

**Outcome of Fitness to Practise Panel impairment hearing held on
Monday 16, Tuesday 17, Wednesday 18 and Thursday 26 November
2020**

Name	Ryan Kershaw
Registration number	3082143
Part of Register	Residential Childcare Workers
Current or most recent town of employment	Lanark
Sanction	To dismiss the case
Date of effect	26 November 2020

The decision of the Fitness to Practise Panel is below followed by the allegation.

The following allegation and decision may refer to the Scottish Social Services Council as 'the Council' or 'the SSSC'.

Decision

This is a Notice of the decision made by the Fitness to Practise Panel (the Panel) of the Scottish Social Services Council (the SSSC) which met on Monday 16, Tuesday 17, Wednesday 18 and Thursday 26 November 2020 by video conference.

At the hearing, the Panel decided that all of the allegations against you were proved, but that your fitness to practise is not impaired, and made the decision to dismiss the case.

Matters taken into account

In coming to its decision, the Panel had regard to these documents:

- the Regulation of Care (Scotland) Act 2001 (the Act)
- the Code of Practice for Social Services Workers Revised 2016 (the Code)
- the Scottish Social Services Council (Fitness to Practise) Rules 2016 as amended (the Rules)
- Decisions Guidance for Fitness to Practise Panels and Scottish Social Services Council staff dated December 2017 (the Decisions Guidance).

Allegations

The allegations against you at the hearing were as follows:

1. on or around 25 October 2019 at Hamilton Sheriff Court you were convicted of an offence contrary to Section 5(2A)(d) of the Firearms Act 1968 in that between 9 September 2017 and 2 May 2018, both dates inclusive, at [redacted], Larkhall, you did purchase for onward sale or transfer a quantity of pepper spray cannisters, without authority to do so
2. while employed as Residential Child Care Worker at Green Pastures in Lanark by Inspire Scotland Ltd, you did:
 - a. on an unknown date between in or around June 2019 and November 2019, fail to disclose to your employer that you had been charged with the criminal offence detailed in allegation 1.
 - b. between in or around June 2019 and on or around 22 November 2019 fail to disclose information to your regulatory body, the SSSC, that you had been charged with the offence detailed at allegation 1.
 - c. on or around 11 November 2019 when asked by your employer whether you were required to attend court due to a criminal matter, deny this, when you knew that this was not true.
 - d. by your actions at allegation 2.c., act dishonestly.

and in light of the above your fitness to practise is impaired by reason of your criminal conviction at allegation 1. and your misconduct at allegation 2.

Findings of Fact

The Panel found allegations 1. and 2 a. to d. proved.

Evidence Considered

The Panel considered the evidence contained in the bundle, together with the oral evidence. The Panel heard oral evidence from witnesses ZZ and YY, and from you.

ZZ

ZZ is an [employee] with Inspire Scotland. He has worked for Inspire Scotland for six years and has been an [employee] for around 18 months. The witness met you on a couple of occasions before the meeting on 11 November 2019. Your role was as a Residential Care Worker and later as a Senior Residential Care Worker. ZZ met you on training days and on visits to the service you worked in. He was not your line manager.

ZZ told the Panel that he had no concerns as to your work. ZZ said that he was aware that, in April 2018, the police had removed a computer from your

workplace and that he had become aware of that through your line manager YY. ZZ heard nothing further until YY asked him to attend a meeting with you and her. This was in November 2019. A letter had been received from Disclosure Scotland which indicated that you had been charged with a firearms offence.

The chat was an informal one and no minutes were taken. ZZ said that you had brought a letter to the meeting from Hamilton Sheriff Court and it looked from the terms of that letter that there had been a court date and that you had been charged with an offence. ZZ advised you to get legal advice. ZZ said that you were asked about why you were attending court and you told him that this was the first letter you had received, and you thought the previous investigation by the police was complete. You were unclear at the meeting. You said you had no knowledge of being charged with an offence.

