

Notice of Decision

Registrant	James O'Reilly
Registration number	3104675
Part of Register	Support Workers in a Care Home Service for Adults
Town of employment	Perth
Sanction	Warning to stay on your registration for a period of 36 months
Date of effect	16 November 2022

This is notice of a decision of the Scottish Social Services Council (SSSC).

Our decision

We decided:

1. that based on the facts found your fitness to practise is impaired, as defined in Rule 2 of Part 1 of the Scottish Social Services Council (Fitness to Practise) Rules 2016 (the Rules) as amended by the Fitness to Practise (Amendment) Rules 2017 and the Fitness to Practise (Amendment) Rules 2021
2. to place a warning on your registration, on the part of the Register for Support Workers in a Care Home Service for Adults, for a period of 36 months.

Findings of fact

We decided there is evidence that while employed as a Senior Support Worker by Advanced Specialist Care Limited at (Information redacted), in Perth and during the course of that employment, you did:

1. on or around 19 October 2020, in response to service user AA displaying heightened behaviour:
 - a. swear towards AA, namely state in AA's presence "no (AA) isn't fucking getting away with that" or words to that effect
 - b. grab AA:
 - i. around the back of the neck

- ii. by the hair
- c. push AA into their room
- d. by your actions at allegation 1.b.- 1.c. above, act contrary to AA's care plan which provides that physical intervention should be used as a last resort

and as a result of your actions above your fitness to practise is impaired because of your misconduct.

Reasons for finding your fitness to practise is impaired

1. Your fitness to practise is impaired because:
 - a. social service workers must meet relevant standards of practice and work in a lawful, safe and effective way. Social service workers must not abuse or harm people who use services or behave in a way which would bring their suitability to work in the profession into question. In response to service user AA displaying heightened behaviour, you swore towards them, grabbed them around the neck and by their hair and pushed them into their room. These actions were contrary to AA's care plan which provides that physical intervention should be used as a last resort. You failed to attempt or apply any non-physical de-escalation techniques. Your actions had the potential to cause physical and emotional harm to AA. As a result of your actions, AA may feel unable to trust social service workers in the future, which would place them at further risk. Your actions breached the trust placed in you by your employer, the public and the SSSC.
 - b. your behaviour raises concerns regarding your underlying values as your failure to provide the required care to a service user signifies a disregard for their wellbeing. Further, there would be concerns that you have failed to display a level of self-control when placed in a challenging situation. The SSSC are not sufficiently assured that your behaviour will not be repeated due to the serious nature of the behaviour.
 - c. a failure to make a finding of impairment to your fitness to practise would undermine the public's confidence and trust in the social services profession and jeopardise the integrity of the register. There are ongoing public protection and public interest concerns arising from your behaviour.

2. In relation to findings of fact 1. you have failed to follow parts 1.1, 1.4, 2.2, 3.3, 3.8, 3.10, 4.2, 4.3, 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.

The sanction

After referring to our Decisions Guidance, we decided the appropriate sanction is to place a warning on your registration for a period of 36 months.

Reasons for the sanction

When making our decision we considered the following factors:

Factors of concern

- Your behaviour occurred inside of work whilst you were employed as a social service worker.
- Your behaviour had the potential to cause physical and emotional harm to a service user in your care.
- Your behaviour represents a breach of trust towards a service user in your care, colleagues and your employer at the time.

Factors in your favour

- You have apologised, shown remorse and reflected on your behaviour.
- This was an isolated incident. Prior to this incident, you had a lengthy period of good practise.
- You have no previous history with SSSC.
- Since the behaviour occurred, you have continued to work in the social services sector and displayed good practise.
- We have received positive references in support of your practise. You have been described by one referee as a competent and confident staff member. Further described by another referee as confident, calm and reliable staff member.
- You fully cooperated with your previous employer at the time of their investigation.
- You meaningfully engaged with the SSSC investigation.

Documents we have referred to

When making our decision, we referred to the documents:

- Regulation of Care (Scotland) Act 2001
- Scottish Social Services Council (Fitness to Practise) Rules 2016 (the Rules) as amended by the Fitness to Practise (Amendment) Rules 2017 and the Fitness to Practise (Amendment) Rules 2021
- Decisions Guidance for Fitness to Practise Panels and Scottish Social Service Council staff.

Imposing the warning on your registration

Under the Scottish Social Services Council (Fitness to Practise) Rules 2016 (the Rules) as amended by the Fitness to Practise (Amendment) Rules 2017 and the Fitness to Practise (Amendment) Rules 2021, we can impose a warning on your registration if you do not ask for a hearing.

We wrote to you on 22 September 2022, to tell you we wanted to place a warning on your registration. After explaining the consequences of not asking for a hearing, and recommending you take legal advice, you have not asked that the case is referred to a Fitness to Practise Panel. We are therefore permitted by the Rules to impose this warning on your registration.

Date of effect

The notice comes into effect on 16 November 2022.