs with your hand
 - b. say to AA "uncross your legs" while striking AA on the legs for a second time
 - c. lift AA by her wrists to transfer her from an armchair to a wheelchair
2. On or around 28 October 2020, while applying for employment with Search Consultancy Limited, you did:
 - a. fail to disclose to Search Consultancy Limited, full details of the Temporary Conditions Order to which you were subject as a result of an ongoing SSSC investigation
 - b. by your actions at allegation 2.a. above act dishonestly

and in light of the above your fitness to practise is impaired because of your misconduct.

Preliminary matters

Amendment of the allegations

At the conclusion of the evidence, the Presenter asked the Panel to amend the allegations. He moved to amend allegation 1. by deleting '28' and substituting '29', and allegation 2. by deleting 'On or around 20 October 2020' and substituting 'On unknown dates between 23 August and 2 November 2020'.

The Panel allowed the amendments as set out above, as provided for in Rule 17.2. The amendment to allegation 1. was minor and arguably unnecessary, but the evidence did indicate the date was 29 July and not 28 July. As regards allegation 2., it was not clear exactly when you had applied to work with Search, but it was presumably sometime between your last shift at Haydale Care Home on 23 August, and 2 November 2020 when Search ended your employment with them. The amendment widens the duration considerably. However, the Panel did not consider that it would cause any prejudice to you since you were aware of the dates when you applied to work with Search. The substance of the allegation was, in any event, unchanged by the amendment.

Findings of Fact

The Panel heard evidence from the following witnesses:

ZZ

ZZ is a [information redacted]. Her mother was a resident in the Care Home as at July 2019. Until the day of the incident in question, she did not know you. She was sitting in the day room with her mother when a young boy (subsequently identified as you) came into the room with a wheelchair and went to assist one of the other residents, AA. He swung the wheelchair round quite quickly. ZZ thought the wheelchair might hit AA, but it didn't.

AA was sitting sleeping with her legs crossed. Without saying anything to AA, you lifted your hand up to about shoulder height and slapped your hand on AA's leg. AA put her hands up to her face, made an 'Oh' noise and shook her head from side to side. You then slapped AA's legs again and said 'uncross your legs' in a brusque, aggressive manner. Both slaps were to the inside of AA's right leg. ZZ described the slaps as deliberate.

You then grabbed AA by her wrists. Her wrists were still up at her face. You hoisted her by her wrists into the wheelchair and went out of the room. ZZ described this as happening in a matter of seconds. She was shocked at what she had seen and got quite a fright. When she saw this, she worried that you may have treated her own mother in that way. She decided that she should report what she had seen.

As she was about to leave the room, she saw you coming back along the corridor. She turned back to sit with her mother. When you came into the room, you said 'hello' and were quite pleasant to ZZ. She said 'I'm glad to see your manner has improved' or words to that effect. You replied, 'what do you mean?'. Your manner then changed, and you said, 'I'm sorry, I'm really, really sorry'. ZZ took from your response that you had realised that she had been in the room when you had dealt with AA. She asked your name and you replied 'Callum'.

ZZ went to the duty room and spoke to the Nurse in charge, YY. She told her what she had seen. YY said to leave it with her to deal with. About 20-30 minutes later, ZZ met the manager of the home, XX. She decided to tell her also as she wanted to know that you would not be looking after her mum. She said that XX was flustered and did not have time to speak to her as she was dealing with an incident. ZZ had the impression that XX did not realise that the incident was the one that she had just reported.

Later that day, XX spoke to ZZ about the incident and said someone from the Home management would be in touch to take a statement. ZZ duly gave a statement to the Home management, as well as to the Police. She also gave a statement to the SSSC as part of its investigation.

WW

WW was a Staff Nurse at the Home for [information redacted] years. She is now a [information redacted]. She recalled that ZZ, a daughter of one of the residents, had reported to her having witnessed you slapping another resident, AA. She said it was a lady who was sitting with her legs crossed, and that the member of staff involved was called Callum. ZZ told her that she had seen you slapping the resident's leg off her other leg. You asked AA to uncross her legs, and bodily lifted her into a wheelchair. WW said that ZZ seemed quite annoyed and upset when she was telling her about this.

Before going to speak to the Manager, WW went to see if AA was okay. There were no obvious marks on her body though the resident was wearing trousers and her examination was therefore limited. AA did not appear to be distressed. AA [information redacted] and her awareness was therefore limited.