After the meeting, ZZ was made aware by YY that you told her that you had in fact been charged and that you had been told by your lawyer not to tell your employer.

If you had told your employer when you were first charged, then your employer would have reported the matter to the SSSC.

ZZ confirmed to the Panel that the statement at pages 155-158 is an accurate account of his evidence. ZZ explained that while he was aware that the police had been investigating the purchase of "gas" he had not appreciated until the meeting in November 2019 (when he saw the letter from Disclosure Scotland) that this would be regarded as a firearms offence.

You did not ask ZZ any questions and told the Panel that you did not disagree with what he said happened. You apologised to the witness directly for the difficulties your actions had caused him.

YY

YY is an [employee] with Inspire Scotland. She has been employed by Inspire Scotland since October 2012 and has been an [employee] since March 2019. YY has known you since October 2017 and as [employee] was your line manager. During that time, you were promoted to a senior role. This promotion had occurred after the police had attended to remove your laptop in April 2018. YY had no concerns about your performance at work. In fact, she spoke very highly of you. She told the Panel that you were reliable and conscientious, you had a good relationship with staff and a good rapport with the young people. You were responsive to any requests and there had never been an occasion when there had been a need to have even an informal chat about your performance. You sought appropriate support when required. You displayed really good practice. Your attendance was 100% and you attended all the training. You demonstrated the necessary skills to move to a senior role. YY expressed the view that she considered that you had made a really silly mistake.

Concerns came to light when YY was asked to meet the police to allow them to access a laptop used by you. This was in April 2018. The police would not tell YY why they wanted the laptop. YY sought to ascertain from the police whether you posed any risk to children or young people. She was assured that you did not and that you could continue in your role.

YY spoke to you on the telephone about the meeting with the police and you were upset. You told her you had bought CS gas on the internet while a bit inebriated. You had tried to cancel the transaction, but it was processed. A few weeks later the laptop was returned by the police and they did not intimate to your employer that any charges had been pressed against you. As far as YY was concerned, the police had carried out an investigation and that was it.

In November 2019, your employer received a letter from Disclosure Scotland and YY asked you to attend a meeting about it. You had not received a letter from Disclosure Scotland at that stage. You later telephoned YY to tell her that you had received a letter and you were asked to bring the letter to the meeting. YY said that the letter indicated that you had had a court appearance, and another was due. You told YY that this letter was the first you had heard of the matter and that you had not attended court. You seemed surprised and very worried by the letter.

YY explained that her impression at the meeting was that you were worried and scared and elusive as a result. YY discussed what had happened at the meeting with ZZ who was also in attendance and they concluded that you had not been honest with them when you had said you had not attended court. YY telephoned you after the meeting. She reminded you of your responsibilities to your employer and to the SSSC. You told YY that your lawyer had told you not to discuss the matter with anyone and you had been following that advice.

YY confirmed that you ought to have told your employer about the charge. You were then suspended (or at least suspension was discussed) although your employment was terminated very quickly thereafter as you [redacted]

YY confirmed the terms of her witness statement at pages 149-150 was an accurate account of what had occurred.

You did not have any questions for YY and did not take issue with what she said, other than to clarify whether you had been suspended or not. The witness said that she could not be sure that the suspension had occurred or had simply been discussed given the proximity of the court date to the November meeting she had with you.

Your evidence

You gave evidence on your own account and answered questions from the Panel and the Presenter.

You explained to the Panel that you had made a huge error which had had a devastating effect on your whole life. You are keen to regain some normality. You said that you are not a criminal, you made a mistake and you had tried to fix it within the first 24 hours. You thought you would lose your job and your family.

You explained that you had been a musician. You had done voluntary work since around the age of 20 with a group run by the council. When you joined Inspire Scotland you felt that you had found the perfect career. You said that the kids depended on you and that what you had done was utter stupidity. You did not realise what you purchased was considered a firearm and [redacted].

