

Notice of Decision

Registrant	Bernadette Stewart
Registration number	3157556
Part of Register	Support Workers in a Care Home Service for Adults
Town of employment	Port Glasgow
Sanction	Removal
Date of effect	14 December 2023

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 impose a Removal Order removing your registration from the part of the SSSC Register for Support Workers in a Care Home Service for Adults.

Findings of fact

We decided there is evidence that:

1. while employed as a Care Assistant by Marchmont Care Home Limited at Marchmont Care Home in Port Glasgow, you did
 - a. between on or around 7 October 2021 and on or around 8 June 2021
 - i. fail to tell your employer that you were subject to a SSSC warning for a period of two years
 - ii. fail to tell your employer that you were subject to a SSSC condition requiring you to submit a reflective account
 - iii. fail to meet the condition as set out by the SSSC to submit a reflective account

- b. on or around 9 June 2022 advise your employer that you did not know about the warning and condition from the SSSC as set out in allegations 1.a.i. and 1.a.ii., when this was not true
 - c. during the course of your employment
 - i. on or around 12 May 2022, upon resident CC ringing their buzzer following a bowel movement, say to CC “you’ve got a pad on, you’ve started so just finish”, or words to that effect
 - ii. by your actions at allegation 1.c.i., cause CC distress
 - d. on a date unknown to the SSSC, shout at resident DD “get to your fucking bed, get to your bed now” or words to that effect
2. between on or around 16 August 2021 and on or around 20 September 2021 when applying for a position as a Care Assistant at Marchmont Care Home by Marchmont Care Home Limited
- a. tell your employer that you had left your position at Invercare Services because the company reduced your hours, when this was not true
 - b. fail to tell your employer that you had been dismissed from your position with Invercare Services due to concerns about your conduct
3. by your actions at allegations 1.b. and 2.a., act dishonestly

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

Reasons for finding your fitness to practise has been impaired

1. Your fitness to practise is impaired because:
- a. social service workers are expected to be truthful, open, honest and trustworthy. You have failed to inform your employer of a warning and condition placed on your registration by the SSSC. You have also advised your employer that you were dismissed from your previous employment with Invercare because they reduced your hours, when this was not true, and you have failed to advise them that you were dismissed from your previous employment due to concerns about your conduct. This behaviour amounts to serious

dishonesty and is a failure to be truthful and open with your employer.

- b. social service workers are expected to meet relevant standards of practice. A condition on your registration was put in place requiring you to submit a reflective account following a previous finding of misconduct. You have failed to meet that condition and, in failing to meet it, you have failed to meet the relevant standards of practice as set out for you by your regulator.
- c. social service workers are expected to respect and maintain the dignity and privacy of people who use services. They are expected not to place themselves or others at unnecessary risk. Upon resident CC ringing their buzzer following a bowel movement, you told CC to go in their pad instead of taking them to the toilet. This behaviour amounts to a failure to respect CC's dignity and your behaviour caused distress to CC.
- d. social service workers are expected to communicate in an appropriate, open, accurate and straightforward way. They are expected not to abuse, neglect or harm people who use services. You have shouted at resident DD "get to your fucking bed, get to your bed". Shouting at DD in such a manner amounts to a failure to communicate in an appropriate way and amounted to verbal abuse of a vulnerable person.
- e. social service workers are expected not to behave in a way, inside or outside of work, which would call into question their suitability to work in the social services profession. Your behaviour indicates serious underlying attitudinal and values concerns which are incompatible with professional registration.
- f. there are ongoing public protection concerns as the behaviour is of a serious nature. There is no evidence of any insight or regret from you and there is no evidence of remediation. Further, you have previously been found to have committed misconduct of a similar nature, and your behaviour has continued despite the measures put in place by the SSSC to allow you to remediate your behaviour. Conduct of this nature raises serious and fundamental concerns about your values and there is a risk that your behaviour may be repeated in the future.

- g. there is high public interest in this case. It would negatively impact on the public confidence in the SSSC as a regulator, and the profession as a whole, if the SSSC did not take action to reaffirm the standards expected of registered workers.
2. You have failed to follow parts 1.4, 2.1, 2.2, 5.1, 5.7, 5.8 and 6.1 of the SSSC Code of Practice for Social Service Workers in force from 1 November 2016.

Sanction

After referring to our Decisions Guidance, we decided to impose a Removal Order, removing your registration from the SSSC Register.

Reasons for the sanction

When making our decision we considered the following factors:

Factors of concern

- Your behaviour indicates serious underlying attitudinal and values issues which are not easily remediable. We have no evidence of remediation.
- You have shown no insight, regret or apology in relation to your behaviour.
- Your fitness to practise has previously been found by the SSSC to be impaired, and you have failed to meet a condition imposed by the SSSC.
- Your behaviour showed a high disregard for the Codes of Practice and you have verbally abused two vulnerable people.
- Your behaviour is fundamentally incompatible with professional registration.
- There is a risk of repetition due to the attitudinal and values issues raised by your behaviour.
- Your behaviour resulted in emotional harm to a vulnerable person.
- Your behaviour towards residents occurred during the course of your employment where you were expected to care for them. The residents were vulnerable people requiring the provision of services. Your behaviour therefore amounts to a serious abuse of trust.

- You have attempted to conceal your wrongdoing in that you actively advised your employer that you had left your previous employment for a reason which was not true. This appears to be an attempt by you to conceal your wrongdoing, in that you were dismissed due to concerns about your conduct.

Reasons why other sanctions are not appropriate

- A warning would not be appropriate as it would not adequately address the impairment of your fitness to practice. The behaviour is extremely serious and a warning would give no protection to people who use services or the public.
- A condition would not be appropriate because 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 is not the type of behaviour which conditions would rectify. Further, you are not currently working in the sector and there is no evidence to suggest that you would comply with any condition placed on you by the SSSC where you have previously failed to do so.
- A warning plus conditions would not be appropriate due to the reasons outlined above.
- A Suspension Order would not be appropriate as your 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 a period of suspension would allow you to remedy the cause of the impairment of your fitness to practice. There is little evidence you acknowledge your failings and the pattern of behaviour and lack of insight suggest the behaviour is likely to be repeated.
- For the reasons outlined above a Suspension Order plus conditions would not be appropriate.
- The SSSC considers a Removal Order is the most appropriate sanction as it 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.

Documents we have referred to

- The 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 Removal Order

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 Removal Order if you do not ask for a hearing before a Fitness to Practise Panel.

We wrote to you on 27 October 2023 to tell you we wanted to place a Removal Order on your registration. After explaining the consequences and recommending you take legal advice, you have not asked for the case to be referred to a Fitness to Practise Panel. We are therefore permitted by the Rules to impose this Removal Order.

Date of effect

The notice comes into effect on 14 December 2023