She was present when XX, the Home manager spoke to you. You started crying and said that you didn't do anything. That was all you said.

WW later spoke to someone from the Home who was investigating the incident. She also gave a statement to the Police and to the SSSC.

VV

VV is a [information redacted] with Search Consultancy (Search). He has worked there since [information redacted]. He said that you had applied for a job with them, you had gone through their processes and you had been 'brought on board'. Not long afterwards he was told by his Compliance Officer that you could not work with them because of conditions on your Registration.

He described the application process as follows: an initial call to check the applicant's interest in the role; a screening interview; the candidate fills in an application pack; the paperwork goes to the Compliance Officer to carry out employment checks and training. VV is not involved in the compliance work and knows little about the SSSC's processes.

In the screening interview, VV would have asked you if you had been referred to the SSSC. If you had, the application would have been passed to the Compliance Officer to deal with.

VV's evidence was that if you had told Search about the conditions on your Registration, they would not have employed you. That is because, as an agency, it cannot monitor or supervise a person's work. VV was unsure what the conditions on your Registration were. That would have been dealt with by the Compliance Officer.

Presenter's submissions

The Presenter said that the evidence from ZZ and WW had been given in a straight-forward manner. Their accounts were broadly consistent. Where there

were any inconsistencies, these could be explained by the passage of time. On the balance of probabilities, the evidence is that the incident occurred on 29 July 2019, which is when you were on shift. The evidence from these witnesses was supported by the signed statement from XX. He accepted that since she had not given evidence, it was for the Panel to decide what weight to attach to her statement.

VV's evidence was that you had not told him about the conditions attached to your Registration. Had you done so, Search would not have offered employment with them.

Regarding the allegation of dishonesty, the Presenter referred to the case of *Ivey v Genting Casinos* [2017] UKSC 67 at paragraph 74. The first question for the Panel is: Did you believe the information in your application to Search was accurate? You were aware of the conditions on your Registration. Although the Panel does not have the application documents or any evidence from you about your belief in completing the application, the Panel can infer that the information you gave was inaccurate. The next step to consider in assessing dishonesty is whether the ordinary decent person would view the conduct as dishonest.

The Presenter asked the Panel to find allegations 1. and 2., as amended, proved in their entirety.

The Panel's assessment of the evidence and findings in fact

The Panel is satisfied that the facts in allegation 1. have been proved. It is not satisfied that the facts in allegation 2. have been proved.

As regards allegation 1., the evidence from ZZ was clear and compelling. She described having seen you slap the legs of resident AA on two occasions, having spoken sharply to her in telling her to uncross her legs, and having seen you lift AA by the wrists from her chair into a wheelchair. ZZ did not know you and had no reason to tell anything but the truth. She asked your name after you had come back into the room so there is no reason to doubt that you were the person involved. Your conduct when spoken to by the Home Manager, when according to WW you started crying and saying you had not done anything, also indicated that you had been involved in an incident.

ZZ had been broadly consistent in her reports of the events, in her oral evidence and in statements given by her. The statement taken by the Care Home was vague as to how many slaps had been involved. However, ZZ had not seen what had been written down by the investigator. The SSSC statement was very similar to the oral evidence given by ZZ.

WW's account was less precise. That is perhaps understandable since she was not the person who had directly witnessed the incident. However, she was able to recall ZZ having spoken to her on the day of the incident and telling her about

you having slapped a resident. It is evident that a serious concern had been raised as you were suspended from duty that day.

In terms of the day the incident took place, it is likely this occurred on 29 July 2019. ZZ said that it was a Monday which ties in with that date. The staff roster also shows you as working on the 29 July 2019 but not on the 28 July 2019.

When asked by the Panel about the account which you gave as part of your former employer's investigation, she did not agree that you had 'tapped' AA's legs. She was clear that there was force involved as you had lifted your hand to about shoulder height before bringing it down on her leg. She also did not agree with the description of you moving AA by cupping her hand into your hand and moving her. She described you as holding her wrists which were in front of AA's face and bodily moving her. Having worked as a [information redacted], ZZ had some understanding about the correct way of moving persons with limited or no mobility.

The Panel was satisfied, based largely on ZZ's evidence, that the facts in allegation 1. were proved. The Panel did not require to rely on the statement taken from XX, whose evidence the Presenter decided not to lead. It is, in any event, broadly in line with the evidence from the other witnesses to allegation 1.