You had been working towards an SVQ4 and an HNC when these events occurred. You described what had happened. You were arrested in April 2018 and released without charge and you were told by your lawyer that the matter was at an end. You were in total shock when you were told that the police had removed a laptop from your workplace. You then did not hear anything further for over a year. In June 2019, [person known to him] received a letter indicating that she may be required to give evidence.

You said that you were aware you should have told your employer at that time. You did not do so as you could not even speak to [person in your life] about the matter. You said that you were traumatised, embarrassed and ashamed and every choice you made was the wrong one. You were scared about losing your job and [your family].

You attended court in October 2019 and then in November 2019. You pled guilty. [redacted]. You have a [family]. The situation has had a significant impact on your family.

When asked what you would do differently you said you would not have purchased the cannisters. You said that you had a history of compulsive buying. At the moment you have no money, no bank card and you limit your use of the internet.

You said that you accepted that the facts as alleged had occurred and, although you did act dishonestly, you were not a dishonest person. You considered that the witnesses were well aware that you did not tell the truth at the meeting as you are a very bad liar.

In response to the Presenter, you told the Panel that you had purchased a box of 24 cannisters. It was not possible to buy one. You could not explain why you did so but there had been break-ins locally and they might have been used by [person known to him] for security. You said that you were not justifying the purchase as it was not justifiable.

You explained that you are [redacted].

Presenter's Submissions

The Presenter referred the Panel to the bundle. The Presenter referred the Panel to Rule 15. which sets out the stages of the hearing. In relation to the first stage (findings of fact) the Panel was referred to Rule 32.11. The burden of proof rests on the SSSC. The Panel are required in terms of Rule 32.12. to decide any facts in dispute on the civil standard of proof, namely on the balance of probabilities.

In relation to allegation 1., the Presenter invited the Panel to have regard to the Extract Conviction and complaint at pages 57-59 of the bundle. That is the extent of the evidence necessary to find allegation 1. established.

The Presenter referred the Panel to the various documents in the bundle. The Presenter invited the Panel to find the witnesses entirely credible and reliable. The Presenter noted that you did not take issue with the evidence of the witnesses.

The Presenter referred the Panel to the evidence of the witnesses and your position and to find allegations 2.a. to c. found proved. In addition, the Presenter referred the Panel to the case of *Ivey v Genting Casinos Ltd* as to the test for dishonesty. The Presenter invited the Panel to find that you were dishonest in relation to allegation 2.c.

Your Submissions

In addition to your evidence, you referred the Panel to the fact that you had been advised by your lawyer not to discuss the case with anyone at all. You feel that you were poorly advised.

You have been trying to stay positive and working on your music as it is difficult to gain employment while subject to [redacted]

The Panel's decision on findings of fact

The Panel had regard to the oral evidence of the witnesses, to the bundle and to the submissions of you and the Presenter in reaching their decision.

The Panel found allegations 1. and 2.a. to d. proved.

In relation to allegation 1., the Panel had regard to the Rules and in particular Rule 32.8., which states that the findings of fact and certification of conviction of any criminal court in the United Kingdom, are conclusive proof of the facts and conviction. The Panel had before them in the bundle the Extract Conviction and Copy Complaint from Hamilton Sheriff Court at pages 57-59 of the bundle.

The Panel accepted the Extract Conviction and Copy Complaint as conclusive proof of facts and conviction and accordingly found the allegation against you at allegation 1. above proved.

In relation to allegation 2., the Panel accepted in full the evidence given by YY and ZZ. They were both credible and reliable witnesses and you took no issue with the evidence they gave. Indeed, you accepted both in your oral evidence and in your personal statement that you had failed to tell your employer about the charge as you ought to have done when [person known to him] received a letter in June 2019 about giving evidence. You also accepted that you did tell YY and ZZ at the meeting on 11 November 2019 that you had not attended court when in fact you had done so in October 2019. You accepted that you did not report the fact that you had been charged with an offence to the SSSC. The Panel accordingly found allegations 2.a. to c. proved.

