

Notice of Decision

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| Part of Register | Practitioners in a Care Home Service for Adults |
| Sanction | Warning to stay on her registration for a period of four years and condition imposed |

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 on 4 January 2014, on a road or other public place, namely [location redacted], she did:
 - a. drive or attempt to drive a motor vehicle, namely a motor car registered number [redacted] after consuming so much alcohol that the proportion of it in her blood was 195 milligrammes of alcohol in 100 millilitres of blood which exceeded the prescribed limit, namely 80 milligrammes of alcohol in 100 millilitres of blood, contrary to the Road Traffic Act 1988, Section 5(1)(a)
 - b. drive a mechanically propelled vehicle, namely a motor car registered number [redacted] without due care and attention or without reasonable consideration for other persons using the road or public place, drive the wrong way in a one way street, collide with two stationary motor cars, damaging these and her own vehicle, contrary to the Road Traffic Act 1988, Section 3 as amended

which behaviour took place while her daughter AA, aged 4, was a passenger in said motor vehicle

and in doing so the Registrant did place herself and others at an unnecessary risk of harm and behave in a way outside work which would call into question your suitability to work in social services.

Decision

The Sub-committee decided:

1. that the Registrant has committed Misconduct, as defined in Rule 2(1) of Part 1 of the Scottish Social Services Council (Conduct) Rules 2013 (the Rules)

2. to warn the Registrant and direct that a record of the warning be placed on the Registrant's Entry in the part of the Register for Practitioners in a Care Home Service for Adults as maintained by the Council for a period of four years and to impose a condition on the Registrant's Registration on the part of the Register for Practitioners in a Care Home Service for Adults as maintained by the Council, in terms of SCHEDULE 2, Paragraph 26(2)(b) of the Rules.

The condition is as follows:

Six months from the date of this Notice of Decision the Registrant will provide a letter from [health care professionals] confirming the positive progress she continues to make with her [health condition], all to the satisfaction of the Council.

Reasons for finding of Misconduct

The reasons that this behaviour is considered to be Misconduct are:

1. On the facts found established the Registrant had contravened Parts 2.4, 5.7 and 5.8 of the Scottish Social Services Council's Codes of Practice for Social Service Workers.
2. The Registrant admitted the criminal offences in question, which involved her driving without due care and attention having consumed alcohol in excess of the drink driving limit.
3. In committing these offences she showed a serious disregard for the law. She placed herself and her passengers, [redacted], at unnecessary risk of harm. She placed other road users and pedestrians at an unnecessary risk of harm.
4. Such a serious and potentially fatal lack of judgement for the safety of herself called into question her suitability to work in social services. It also called into question her reliability and dependability.
5. Although the Registrant had denied Misconduct she presented no arguments as to why that was the case on the facts admitted.

Code of Practice

The Parts of the Code of Practice for Social Service Workers that this behaviour breaches are: Parts 2.4, 5.7 and 5.8.

Reasons for the Sanction

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

Factors of concern

The Registrant showed a serious disregard for the law. She placed herself and her passengers, at unnecessary risk of harm. She placed other road users and pedestrians at an unnecessary risk of harm. The consequences of her actions could have been fatal.

The Registrant had a previous conviction for drink driving in 2007, for which she had been disqualified from driving for 12 months and fined.

The Sub-committee noted the Registrant's evidence that she had chosen to drive home on 4 January 2014 when she had received news that her son was unwell. However it was concerned that she had adopted that course of action when alternative ways to return home must have been available to her. It was particularly concerned about her lack of judgement in circumstances where she had her small child with her and in light of her previous conviction for drink driving. It concluded that the Registrant was someone who was likely to act on impulse.

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.

Factors in the Registrant's favour

The Registrant had never denied the facts alleged or the seriousness of her actions. She had taken full responsibility. She had co-operated fully with her employer and with the Council in respect of their investigations.

Although she had an analogous conviction in [date] the Sub-committee considered that the incident in [date] was nevertheless an isolated incident. She had acted thoughtlessly and impulsively in response to a family crisis that required her to return home urgently. Her actions had not been premeditated.

Since [date], there had been no evidence of a repeat of this conduct and no evidence of any issues of concern at work.

Indeed since the incident she had demonstrated good practice in her work and had received an extremely positive performance appraisal in [date].

She had received positive and relevant references and testimonials from work colleagues who had also supported her by attending the hearing before the Sub-committee.

She had demonstrated insight as to the seriousness of her actions. She had been deeply affected by the incident and was genuinely regretful and

remorseful. The prospect of potentially losing her job and the custody of her children had been devastating for her although it was now clear that there would be no social work involvement in relation to her children.

She understood the potential consequences and had sought support to deal with her [health condition]. She had engaged fully with [health care professional] to whom she had been referred by her employer. She had also engaged fully with [health care professional], the employee assistance programme for employees of Angus Council.