Turning to allegation 2., the allegation, in short, is that you failed to disclose full details of the TCO when applying for employment with Search. The Panel has not been provided with any documents relating to your application to work with Search. It has limited information on the chronology of events. The evidence discloses that:

On 3 September 2020, you phoned the SSSC and told them that your employment with Advinia Care Homes would end that week and you would be applying as 'CAHSW' for your new employment (page 93).

On 18 September 2020, the SSSC emailed you to ask for a letter from your new employer confirming they were aware of the condition placed on your Registration (page 95).

On 1 October 2020, you replied to the SSSC saying that you had requested your new workplace to send confirmation so that you could send it to the SSSC (page 97).

On 8 October 2020, you emailed the SSSC enclosing an email from VV dated 1 October 2020. In that email, VV wrote: 'As per your request I can confirm that you have made us aware that there was an investigation that was being dealt with at the moment. As you have said you are fully able to work on your own in care home settings as this is where you will be working with ourselves. If you require anything further please don't hesitate to let me know.' (page 101).

On 2 November 2020, Search notified the SSSC of a change of details in that you were no longer working with them (pages 112-113).

On 14 December 2020, the SSSC spoke to VV inquiring as to why your employment with Search had ended. The note of telephone call states that it was due to the SSSC restrictions on the worker's Registration (page 114).

On 16 December 2020, there was a further telephone call from the SSSC to VV (page 118).

The Panel found VV's evidence vague and unreliable. He had little recollection of the events. He had no recall at all of his email of 1 October 2020 to you, in which he had said that he was aware of the investigation. He did not know how he had become aware of the investigation or what he knew about it. He had not looked at your application form before coming to give evidence.

Bearing in mind that the onus is on the SSSC to provide evidence in support of the allegations, the Panel was not satisfied that it was proved that you had 'failed to disclose' information in your application. It was not clear what you had been asked by Search or what information you had given them. You had clearly given some information about the SSSC's investigation. You had also attempted to get Search to confirm it was aware of the conditions. That is not indicative of an attempt to conceal information.

It seemed to the Panel that the person who might have been able to provide relevant evidence was the Compliance Officer at Search. It was clear from VV's evidence that the Compliance Officer was the one who would carry out checks with the SSSC.

Ultimately, based on the evidence before it, the Panel simply did not have sufficient evidence to find allegation 2.a. proved. Since allegation 2.a. was not proved, allegation 2.b. did not require to be considered.

Impairment

As you were not present at the hearing, it was not possible to ask if you admitted that your fitness to practise is impaired in terms of Rule 19. The Panel therefore heard from the Presenter as to why the SSSC considered that your fitness to practise is impaired.

Presenter's submissions

The Presenter did not rely on any additional evidence.

He reminded the Panel that the first issue was whether the facts found proved amounted to 'misconduct'. He drew attention to *Roylance v General Medical Council* [2000] 1 AC 311 and *Mallon v General Medical Council* 2007 SLT 372, where the courts have considered what misconduct means. He submitted that

breaches of the Code would be evidence of behaviour that amounted to misconduct. The Presenter took the Panel through various parts of the Code and made submissions on why these had been breached. He stated that the Panel should find that the behaviour found to have occurred did amount to misconduct.

Turning to the question of impairment of fitness to practise, the Presenter noted that the Rules do not define what is meant by that term. Rule 2.1. has some bearing on the question. He referred to relevant case law which sets out the principles to be applied in making decisions on impairment.

The Presenter reminded the Panel that it is considering current impairment, though in doing so it can and should look at past behaviour and the steps taken to remedy it.

Finally, the Presenter took the Panel through the aggravating and mitigating factors in the Decisions Guidance (section 8), and made submissions on how each applied.

The Presenter submitted that your fitness to practise is currently impaired and there has been no remediation of the behaviour which occurred.

The Panel's decision

The Panel has decided that your fitness to practise is currently impaired on the ground of misconduct, for the following reasons.

Looking firstly at whether the behaviour amounts to misconduct, the Panel is satisfied that it does. In *Roylance* the court said that:

"Misconduct is a word of general effect, involving some act or omission which falls short of what would be proper in the circumstances. The standard of propriety may often be found by reference to the rules and standards ordinarily required to be followed by a medical practitioner in the particular circumstances." (p.331B-C).

In *Mallon* the court said that:

"The decision in every case as to whether the misconduct is serious has to be made by the panel in the exercise of its own skilled judgment on the facts and circumstances and in the light of the evidence." (para 18).