The Panel considered that you were a credible and reliable witness. The Panel considered that while you sought to explain your actions and the context in which they occurred, and importantly how you were feeling at the relevant time, you did not seek to avoid responsibility. The Panel considered that you were honest in your account that you were terrified of losing your family and your job and that you were embarrassed and highly anxious. This was consistent with YY evidence that you were distressed in your discussions with her.

The Panel also accepted your evidence that you lied to YY and ZZ at the meeting on the 11 November 2020 but that you felt that they were aware of that at the time. Again, that is consistent with the position of YY who said that she and ZZ suspected you had not been honest. The Panel accepted your evidence, and that of YY, that you told her the truth in a telephone call in the days following that meeting in November 2019. The Panel also accepted your evidence that you had been told by your lawyer not to discuss the case with anyone including your employer. This is consistent with what you told YY on the telephone and at the fact-finding meeting with your employer as to your reasons for not disclosing the charges to your employer.

The Panel had regard to the case of *Ivey v Genting Casinos (UK) Ltd* [2017] UKSC 67 at paragraph 74. The Panel consider that, in advising YY and ZZ that you had not attended court at the meeting in November 2019, you were aware that this was not true. By the objective standards of an ordinary person this action was dishonest. The Panel accordingly found allegation 2.d. proved.

Impairment

There was no further evidence led by the Presenter at the Impairment stage. The Panel accordingly proceeded to hear submissions from the Presenter and you in relation to Impairment.

Presenter's Submissions

The Presenter referred the Panel to Rule 2.2. on the meaning of fitness to practice and impairment and submitted that you were impaired by reason of misconduct and a conviction in the United Kingdom for a criminal offence. The Presenter referred the Panel to the terms of section 59 of the Act being the general principles which apply in reaching any decision, and to the Decisions Guidance.

The Presenter addressed two issues in her submissions. Firstly, the grounds for impairment and secondly, why the SSSC say that your fitness to practice is impaired.

In terms of Rule 2.2., the grounds relied upon are the conviction ground in relation to allegation 1. and the misconduct ground in relation to allegation 2.a. to 2.d.

In relation to allegation 2., the Presenter submitted that this conduct amounts to misconduct. The Panel was referred to the case of *Mallon v GMC* and the case of *Roylance v GMC* in relation to the meaning of misconduct. It is a matter for the Panel based on their skill and judgment and in light of the evidence presented to them.

The Presenter submitted that in relation to allegation 2. you were in breach of multiple parts of the relevant Code being Parts 2.1, 2.2, 2.4, 5.7, 5.8 and 6.3. The conduct amounted to serious professional misconduct. You had a duty to disclose the charge in accordance with the Code. The conduct falls significantly below the standards expected of a registered worker.

The Panel must consider if you are currently impaired. The Panel was referred to the case of *Cohen v GMC* and *The Council for Healthcare Regulatory Excellence v NMC and Grant*, and in particular the Panel was invited to consider whether the conduct is remediable, has been remediated and the likelihood of repetition. In deciding on impairment, the Panel have to consider the need to protect service users and to uphold standards of behaviour in the profession. The Panel was referred to the mitigating and aggravating factors in the Decision's Guidance.

The Presenter submitted that the Panel may have regard to your past and current performance and the level of insight shown.

The conduct is serious and there are, in the view of the Presenter, significant public protection and public interest concerns. There is a need to maintain confidence in the profession.

The conviction demonstrates a disregard for the law and calls into question your suitability. The Presenter submitted that there was a potential to cause harm to the public and undermine public confidence in the profession. This is a matter in which more serious action is required in terms of section 10.6 of the Decisions Guidance. The Presenter accepted that the conduct did not involve service users

and was not during your employment, but the reputation of the profession would be damaged.

In relation to the conduct at allegation 2., the Presenter submitted that your denial of attending court was a deliberate attempt to mislead your employer and this is conduct which falls below the standards expected, which is incompatible with being a registered worker and is a matter in which more serious action is required in accordance with section 10.3 of the Decisions Guidance.

