

Notice of Decision

Part of Register	Practitioner in Day Care of Children Services
Sanction	Removal

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:
 - a. between [date], both dates inclusive, at [address redacted] or elsewhere she did fail to notify Officials of the Department of Work and Pensions, [address redacted] that she was in employment and claimed Incapacity Benefit whilst in the employment of [care service] between said dates and that she did thus induce said Officials to pay her Incapacity Benefit in the sum of £24,400 which she was not entitled and did thus obtain said benefits by fraud.
 - b. Between [date] she did fail to inform the Council that she had been cautioned, charged and subsequently convicted of the said benefit fraud noted above at Charge a.

and in doing so, she was dishonest.

Misconduct

In terms of the Rules, SCHEDULE 2, Paragraph 24(1), the Sub-committee determined that on the facts found established the Registrant had committed Misconduct in terms of the definition contained within Rule 2(1) of the Rules.

The reasons for the Sub-committee's decision were:

1. On the facts found established in connection with both Charges 1.a. and 1.b. the Registrant had contravened Parts 2.1, 2.2 and 2.4 of the Scottish Social Services Council's Code of Practice for Social Service Workers. In her dishonest dealings with both DWP and the Council, whilst a registered worker, the Registrant had failed to strive to establish and maintain the trust and confidence of service users and carers. The Registrant's dishonesty meant that she had not been honest and trustworthy. She had

not communicated with both DWP and the Council in an appropriate, open, accurate and straightforward way. She had not been reliable and dependable in her dealings with both DWP and the Council.

2. On the facts found established in connection with both Charges 1.a. and 1.b. the Registrant had contravened Part 5.8 of the Scottish Social Services Council's Code of Practice for Social Service Workers. In her dishonest dealings with both DWP and the Council, whilst a registered worker, the Registrant had failed to uphold public trust and confidence in social services. The Registrant's dishonesty in Charges 1.a. and 1.b. involved behaviour in work and outside work which called into question her suitability to work in social services.

Sanctions

The decision of the Sub-committee was to make a Removal Order in relation to the Registrant's Registration in the Register in terms of the Rules, SCHEDULE 2, Paragraph 26(2)(f).

The reasons for the Sub-committee's decision in relation to sanctions were:

1. The allegations were very serious. Charge 1.a. related to a conviction for Incapacity Benefit fraud relating to an extended period between [dates]. The Registrant had been employed by three different employers during the period of her Incapacity Benefit claim, but the Department for Work and Pensions reported that they had received no evidence to confirm that the Registrant had ever declared any of that employment to them.
2. Charge 1.b. related to the Registrant's failure to inform the Council that she had been cautioned, charged and subsequently convicted of benefit fraud between [dates]. The Council did not discover the existence of the criminal procedure until after the Registrant's conviction on [date] and sentence on [date], in the context of her resultant consideration for listing by PVG.
3. The Registrant had negotiated an agreed plea in relation to the criminal proceedings against her. Once contacted by the Council in the context of the PVG listing, the Registrant had co-operated with the Council's investigation. She had not attended the Conduct Sub-committee hearing, and had not provided a detailed written explanation for her position which had meant that the Sub-committee had limited information before it in relation to the Registrant's position. In the context of the Council's procedure, the Registrant had made an early admission of the facts alleged.
4. There was concealment by the Registrant in connection with both allegations 1.a. and 1.b. within the Charge. The incidents did not cause direct harm to service users.

5. The Registrant had expressed some limited insight and some limited regret in connection with the allegations. However, she had not attended any of the two days of the Conduct Sub-committee hearing. Up until the commencement of the Conduct Sub-committee hearing, the Registrant had co-operated. She did not provide the sort of detailed information that the Sub-committee would have found useful, especially in the context of the invitation to do so contained in the Council's letter of [date], which narrated a summary of the procedure up to that point, following the first day of the hearing.
6. The bundle of papers contained a letter from the Registrant's Solicitors dated [date]. It contained a description of the procedure leading up to her conviction and sentence. It contained an explanation of the Registrant's position in connection with the criminal charge against her. The bundle of papers also contained a number of short letters from the Registrant. The Sub-committee also had regard to the exchange of emails between the Clerks and the Registrant in advance of both days of the hearing and also notes of telephone conversations with the Clerks and the Council in connection with the Registrant's non-attendance at both dates of the hearing.
7. Based on the written submissions provided by and on behalf of the Registrant, her insight and regret appeared to be primarily directed towards the consequences for her of her actions and Misconduct, rather than the consequences and potential consequences for others of her actions. She was particularly concerned about press interest in her case and the effect of that press interest on her in the context of the reaction of her local community towards her. It could not be said that benefit fraud was a victimless crime, but the Registrant did not appear to have reflected on that issue.
8. The behaviour concerned was recent. The period in Charge 1.b. ceased on [date]. No significant period of time had elapsed since. The allegations relate to two separate failures, both over long periods. The Registrant's behaviour was deliberate and premeditated. The Registrant's explanation of her benefit fraud alleged a context involving [information redacted]. She claimed that she had lost track of her hours and that she thought that she was still working within a limit of permitted hours. She also indicated that she had been unable to prove the position that [a person known to the Registrant] had been accessing a joint bank account in the context of the criminal proceedings against her.
9. The Misconduct had taken place out with a social services context. Service users had not been harmed, either directly or indirectly, but benefit fraud is not a victimless crime.