The Panel considered that your conduct as set out in allegation 1. fell far short of what would be regarded as proper in the circumstances. The consequences for AA could have been serious, as described in more detail below.

Turning to the Code, the Panel is satisfied that you breached the following parts of the Code for the following reasons:

- 1.4 – slapping a vulnerable elderly lady with [information redacted] did not respect her dignity. Nor did your actions in telling her to uncross her legs in an aggressive manner and hauling her out of her chair by her wrists.
- 2.2 – your communication with AA was inappropriate. You should not have attempted to wake her up by speaking aggressively to her and slapping her on the leg.
- 5.1 – you abused AA by slapping her, speaking aggressively to her and moving her in an inappropriate way. There was no evidence of actual physical harm beyond the discomfort which ZZ witnessed. Due to AA's [information redacted], it was difficult to know what impact the behaviour had on her from a psychological or emotional perspective.
- 5.3 – you were trusted to look after a vulnerable individual who relied on you for her care. Your actions abused that trust.
- 5.7 – you put AA at risk. Manual handling procedures are in place to protect service users (and Workers). By using an inappropriate way of moving AA, you exposed her to the risk of an accidental fall, or accidental physical injury.
- 5.8 – treating a service user as you did raises concerns about your suitability to work with vulnerable individuals.
- 6.1 – you did not meet relevant standards of practice in that you did not follow the manual handling procedures which you had been trained in. You also did not work in a lawful way, as you physically assaulted AA.

As already stated, the Panel is satisfied that your behaviour does amount to misconduct.

Turning, secondly, to whether your fitness to practise is currently impaired, the Panel acknowledges that, as was stated in *R (Cohen) v General Medical Council* [2008] EWHC 581, a finding of misconduct does not automatically mean that the person's fitness to practise is impaired. *Cohen* referred to three highly pertinent factors – whether the conduct is easily remedied, whether it has been remedied and the risk of repetition.

In *Council for Healthcare Regulatory Excellence v Nursing and Midwifery Council and Paula Grant* [2011] EWHC 927 (Admin) the court noted that:

“it is essential, when deciding whether fitness to practise is impaired, not to lose sight of the fundamental considerations, ... namely the need to protect the public and the need to declare and uphold proper standards of conduct and behaviour so as to maintain public confidence in the profession.” (para 70).

The court continued by saying that:

“In determining whether a practitioner's fitness to practise is impaired by reason of misconduct, the relevant panel should generally consider not only whether the

practitioner continues to present a risk to members of the public in his or her current role, but also whether the need to uphold proper professional standards and public confidence in the profession would be undermined if a finding of impairment were not made in the particular circumstances.” (para. 74).

Finally, the court approved of what was said by Dame Janet Smith in her Fifth Report in the Shipman Inquiry as being an appropriate test in considering impairment of fitness to practise (para 76):

“Do our findings of fact in respect of the doctor’s misconduct, deficient professional performance, adverse health, conviction, caution or determination show that his/her fitness to practise is impaired in the sense that s/he:

- a. has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or
- b. has in the past brought and/or is liable in the future to bring the medical profession into disrepute; and/or
- c. has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or
- d. has in the past acted dishonestly and/or is liable to act dishonestly in the future.”

It is self-evident that some conduct is more easily remedied than others. In this case, the Panel considers that at least some of the conduct could not easily be remedied. It is possible to undertake further manual handling training, although you had in fact been trained in manual handling relatively recently before the incident. However, the incident indicates a lack of values in carrying out the role of a care worker. It is completely unacceptable to slap a service user. No training is needed to understand that. There is, in any event, no evidence that you have learnt from this incident and changed your attitude.

The Panel has also taken into account the Decisions Guidance and aggravating and mitigating factors. It considers the following to be aggravating factors:

- Insight, regret and apology – there has been no insight shown by you. You made some indication to your employer that you had done something wrong, but that was in the context of moving AA incorrectly. It was not to do with having slapped AA. You also apologised to ZZ though it was not clear what you were apologising for. You have not taken the opportunity to provide a Personal Statement to the SSSC. You have not taken the opportunity of participating in these proceedings.
- Circumstances leading up to the behaviour – the slaps were deliberate acts. ZZ was quite clear in her evidence about that. It was also a deliberate act to lift AA out of her chair and into her wheelchair by her wrists. The Panel also considered that the fact you acted differently when you knew you were being observed, as compared to how you acted when you thought you were not being observed, was an aggravating factor.