The public are entitled to place reliance on the integrity of the social services workforce. Your failure to advise your employer of the charge meant that they and the SSSC were unable to assess the risk you may pose.

The Presenter accepted that there was no pattern of behaviour and there were no other concerns as to your practice. The Presenter referred the Panel to the case of *Kimmance v GMC* at paragraph 66. The Presenter acknowledged that you had co-operated with the SSSC [redacted] and that you had expressed regret and remorse to the Panel and to the SSSC and the witnesses. You acknowledged that you had made a terrible decision. You have shown insight and appear to be truly sorry. However, an act of dishonesty is not easily remediable and is incompatible with Registration. The risk of repetition is accordingly moderate.

The Presenter submitted that the Panel must not lose sight of the needs to uphold proper standards and maintain public confidence in the profession in reaching their decision. In light of the seriousness of the conduct and the need to uphold standards, the Panel was invited to find that your fitness to practice is currently impaired.

Your Submissions

The hearing was adjourned on day three as you were [redacted]. The hearing reconvened on 26 November 2020 to hear your submissions in respect of impairment. You invited the Panel to read the statement you produced for the SSSC which sets out your position as to what happened. You explained that you had made a stupid and life changing mistake. Your actions had devastated your entire family. Not simply your immediate family, but your extended family and friends have been affected. The entire situation has been a nightmare. It was a stressful and scary situation. You said that you realised within 24 hours of the crime that you had made a mistake and tried to rectify it. You accepted that you lied to your employer about the court date but again that was rectified in the days after the meeting and you were honest on the telephone with YY.

You accepted that you ought to have been punished [redacted] .

You had noted that the SSSC said that you had shown a blatant disregard for the law. You told the Panel that could not be further from the truth, and that rather you had made a stupid mistake.

You said that you were so sorry that matters had come to this. You have lost your job and education and nearly lost your home and family as a consequence of your actions. You loved your job, and you were good at it. You felt you were making a difference; you loved the young people and were dedicated.

You feel you are in a good place now and you want to find a job and become a fully functioning member of society again. You feel you have to live with this matter for the rest of your life and you still think about it every day. Going forward you feel you have learned from this situation. You hope to use your experiences to support young people. You have supported young people through the sentencing process before and now feel that you have a better understanding of how little control those young people feel they have over their own lives and the decisions that are being made for them.

You said that you wished that you could do more to convince people that you are a good person and that you can move on after the decision today.

Reasons for the Panel's Decision

The Panel gave careful consideration as to your fitness to practise.

The Panel, in all the circumstances, find that your fitness to practise was impaired by reason of misconduct and by virtue of your conviction. However, the Panel has concluded that your fitness to practice is not currently impaired.

In reaching their decision, the Panel had regard to the bundle, the oral evidence, case law, Decisions Guidance and the submissions of the Presenter and you. The Panel had regard to Rule 2. as to the meaning of fitness to practice and impairment. The Panel noted that a worker is fit to practice if they meet the standards of character, conduct and competence necessary for them to do their job safely and effectively with particular regard to the Code.

In relation to allegation 1., the Panel considered that your fitness to practice was impaired by reason of a conviction in the United Kingdom for a criminal offence. In relation to allegation 1., your conduct amounted to a breach of Parts 5.7 and 5.8 of the Code.

The conduct in allegation 2. amounts to misconduct. The Panel considered that you had failed to be honest and open with your employer and the SSSC about the charges against you. You failed to communicate in an appropriate, open, accurate and straightforward way with your employer. Although the SSSC considered that you were also in breach of Part 2.4 in failing to be reliable and dependable, the Panel considered that having regard to the particular allegations this was not the case. In addition, it was clear from the evidence of the witnesses that in fact they had found you entirely reliable and dependable in the carrying out of your work. In the view of the Panel it is however clear that your conduct at the time calls into question your suitability to work in social services.

In your acting's with your employer and in failing to advise the SSSC of the charge against you, you failed to tell the appropriate authorities about any personal difficulties which might have affected your ability to do your job competently and safely or impact on your fitness to practise. The Panel considered that the conduct in allegation 2. constituted breaches of Parts 2.1, 2.2, 5.8 and 6.3 of the Code.

