

Notice of Decision

Registrant	Michael Findlay
Registration number	3121554
Part of Register	Supervisors in a Care Home Service for Adults
Town of employment	Stonehaven
Sanction	Removal
Date of effect	2 July 2021

This is notice of a decision made by 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 make a Removal Order removing your registration from the part of the SSSC Register for Supervisors in a Care Home Service for Adults.

Findings of fact

We decided that there is evidence that on dates between on or around 3 April 2018 and on or around 31 March 2020, while employed by Ringdane Limited as a Senior Nursing Care Assistant at (Redacted) Care Home and during the course of that employment, you did:

1. on exact dates unknown to the SSSC in relation to your colleague ZZ
 - a. on numerous occasions including once in or around January 2020 smack ZZ's buttocks with a tea towel, newspaper and your hands
 - b. when ZZ was in the nurses' station, move ZZ's hips and hold her buttocks
 - c. on numerous occasions hold the top of ZZ's hips to move her out of the way

- d. call ZZ "gorgeous" or words to that effect
- e. call ZZ "beautiful" or words to that effect
- f. say to ZZ "your figures are beautiful" or words to that effect
- g. say to ZZ and other colleagues "your figures are stunning"
- h. say to ZZ "I can see down your top" or words to that effect
- i. say to ZZ "I can see your cleavage" or words to that effect

2. in relation to your colleague YY:

- a. on numerous dates unknown to the SSSC use your hands, tea towels, clipboards and papers to touch your colleague YY on the buttocks
- b. on an exact date unknown to the SSSC, in front of (redacted) TT, use a menu to hit YY's buttocks and say "you've got a peachy derriere" or words to that effect
- c. on an exact date unknown to the SSSC in or around December 2019, when YY was helping hang up tinsel, stand behind XX and say "oh I've got an even better view now" or words to that effect
- d. on an exact date unknown to the SSSC when XX bent down say "you shouldn't do that front of guys like me" or words to that effect
- e. on or around 28 or 29 March 2020 tell XX she is a very pretty young girl
- f. on or around 28 or 29 March 2020 when discussing XX [person known to her] being a Rangers supporter say "Rangers supporters don't deserve pretty girls like you" or words to that effect

3. in relation to your colleague WW, on an exact date or dates unknown:

- a. grab WW's buttocks with both hands in the nurses' station
- b. grab WW's buttocks with both hands in the reception area
- c. on numerous occasions slap WW's buttocks
- d. put your hand around WW's waist and give her a squeeze
- e. when discussing WW's new coat in the staff room, in the presence of your colleagues VV and XX, point at WW's breasts and say "yeah but can you get it zipped up over those things" or words to that effect
- f. tell WW her breasts were 'so big' or words to that effect
- g. on numerous occasions say to WW "you look really sexy in purple" or words to that effect
- h. in response to WW telling you to shut up, in front of a resident:
 - i. put your face up close to WW's face and say, in a threatening manner "what did you say, say it again" or words to that effect

- ii. in response to WW repeating "eh shut up", pinch WW's nose and say 'only kidding' or words to that effect
 - iii. by your actions at allegation h.i and h.ii above, cause WW distress
4. on exact dates unknown to the SSSC between December 2019 and January 2020, in relation to your colleague VV
 - a. slap VV's buttocks then say "oh it's okay, I do it to TT all the time too" or words to that effect
 - b. say to resident AA "do you want to see me make VV blush" or words to that effect and then slap VV's buttocks in AA's presence
 - c. ask VV what type of bra she was wearing
 - d. say to VV "oh I can see your bra, is it black? I can see it through your tunic" or words to that effect
5. on or around 21 January 2020 say to your colleague VV that you could see her pants through her leggings
6. on exact dates unknown to the SSSC, in relation to your colleague UU:
 - a. on numerous occasions slap UU's buttocks in the dining room using your hands, newspapers and towels
 - b. approach UU from behind and grab UU's waist
7. by your actions at allegations 1,2,3 a-g, 4, 5 and 6 above, act in a sexually motivated manner
8. by your actions at allegations 1,2,3 a-g, 4, 5 and 6 above, harass your colleagues VV, WW, ZZ, UU and XX

and in light of the above your fitness to practise is impaired because of misconduct as set out in allegations 1-8.