- Conduct inside/outside work – this is an aggravating factor as your conduct related directly to the service you were supposed to provide, namely the care of vulnerable service users.
- Cooperation with the SSSC – you attended the first TO hearing when conditions were imposed. You provided some supervision reports from your then employers. However, you have not engaged with the SSSC since the TO review hearing in January 2021. In particular, as noted above, you have not provided a Personal Statement, or participated in these proceedings (or responded to any attempts to contact you about them).
- Consequences of the behaviour – as already noted, your behaviour caused some discomfort to AA as witnessed by ZZ. It also placed AA at risk of harm as you used an inappropriate manual handling manoeuvre. Your behaviour also caused distress to the relative of another service user, ZZ.
- Abuse of trust – you were in a position of trust. You abused that trust.

The Panel considers the following factors to be mitigating factors:

- Previous history – there is no evidence of any previous incidents concerning your working practices.
- Length of time since the behaviour and subsequent practice – you returned to work after the incident and were working, subject to conditions, until August 2020 with the same employer. There was some evidence of supervision which did not raise any issues of concern.
- Isolated incident/pattern of behaviour – contrary to the Presenter's submission, the Panel did not consider that this was a neutral factor. The Panel viewed the incident as an isolated incident, albeit it did involve serious behaviour.

The Panel considers the following factors to be neutral:

- Duress – there is no evidence of duress.
- References or testimonials – contrary to the Presenter's submission, the Panel considered this to be a neutral factor, rather than a mitigating one. There are no references or testimonials. There are only two supervision notes which address mainly manual handling and how you were doing at work. One of the supervision records is not signed by your then employer.
- Concealing wrongdoing – there is no evidence that you took any steps to conceal your wrongdoing.

In reaching its decision, the Panel must also take account of the need to protect the public, and the public interest. It is evident from the foregoing that the Panel does have concerns about public protection. Were it to find that your fitness to practise was not impaired, you would be free to work in the care sector. Prospective employers, service users and the public in general would be entitled to assume that there was no issue regarding your fitness to practise.

As regards the public interest, the Panel also is of the view that a member of the public, if fully informed of the facts, would expect the regulator to take action. It would expect the regulator to mark its disapproval of your conduct by finding that your fitness to practise is currently impaired.

The Panel has taken account of your interest in being able to work in the care sector. It appears that you are no longer working in that sector. The Panel has no information on your wish to remain in the sector. Balancing your interests against those of the public, the Panel is firmly of the view that the interests of public protection and public confidence outweigh your interests.

Taking into account all of the above, the Panel is satisfied that a finding that your fitness to practise is impaired is a necessary and proportionate decision.

Sanction

Presenter's submissions

The Presenter referred the Panel to the Decisions Guidance at section 13. He made submissions on each of the sanctions, starting with the least restrictive alternative.

He also referred the Panel to section 10 – where more serious action is required.

You have been subject to conditions, but these do not address the attitudinal concerns. Conditions relating to providing reflective accounts etc are more relevant where the Worker has shown some insight and is trying to address his attitude. Here, you have stopped engaging and there may be a lack of motivation in addressing the concerns about your behaviour. There are no workable conditions. At the TO review hearing the conditions were slightly altered and there was no response to those new conditions. Possibly you felt that you had given your position on that, but there was no response from you at all.

He submitted that the appropriate sanction was removal. It was the only way to protect the public and maintain public confidence in the social service profession.

The Panel's decision

The Panel decided to order removal of your Registration.

In reaching its decision, the Panel began by considering the least restrictive sanction, under reference to the relevant parts of the Decisions Guidance. It considered that:

- No further action would not be appropriate as there are no exceptional circumstances which would justify taking no action.
- A warning would not be appropriate as it would not adequately address the impairment of your fitness to practise. The behaviour involved is not at the lower end of the scale of impairment. In addition, a warning would give no protection to service users or the public. The Panel also has no evidence that you have shown insight into why the behaviour was unacceptable, inappropriate and harmful.
- A condition would not be appropriate as there are no conditions which could be placed on you which would address why your fitness to practise has been impaired. The type of behaviour at issue relates to your attitude to caring for vulnerable people. It is therefore not the type of behaviour which conditions would be likely to rectify.

