

Notice of Decision

Registrant	Chloe-Joanne McKelvie
Registration number	4127242
Part of Register	Social care worker
Town of employment	Kirkcaldy
Sanction	Warning to stay on your registration for a period of 24 months
Date of effect	11 October 2024

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 social care workers, for a period of two years.

Findings of fact

We decided there is evidence that on exact date unknown, but around 20 March 2024, while employed as a Care Assistant by Marchmont Residential Homes at Wilby House, and during the course of that employment, you did:

1. in relation to resident AA, who was receiving end of life care:
 - a. take a photograph of AA's legs and bottom, or in the alternative, take a photograph of AA's feet
 - b. send the photograph detailed at allegation 1.a. above to a member of the public, who was a former employee of Marchmont Residential Homes

- c. by your actions at allegations 1.a. and 1.b. above act contrary to your employer's policy on mobile phones at work

and 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 care workers are expected to maintain and protect the dignity and privacy of the people in their care. Taking a photograph of a vulnerable resident and sending this to a member of the public is a breach of their privacy and an abuse of the trust placed in you by the resident and their family.
 - b. Social care workers are expected to follow their employer's policies which are put in place to protect the safety and dignity of residents. Breaching your employer's mobile phone policy shows a disregard for the dignity of vulnerable people.
 - c. At the time the photograph was taken, AA was extremely vulnerable and reliant on you for support. While in this position of responsibility, you violated AA's privacy and compromised her dignity.
 - d. You have shown a disregard for the wellbeing of a resident in your care and a lack of respect for their rights and privacy, as well as an inability to abide by the policies put in place to keep them safe. However, it should be noted that AA does not seem to have come to any real harm and the risk of harm was small.
 - e. You have expressed remorse for your actions and provided reassurances that the behaviour would not be repeated.
 - f. Members of the public would consider your behaviour to have fallen below the standards expected of a registered worker and the reputation of the social services profession to be damaged as a result of your actions. They would expect the SSSC to take action in such circumstances.
2. In relation to findings of fact 1 you have failed to follow parts 1.4, 2.2, 2.4, 3.10, 5.1, 5.3, 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 two years.

Reasons for the sanction

When making our decision we considered the following factors:

Factors of concern

- The picture was taken within the care home when AA was in your care. She was particularly vulnerable as she was receiving end of life care.
- You abused the trust placed in you by AA, her family, your employer and the SSSC.

Factors in your favour

- You have expressed regret for your actions and noted your actions were unjustifiable.
- We have not received any previous concerns about your practice.
- You have cooperated with the SSSC investigation.
- This appears to have been an isolated incident.

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 28 August 2024 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 11 October 2024.