Reasons for the finding that your fitness to practise has been impaired

1. Your fitness to practise is impaired because:
 - a. Social service workers should not abuse, harm or exploit their colleagues nor put them at unnecessary risk of harm. Social service workers are expected to communicate in an appropriate manner and treat their colleagues with respect. Further, social service

workers should behave in a way which would not bring their suitability to work in social services into question. You embarked upon a course of inappropriate sexual conduct by making sexualised comments to your female colleagues in relation to their physical appearance and body parts. In addition to this, you made inappropriate physical contact with your female colleagues on numerous occasions by touching their buttocks with your hands and various objects and touching their hips and waist. On one occasion you hit a colleague's buttocks in front of a resident. Your repeated, unwanted, and offensive physical and verbal contact was targeted at females for your sexual gratification. Further, your behaviour violated your colleagues' dignity and created a humiliating and offensive workplace environment. Such behaviour is a violation of the fundamental rules of the social services profession.

- b. In addition, you encroached upon a colleague's personal space in an intimidating manner and made physical contact with her, in front of a resident. Your actions caused your colleague distress. This behaviour has the potential to cause emotional harm to your colleagues if repeated and falls far below the standards expected of social services workers.
 - c. Your sexually motivated behaviour was targeted towards female colleagues, most of whom were young and in their first job in the sector. You abused your position of authority for your own benefit. Your female colleagues were entitled to feel safe in the place of work and have their dignity respected, rather than being harassed by you on multiple occasions. Your behaviour towards your colleague WW was intimidating and threatening, and caused WW distress. Your behaviour is attitudinal in nature and represents a pattern of inappropriate and concerning behaviour.
 - d. If your behaviour were to be repeated, colleagues and potentially young female service users would be placed at risk of emotional harm. Your lack of insight, regret and remorse provides no comfort that this behaviour will not be repeated. Given the nature of your behaviour and seriousness, there is a significant risk to public interest if no action is taken against you.
2. You have failed to follow parts 2.1, 2.2, 5.1, 5.2, 5.7, 5.8 and 6.5 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 make 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

- You have shown no insight, regret or remorse for your behaviour.
- Albeit you initially attended a Temporary Order Hearing, you have since disengaged and have not provided us with your comments on the allegations against you. You have not meaningfully engaged with our process.
- Your behaviour took place in your workplace, where you were in a position of trust and seniority. Your colleagues were entitled to feel safe in their place of work and to be treated with respect and privacy. Your behaviour was at odds with this.
- Your actions were specifically targeted towards females. In relation to your sexually motivated behaviour, your victims included two young females who were only sixteen years old. Your behaviour constitutes an abuse of trust.
- Your actions represent a clear pattern of analogous behaviour which is attitudinal in nature. This repeated behaviour raises questions over your values, demonstrates a lack of respect towards your female colleagues and a lack of understanding in relation to the issue of consent.
- Your behaviour has the potential, if repeated, to place colleagues or female service users at risk of emotional harm.

Factors in your favour

- You have no previous history with the SSSC, having worked in the sector since 2018.

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. your behaviour is very serious and a warning would give no protection to service users 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 practice has been impaired. Also, the type of behaviour at issue is attitudinal in nature and not the type of behaviour which conditions would rectify.
- 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. Further, there is no evidence that 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 that 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 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 2021, we can impose a Removal Order if you do not request that we refer your case to a Fitness to Practise Panel.

We contacted you on 18 May 2021 informing you that we wished to make a Removal Order in your case. Having been advised of the consequences, and recommended to take legal advice, you have not requested that the case is

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 2 July 2021.