

Notice of Decision

Registrant	Lewis Townsend
Registration number	4034942
Part of Register	Practitioners in Day Care of Children Services
Town of employment	Kirkcaldy
Sanction	Removal
Date of effect	8 February 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 impose a Removal Order removing your registration from the part of the SSSC Register for Practitioners in Day Care of Children Services.

Findings of fact

We decided there is evidence that

1. on 11 July 2023 you were convicted in Kirkcaldy Sheriff Court of the following offence
 - a. on 30 June 2022 at [information redacted], [information redacted], Kirkcaldy, you being a person having attained the age of 16 years who has parental responsibilities in relation to a child or young person or has charge of a child or such a young person namely AA, you did wilfully ill-treat said child in a manner likely to cause him unnecessary suffering or injury to health and did place him in a shed containing items which may have fallen on top of him or he could have injured himself on, and did hold the door closed and thereafter lock him within said shed; contrary to the Children and Young Persons (Scotland) Act 1937, Section 12(1) as amended

and your fitness to practise is impaired because of your conviction as set out in allegation 1.

Reasons for finding your fitness to practise has been impaired

1. Your fitness to practise is impaired because:
 - a. Social service workers must not abuse, neglect or harm people who use services and must not put them at unnecessary risk. They are also expected to uphold the law. You have been convicted of wilfully ill-treating a child in your care by locking them in a shed in the nursery garden for around four minutes. The child [information redacted]. Your actions leading to the conviction put the child at unnecessary risk of physical harm from objects falling on top of them. They were also placed at significant risk of psychological harm as they were not [information redacted]. Your actions appear to have been motivated by the difficulty you were experiencing supporting the child's needs and behaviours. However, instead of getting assistance from a colleague you chose to lock the child in the shed, putting your own needs above the wellbeing and safety of the child. Your actions amount to a fundamental failing and question your suitability to work in the social services profession.
 - b. Your conviction is extremely serious. The incident leading to the conviction occurred in your place of employment and directly impacted a child with additional support needs in your care. You stated that you put the child in the shed for their own safety. However, you have been convicted of wilfully ill-treating the child. Although you have explained the reasons for your actions, these demonstrate a fundamental lack of understanding of the role and responsibilities of a registered social service worker. If similar behaviour were to be repeated in the future, other children within your care could be placed at an unnecessary risk of harm. The severity of that harm would be moderate to high.
 - c. Although your position is that you were not malicious or intended to cause harm to the child, they indicate a fundamental lack of understanding around how to promote and protect the safety, welfare and wellbeing of children within your care. It ought to have occurred to you that it was not acceptable, and dangerous, to lock a vulnerable child in a shed. It further aggravates the seriousness of the behaviour, and the value concerns arising from it, that the behaviour persisted for

several minutes without you identifying your serious error of judgement. You had been in post for only three months at the time of the incident. However, prior to the incident, you had been employed in similar registrable roles for two years without any concerns being raised about your practice. Your SSSC registration has been suspended since the incident, so you have been unable to demonstrate any subsequent good practice. The incident was isolated and occurred on a single date. The behaviour leading to the conviction did not form part of wider concerns about your practice. You have expressed regret and remorse for your actions. You recognise the gravity and seriousness of your actions.

- d. The behaviour leading to your conviction represented a fundamental failing and amounts to a failure to provide an acceptable level of care. You placed a vulnerable child at a significant risk of harm. There are ongoing public protection risks arising from your conviction. The SSSC require to take action to reaffirm the expected professional standards and to firmly declare the unacceptability of your actions. Due to the seriousness and nature of your conviction, a finding of impairment is necessary to uphold public confidence and trust in the social services profession, and the SSSC as a responsible regulator.
2. You have failed to follow parts 1.1, 1.4, 2.2, 2.4, 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.

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

- The behaviour leading to the conviction directly involved a child in your care [information redacted] who you were supporting
- The incident occurred in your place of employment and put the child at risk of physical and emotional harm
- Your behaviour led to a serious criminal conviction against you
- The behaviour represents a fundamental failing and amounts to a failure to provide an acceptable level of care

- Your actions raise concerns about your underlying values and decision making

Factors in your favour

- You have demonstrated insight, regret and remorse for your actions leading to your conviction
- You held registration for two years with no previous concerns reported
- You have fully cooperated with the SSSC investigation
- This was an isolated incident

Reasons why other sanctions are not appropriate

- A warning would not be appropriate as the behaviour is extremely serious.
- A condition would not be appropriate because there are no conditions which could be placed on you which would address why your fitness to practice has been impaired.
- A warning plus conditions would not be appropriate due to the reasons outlined above.
- A Suspension Order would not be appropriate as the impairment of your fitness to practice 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.
- 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

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 11 January 2024 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 8 February 2024.