Notice of Decision

<table>
<thead>
<tr>
<th>Part of Register</th>
<th>Practitioners in Day Care of Children Services</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sanction</td>
<td>Warning imposed on her registration for a period of 12 months</td>
</tr>
</tbody>
</table>

The Charge considered by the Conduct Sub-committee is below followed by its decision.

The following Charge and decision may refer to the Scottish Social Services Council as “the Council” or “the SSSC”.

Charge

1. The Charge against the Registrant is that between [dates] whilst employed as an Early Years Practitioner at [care service] and during the course of that employment she did:
   a. on [date], state to service user AA (aged 3 years) “You are a horrible little girl” or words to that effect
   b. between [dates], take hold of service user AA by the arm, pull AA by the arm and push AA to the ground

   and in doing so she did cause or was likely to cause AA physical and emotional harm.

Decision

The Sub-committee considered that, in this case, it was appropriate that a warning was placed on the Registrant's Entry in the Register for a period of twelve months.

Misconduct

The Sub-committee decided:

That the Registrant has committed Misconduct, as defined in Rule 2(1) of Part 1 (the Rules).

Reasons for finding of Misconduct

The reasons that this behaviour is considered to be Misconduct are:
1. The Registrant used inappropriate language to a three year old child who was in her care. The Sub-committee was satisfied that the Registrant referred directly to the child as a "stupid little girl" which was abusive, and demeaning. Whilst it did not appear that the service user was upset by the language used by the Registrant, the Sub-committee was satisfied that there was a risk that the child may have become upset. The Sub-committee was therefore satisfied that the Registrant had breached part 2.2 of the Code of Practice for Social Service Workers (the Code).

2. By speaking to the child in an abusive and demeaning manner and by handling the child roughly, the Registrant failed to recognise the power that came from her work as a nursery worker with responsibility for the care of young children. She ought to have recognised the potential impact of her actions as a person with authority over, and responsibility for, the care of the child, but failed to do so. The Sub-committee was therefore satisfied that the Registrant had breached part 3.8 of the Code. The Registrant's behaviour also placed the child at unnecessary risk of physical and emotional harm. The Sub-committee was therefore satisfied that the Registrant had breached part 5.7 of the Code. Finally the Sub-committee was also satisfied that, on both occasions, the Registrant's behaviour towards the child was in breach of part 5.1 of the Code but it did not believe that it constituted a serious breach of this part of the Code.

**The Code**

The parts of the Code that this behaviour breaches are: 2.2, 3.8, 5.1 and 5.7.

**Reasons for the Sanction**

When reaching its decision the Sub-committee considered the following factors:

Factors of concern

1. There was evidence of some lack of insight by the Registrant into the potential impact of her actions including the potential for emotional and physical harm to the child who was in her care.

2. The Sub-committee considered that there were aspects of the Registrant's Misconduct that were serious, in particular that her behaviour placed a very young service user at risk of harm.

Factors in the Registrant's favour

1. The Registrant had co-operated with the Council in its investigations.
2. The Registrant made an early admission of the facts. She made an immediate admission in relation to Charge 1a. In relation to Charge 1.b. the Registrant made admissions from the point at which the nature of the allegation that had been made against her was clarified by her employer.

3. The Registrant had demonstrated regret and the Sub-committee was satisfied that she did not intend to harm child AA.

4. Prior to the Misconduct that had been found by the Sub-committee, the Registrant appeared to have been of good character and was an experienced child care worker.

5. The Registrant did not feel, and did not appear to have been, well supported by some of her colleagues or by management in the workplace, particularly at the time of Charge 1.b.

6. The Registrant's employer did not have a manual handling policy in place and had not provided their employees with training in relation to the manual handling of service users.

7. The Sub-committee understood that it is not its remit to critique the disciplinary procedure adopted by the Registrant's employer. It did, however, have serious concerns about that procedure which did not appear to have been properly structured or particularly fair to the Registrant. It appeared to the Sub-committee that her employer's approach was rather peremptory and that their investigative and disciplinary processes were clearly conflated. For these reasons the Sub-committee placed significantly more weight on the direct evidence of witnesses provided during the course of the hearing than on the evidence that was obtained by the Registrant's employer.

The Sub-committee considered that, in this case, it was appropriate that a warning was placed on the Registrant's Entry in the Register for a period of twelve months. Whilst there were certain aspects of the Misconduct that were serious, they were not sufficiently serious to indicate a general disregard for the Code, or that the Registrant was not fit to work in the social care sector. The Sub-committee also noted that the Registrant had expressed regret for her actions. Whilst perhaps she could have shown more insight into the potential consequences of her actions, the Sub-committee was satisfied that she had shown sufficient insight and regret to provide a reasonable safeguard against the Misconduct being repeated.

The Sub-committee was also persuaded that had the Registrant received better support from her colleagues and from her employer, and had her employer provided her with training on, and access to, an appropriate manual handling policy, the Registrant would have been less likely to have committed the
Misconduct.

Whilst suspended from practice, the Registrant had already had some time to reflect upon her actions. The Sub-committee considered that this period of reflection would also help safeguard against the Misconduct being repeated.

Taking account of all of these considerations the Sub-committee was satisfied that a warning for a period of twelve months was sufficient for the protection of the public and that it was sufficient to maintain public confidence in care professionals and that, in the circumstances of the case, it was fair and proportionate.

Having regard to the document “Indicative Sanctions Guidance and use of Interim Orders: Guidance for Sub-committees” (the ISG) the Sub-committee decided that the appropriate sanction was to impose a warning on the Registrant’s Registration in the Register for a period of twelve months and to revoke the ISO currently in place.

**Matters taken into account**

In coming to its decision, the Sub-committee had regard to the following documents:

- the Code
- the Regulation of Care (Scotland) Act 2001
- the Rules
- the ISG.

The Sub-committee accepted the advice provided by the Legal Adviser.