The Panel considered whether it could impose a condition requiring you to prepare a reflective account which might demonstrate that you had understood why your behaviour was wrong and the impact it had on others. However, you have not taken the opportunity of showing to the Panel that you have gained insight into what occurred, either by completing the Personal Statement form or by attending this hearing. The Panel did not know whether you would comply with any such condition, since you had not participated in the hearing and had essentially disengaged from the process. Further, the Panel is of the view that such a condition would provide insufficient assurance that the risk to the public had been addressed.

The Panel noted that section 15 of the Decisions Guidance indicated that a condition would not be appropriate where there was no insight or reflection, there had been a serious breach of trust and there was violent behaviour. All of these elements are present in this case.

- A warning plus conditions would not be appropriate for the same reasons that such sanctions on their own would not be appropriate.
- A Suspension Order would not be appropriate as such an order would not protect people who use services and the public. The Panel did not consider that a period of suspension would serve any purpose. The Panel has already indicated that it has no evidence that you have shown insight into why your behaviour was unacceptable or into its impact on the service user or others. The Panel also has concerns about your trustworthiness. Your behaviour was, as previously noted, markedly different when you knew you were being observed. It is fundamental to working with vulnerable people

that those caring for them are trustworthy.

- A Suspension Order plus conditions would not be appropriate for the same reasons that such sanctions on their own would not be appropriate.
- The Panel considers that a Removal Order is the most appropriate sanction. It is the only way that protection of the public can be assured. Removal is, of course, the most serious sanction.

The Panel has also taken account of the aggravating and mitigating factors referred to above. Many of the factors are aggravating factors, and do not indicate that a Removal Order would be disproportionate or inappropriate.

The Panel notes that the Decisions Guidance at section 10.4 and 10.6 indicate situations in which more serious action may be required, such as removal. Section 10.4 refers to cases where the Worker has failed to provide an acceptable level of care. The Panel notes that insight and remediation are important in that context. In this case, the Panel has already indicated that there is no evidence of insight, and therefore no evidence of remediation.

Section 10.6 refers to behaviour that is fundamentally incompatible with professional registration. It makes the point that a Worker's behaviour, values or attitudes may identify them as being unfit to be a member of a caring and responsible profession such as by displaying violent behaviour or physical or emotional abuse. In this case, you displayed violent, physical behaviour. Although the violence was not at the most serious level, it did involve deliberate slaps to an elderly woman. This part of the Decisions Guidance therefore also supports a Removal Order being made.

The Panel has therefore decided that a Removal Order is justified in order to protect the public.

It also is of the view that such an order is necessary and justified in the public interest. A member of the public, if fully informed of the facts, would be concerned if you were allowed to continue to work as a care worker. When ZZ saw you slapping AA and manhandling her into a wheelchair, she was very upset. She was worried that you had treated her own mother in the same way, and wanted to know that you would not be looking after her mother. That is why she reported your behaviour to the home at the time, and that is why she made the effort to give evidence to the Panel. The Panel is grateful to her that she did so.

A Removal Order is, in the view of the Panel, necessary to maintain the continuing trust and confidence of the public in the social service profession and the SSSC as the regulator of the profession, as well as to protect the public.

TSO

The Presenter asked the Panel to impose a TSO to cover the period between this decision being issued and the appeal period. He submitted that the reasons for granting a TSO were the same reasons underpinning the Panel's decision to remove you from the Register, i.e., public protection and public interest concerns.

The Panel has some concerns that there has been no notice to you that a TSO might be sought if a Removal Order was made. There is nothing in the Initial Notice of Referral or any of the letters sent to you that suggest this might happen. There is therefore a lack of notice to you.

Rule 16. allows the Panel on an application being made to it to impose a TO at any time during the proceedings in an Impairment case. Rule 16.3. states that the Panel must consider any representations from the parties if they are in attendance. It therefore anticipates that the parties may not be in attendance. Rule 16.4. requires the Panel not to adjourn until it has decided the application.

The Panel agrees that it would be logical to impose a TSO, in order to protect the public and maintain public confidence, in the event of the Removal Order being appealed. It is concerned that there has been no notice to you that such an order might be sought. However, since you have decided not to participate in these proceedings, the Panel does not attach much weight to that consideration. Overall, it is of the view that a TSO is necessary and that the public protection and public interest concerns outweigh any prejudice to you by reason of lack of notice.

As an observation, it may be advisable for the Fitness to Practise Department to give some notification to Workers if it is anticipated that it may seek a TO under Rule 16. The Panel appreciates that it may not always be possible to give advance notice.

The Panel decided to impose a TSO. The TSO will subsist until the date when the sanction of removal takes effect.