She stated that she had now developed coping mechanisms to deal with [information in relation to health condition]

Having regard to the document "Indicative Sanctions and use of Interim Orders: Guidance for Sub-committees" the Sub-committee is minded that the appropriate sanction was to warn the Registrant and direct that a record of the warning be placed on the Registrant's Entry in the part of the Register for Practitioners in a Care Home Service for Adults as maintained by the Council, for a period of four years and is minded to impose a condition or conditions on the Registrant's Registration on the part of the Register for Practitioners in a Care Home Service for Adults as maintained by the Council, to be complied with within a period of six months in terms of SCHEDULE 2, Paragraph 26(2)(b) of the Rules.

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

1. The Misconduct was serious. The Sub-committee was particularly concerned about the level of risk associated with her actions, the consequences of which could have been potentially fatal.
2. The Registrant had demonstrated real insight and regret for her actions. She had fully engaged with [health care services] from which she appeared to have benefitted. There was clear evidence of rehabilitative and corrective steps having been taken.
3. Although the Registrant had already undergone relevant [health care treatment] the Sub-committee remained concerned about her ability to cope under pressure. It also considered there was a risk that she might turn to alcohol to cope with stressful circumstances as they inevitably will arise.
4. The Sub-committee did not find there had been a deliberate and premeditated disregard for her safety or the safety of others or the standards expected of her as a social services worker.
5. There was clear evidence that despite her Misconduct, which had occurred outside work, the Registrant was recognised as having consistently made a positive contribution in her role as a social care worker. She had been a

high performer since the incident. That was reflected in her recent performance appraisal and the positive support she had received from her work colleagues who had provided relevant personal references for her.

6. The imposition of conditions, with a warning, was an appropriate sanction, which recognised the serious nature of the Misconduct and provided adequate protection to the public.
7. The Misconduct was an isolated incident. There was insight and evidence of a willingness on the part of the Registrant to change her behaviour. A warning would address the reputational risk to the social services profession.
8. The Registrant was in registerable employment. There was evidence that she would be willing to comply with conditions and that such conditions would be workable and enforceable. There was evidence that service users would not be put at risk directly or indirectly as a result of continued Registration with conditions. The Sub-committee was satisfied that conditions could be formulated that would address the serious nature of the Registrant's Misconduct.
9. Having heard evidence and submissions on [date] the Sub-committee formulated the following proposed conditions that it was minded to impose:
 - a. The Registrant shall refer herself to [health care service] with whom she will arrange [health care treatment].
 - b. Within six months of her self referral she will provide a report from [health care service] as to the outcome of [health care treatment] and the progress she has made, all to the satisfaction of the Council.
 - c. The Registrant shall refer herself to [health care service], with whom she will arrange [health care treatment]; and
 - d. Within six months of her self referral she will provide a report from [health care service] as to the outcome of that [health care treatment] and the progress she has made, all to the satisfaction of the Council.
10. A note of those proposed conditions was therefore issued to the Parties in terms of SCHEDULE 2 paragraphs 26(5)(a) and 26(6) of the Rules and the hearing was continued until 5 October in order to allow both Parties to make written representations.
11. In advance of the reconvened hearing the Council intimated its opposition to the proposed conditions on the ground that it did not consider they adequately addressed its concerns in relation to public protection and the

wider public interest.

12. So far as the Registrant was concerned, her solicitors initially informed the Clerk that she was content with the proposed conditions. Furthermore, at the reconvened hearing she produced (1) a letter from [health care service] dated [date] confirming that the Registrant had already attended [health care treatment] with them and that she had engaged well, and (2) a letter from a [health care professional], dated 7 September 2015 confirming that the Registrant had already attended [health care treatment] and had made positive progress. The Sub-committee noted in particular [health care professional] comment that *'At no time did her assessment show she was at (sic) risk of harm to others'*.
13. In the circumstances the Sub-committee was satisfied that the Registrant had already effectively complied with the first three proposed conditions. The Sub-committee was impressed to note that she had taken these positive steps in the intervening period and that her progress had been good. It was clear to it that she was determined to make amends for her past conduct and to develop new coping strategies.
14. In the circumstances the Sub-committee considered that there was no longer any practical utility in imposing any of the first three proposed conditions and that the proposed fourth condition ought to be replaced with the following:

'Six months from the date of this Notice of Decision the Registrant will provide a letter from [health care service] confirming the positive progress she continues to make with [health care treatment], all to the satisfaction of the Council.'
15. The Sub-committee acknowledged that the imposition of a warning with this condition may have reputational or other consequences for the Registrant.
16. However having regard to the principle of proportionality, the prejudice to the Registrant was outweighed by the serious nature of the Misconduct, the requirement to protect the public, the interests of social services as a profession, and the Council as social services regulator.

Matters taken into account

In coming to its decisions, the Sub-committee had regard to these documents:

- the Codes of Practice
- the Regulation of Care (Scotland) Act 2001
- the Scottish Social Services Council (Conduct) Rules

- the “Indicative Sanctions and use of Interim Orders: Guidance for Sub-committees” dated March 2012.