The Panel went on to consider whether your fitness to practise is currently impaired as at today's date.

The Panel considered that the conduct in allegation 1. was very serious. It is a significant criminal conviction being an act in contravention of firearms legislation. The Panel did, however, accept your evidence that at the time of the actions which resulted in the conviction you were not aware that such conduct was criminal and, when you did appreciate that, you sought to cancel the transaction without success. The conduct in allegation 2. is also very serious. Whilst the conduct arose from the circumstances arising in respect of allegation 1., you were dishonest with your employer at the meeting on 11 November 2019. It is of note that your actions in failing to tell your employer or the SSSC sooner about the charge against you meant that they were prevented from assessing the risk you may have posed at that time to service users.

The Panel had regard to the mitigating and aggravating factors identified in the Decisions Guidance.

In relation to insight, regret and apology the Panel was clear in its view that you could not have done more to express your regret and apology in relation to your conduct. You apologised to the Panel, the witnesses and the SSSC and it was clear to the Panel that this was genuine and sincere. You demonstrated significant insight into the effect that your conduct had had on your family and on your colleagues and it was noticeable that there was little in the way of self-pity in your words to the Panel. This was despite the very significant impact the conduct had clearly had on you, not least in having to [redacted] and losing the job you were clearly committed to and were good at. The Panel noted that you had apologised at an early stage and accepted that you ought to have behaved differently. This, in the view of the Panel, was a significant mitigating factor in determining if your fitness to practise was currently impaired. The Panel had regard to the case of *Kimmance v GMC* [2016] EWHC 1808 (Admin), in which the court said that a "professional who has done wrong has to look at his or her conduct with a self-critical eye, acknowledge fault, say sorry and convince a Panel that there is a reason to believe he or she has learned a lesson from the experience." The Panel considered that you had done so to the fullest extent.

In relation to your previous history, the Panel noted that you had not previously been found to have committed misconduct or had your fitness to practise impaired. There were no issues as to your practice and in fact the witnesses were extremely positive when speaking of your practice. You had been recently promoted. There was no evidence before the Panel that you had ever either

before or since been involved with the criminal justice system. This too is a mitigating factor.

The Panel gave careful consideration to the circumstances leading up to the behaviour. The Panel accepted your evidence. You told the Panel that you were unaware that it was an offence to purchase the canisters. You had a history of being impulsive when purchasing online. When you realised what you had purchased was in fact illegal you tried to cancel the transaction without success. In addition, you had been told by your solicitor not to discuss the charge with anyone, which is in part at least why you did not tell your employer and why you lied at the meeting. You were also terrified of losing not just your job but your family and were unable to discuss the situation with anyone. This is to a limited extent a mitigating factor.

The Panel noted that you had not been able to work in social services since your conviction and as such the length of time since the conduct and your subsequent practice are not relevant factors.

The conduct occurred both inside and outside the workplace. The Panel considered that this was an aggravating factor. While the Panel did not consider that the conduct was indicative of a values issue, the behaviour did constitute serious failings.

The Panel had before them a letter from XX dated 27 November 2019, which was a positive testimonial written after the charge came to light. XX confirmed that you were a reliable worker, that there were no concerns as to your practise and that you had a very good working relationship with all your colleagues and the young people. In addition, the witnesses on behalf of the SSSC were very positive as to your practice. You had been appointed to a senior post. YY in particular spoke in glowing terms as to your ability in your role. She told the Panel that you were reliable and conscientious, you had a good relationship with staff and a good rapport with the young people. You were responsive to any requests and there had never been an occasion when there had been a need to have even an informal chat about your performance. You sought appropriate support when required. You displayed really good practice. Your attendance was 100% and you attended all the training. You demonstrated the necessary skills to move to a senior role. The Panel was able to place considerable weight on the comments of YY as she gave oral evidence before the Panel and was fully aware of the circumstances when giving her evidence.