10. The Registrant's benefits claim was for Incapacity Benefit. No evidence was put before the Sub-committee in connection with the nature of the Registrant's incapacity at the time. The Registrant had not raised her [health information redacted] as an issue in the proceedings.
11. There was some evidence of [health information redacted]. The two allegations were serious and both related to significant periods of time. In the absence of greater evidence of insight, regret and change, it could not be said that the Registrant's behaviour was not fundamentally incompatible with continuing to be a social service worker. The Registrant's dishonesty over prolonged periods meant that the Registrant's suitability for Registration was currently impaired. The Registrant had not demonstrated real change in her attitude towards her Misconduct.
12. The allegations were very serious and risked undermining public confidence in social services generally and in the Council as social services regulator in the event that an appropriate sanction was not imposed.
13. A warning was not an appropriate sanction. It did not reflect the serious nature of the Misconduct. The Misconduct was not isolated. The Misconduct involved fraud and dishonesty over a prolonged period. The Registrant had demonstrated limited insight or regret. Limited corrective steps had been demonstrated. Only one testimonial had been provided.
14. The imposition of a Conditions Order, with or without either a warning or a Suspension Order, was not an appropriate sanction in the circumstances. It was not possible to formulate conditions that were either workable or enforceable. Conditions would not address the Registrant's current fundamental unsuitability for Registration in the context of her recent and very serious Misconduct.
15. A Suspension Order was not an appropriate sanction. It did not reflect the serious nature of the Misconduct. The Registrant's suitability for continued Registration was currently impaired. A lesser sanction was not sufficient. The Registrant had demonstrated some limited insight and regret. This was not a case where it could be said that Removal was not warranted. This was not a case where it could be said that the Registrant's behaviour was not fundamentally incompatible with continuing to be a registered social service worker in the long term. It could not be said that there was no real risk of the Registrant repeating the behaviour.
16. There was a public interest in the upholding of proper standards of behaviour and conduct amongst social service workers. Public confidence in the regulation of social service workers was important. The nature of the Registrant's Misconduct gave rise to such a public interest. It was appropriate to mark the Registrant's Misconduct with an appropriate sanction. This was a case where the only appropriate sanction was a Removal Order.

17. The imposition of a Removal Order was required, having regard to the interests of the public, service users, the interests of potential social services colleagues, the interests of potential social services employers and public confidence in social services as a profession and the Council as social services regulator. Those interests outweighed the prejudice to the Registrant in imposing a Removal Order and thereby depriving her from working in her previously chosen profession of Practitioner in Day Care of Children Services.
18. The Sub-committee took into account the terms of SCHEDULE 2, Paragraph 32(2) of the Rules. It was not open to the Registrant to apply for restoration to the Register as a Practitioner in Day Care of Children Services within three years of the date of the Removal Order. The Sub-committee also took into account the effect of Regulation 5(5) of The Regulation of Social Workers and Social Service Workers in Care Services (Scotland) Regulations 2013. Following the imposition of a Removal Order the Registrant would not be able to work as any other category of social service worker in a care service unless firstly registered. She would no longer gain the benefit of the six months period for Registration contained in Regulation 5(3)(a).
20. Having regard to the principle of proportionality, the prejudice to the Registrant in imposing a Removal Order was outweighed by the needs of both public protection and the public interest in imposing an appropriate sanction in the circumstances.
21. It was not necessary to revoke the existing Interim Suspension Order, which was otherwise due to expire on 31 March 2015, because it was not inconsistent with the imposition of a Removal Order which would come into effect after the notice and appeal period.