The Panel had regard to your co-operation with the SSSC. It was to your considerable credit that you attended this hearing over a number of days and took an active part. You had even maintained contact with the Clerk following being [redacted] on the third day of the hearing. You have shown commitment to your Registration and your desire to continue to work in social services. You had responded to the SSSC by completing the personal statement form [redacted].

The Panel considered that the conduct did not amount to a pattern of behaviour. All of the allegations arose from the act of criminal conduct and as such was isolated.

In considering the consequences of the conduct, the most significant harm in the view of the Panel was to yourself and to your own family. The conduct has had very significant consequences for yourself. [redacted]. You have lost a job your clearly loved and were skilled at. There was no harm to service users caused in the circumstances. The Panel considered that there had been an abuse of trust in failing to be open with your employer, although your employer in evidence confirmed that it was apparent you had not been truthful at the meeting and you rectified the situation in the follow up phone call.

The Panel gave careful thought to whether the conduct could be remediated, had been remediated and the likelihood of repetition.

In relation to allegation 1., the Panel considered that the conduct could be remediated. The Panel accepted your evidence as to the circumstances and you repeated often during the hearing that you had made a terrible mistake. You had apologised to those affected and have been punished by the criminal courts. The Panel was satisfied that you had remediated the conduct. You had been punished for the conduct and it was clear it had taken its toll on you and your family. It was an isolated incident of criminal behaviour outside the workplace and you had shown significant insight into the impact of your conduct on others. For all these reasons, the risk of repetition was low. The Panel did take the view that you had addressed the issue of the conviction and that it was conduct that was extremely unlikely to be repeated.

In relation to allegation 2., the Panel considered that the conduct could be remediated and had been in the circumstances. You had apologised for the conduct and recognised how you ought to act in the future. In relation to the meeting at which you lied to your employer; this was rectified within a very short time on the telephone with your employer. The Panel considered whether, having regard to section 10.3 of the Decisions Guidance, the finding of dishonesty was such that this was a case where more serious action may be required. Given that it was clear from the evidence that the lie was apparent at the meeting and that the matter was corrected within a few days, the Panel did not consider that the conduct warranted the most serious action. The Panel noted that you had been told by your solicitor not to discuss the matter with anyone and that you had sought to comply with that advice in your initial discussion with your employer.

Further, the Panel did not consider that either of the allegations found proved were in the circumstances of this case behaviour that is fundamentally incompatible with professional Registration. It was possible, in the view of the Panel, to remediate the conduct and to show the necessary insight regret and apology to move on from it.

Accordingly, the Panel was of the view that there are significant mitigating factors, and that as such, a finding of current impairment was not necessary to protect the public.

The Panel went on to consider whether, nevertheless, it was necessary to make such a finding of current impairment in the public interest. Upholding the public interest includes maintaining public confidence in the profession and the SSSC as the regulator and promoting and maintaining standards. The failures in terms of the Code are serious. The public must have confidence in the social service workforce and the SSSC as regulator. Registration indicates to those using services that a worker is fit to practise and those standards must be upheld. However, the Panel must also ensure that the decisions they make are proportionate. The Panel must carry out a balancing exercise between the interests of the worker to practise in their chosen profession and the interests of the wider public.

The Panel considered that the decision as to whether there should be a finding of current impairment, in the public interest, was a finely balanced one. However, the Panel has concluded that, taking into account all of the circumstances, it is not necessary to make such a finding. A well-informed member of the public, with all of the information provided to the Panel before them, would in the view of the Panel consider that the public interest in this matter is sufficiently satisfied by the fact that the case has been properly and thoroughly investigated and considered by the Panel at an Impairment hearing. It was clear that you and those you worked for considered that you had the skills to make a significant contribution to the profession. It was of note that you had identified that your experiences had made you more empathetic as to the circumstances of the young people with whom you had been working. Given the significant mitigating factors, the Panel concluded that your fitness to practise is not currently impaired.