



NOTICE OF DECISION OF THE CONDUCT COMMITTEE

To:

Name: Mrs Lorraine Brimelow

Address:

Registration No: 1074857

To:

- (1) The Registrant**
- (2) The General Social Care Council**
- (3) The Complainant**
- (4) The Employer (if any)**

NOTICE IS HEREBY GIVEN THAT the Conduct Committee of the General Social Care Council at its meeting on 24 and 25 September 2009 made the following decision about the Registrant's Registration with the General Social Care Council:

It is alleged that, whilst employed by Derby City Council as a Social Worker:

- 1. On 08 April 2007 at approximately 10.00 pm you attended at the house of "X" the approved foster carer of "Child A";
- 2. You removed "Child A" from the care of "X" without –
 - (a) lawful authority;
 - (b) reasonable excuse.
- 3. You took "Child A" to your own home without –
 - (a) lawful authority;
 - (b) reasonable excuse;

4. In conducting yourself in the manner set out above you –
 - (a) failed to follow Derby and Derbyshire’s Safeguarding Children Procedures;
 - (b) failed to contact Derby’s Children Social Care out of hours Service before removing “Child A”;
 5. In your contact with “X” on 08 April 2007 you presented as aggressive and intimidating;
 6. In your telephone contact with Jackie Shaw of Stoke on Trent’s Emergency Duty Team you presented as abrupt and angry, raised your voice and shouted;
 7. In your contact with Police Officers PC Naylor and Sgt Parker you presented as agitated and loud;
- And in relation to the above facts, you have committed Misconduct.
-

STAGE 1: PRELIMINARIES – 24 September 2009

1. Service of Documents

Advice from the Legal Adviser:

The Rule governing service of the Notice is Rule 3 of the GSCC Conduct Rules 2008 (“the Rules”) which provides that the Notice of Hearing must be sent by registered post or other post in which delivery or receipt is recorded to the Registrant’s address in the Register. The Notice shall deem to have been served on the day after it was posted.

Committee’s decision:

The Committee was satisfied on the evidence provided by the Clerk that proper service had been made.

2. Application to proceed in the absence of the Registrant

Advice from the Legal Adviser:

The Legal Adviser advised that the Committee had power under Rule 14 of the Rules to proceed in the absence of the Registrant if it was satisfied that the Notice had been duly served and that reasonable efforts had been made to inform the Registrant of the Hearing.

Committee's decision:

The Committee decided to proceed in the absence of the Registrant on the basis of the evidence provided by the Clerk and on the basis that the Registrant had provided a letter dated 18 September 2009 making it clear that she did not intend to attend but wished the Committee to take into account the contents of her letter.

3. Application to hear anonymise the evidence of Mrs XAdvice from the Legal Adviser:

The Legal Adviser advised that this was governed by Rule 19 of the Rules, which provides that the Committee may, on the application of the party calling the witness, agree that the personal details of the witness should not be revealed in public. The Committee was advised that it should take into account the reason for the application was to prevent the identification of Child A.

The Committee was advised that under Rule 9(2) of the Rules, it could decide of its own volition that persons not connected with the hearing should withdraw from any part of the hearing provided that it followed the criteria set out in Rule 9(2)(a)(c).

Committee's decision:

The Committee decided not only to grant the application for anonymity of the witness but also to hear the witnesses' evidence in private. It was the view of the Committee that in accordance with the provisions of Rule 9 of the Rules, it was in the public interest for this evidence to be heard in private. In reaching this decision, the Committee took into account the factors set out in Rule 9 subsection 2 of the Rules.

4. Application to amend the Formal AllegationAdvice from the Legal Adviser:

The legal advice was that by virtue of Rule 17 the Committee could subject to the requirements of a fair hearing, amend the formal allegation at any stage prior to the finding of misconduct. The Committee was advised that it should take into account that the amendment sought was not a substantive one but was one designed to make the allegation easier to follow. The Committee was also advised that it should take into account that although the Registrant was not present, she had been provided with a copy of the revised allegation prior to today's hearing.

Committee's decision:

The Committee decided to allow the amendment on the basis that it did not cause any prejudice to the Registrant.

5. Application to admit the bundle into evidenceAdvice from the Legal Adviser:

The legal advice was that the Committee had the power under Rule 11 subject to the requirements of a fair hearing and of relevance to (a) admit evidence whether or not it would be admissible in a court of law, and (b) to exclude evidence in order to ensure fairness to the Registrant and the parties. The Committee was advised that it could take into account the fact that the Registrant had been served with a copy of the proposed bundle prior to today's hearing.

Committee's decision:

The Committee decided to admit the bundle into evidence. In reaching its decision, the Committee took into account the facts that the Registrant had not raised any objection to any of the content of the bundle.

FINDINGS OF FACT – 24 September 2009Advice from the Legal Adviser:

The legal advice was that Rule 12 of the Rules state that the burden of proof rests upon the Council and that the standard of proof is the balance of probability. The Committee should bear in mind that the Registrant was neither present nor represented and that it should take into account the contents of the letter dated 18 September 2009. The Committee was advised that they may feel that more weight was to be attached to witnesses that had been called and given live evidence before the Committee than to evidence contained in documentary form in the bundle. The Committee was advised that it was a matter for them what weight it attached to any piece of evidence.

The Committee's decision is as follows:

The Committee find all parts of the Allegation proved.

The reasons for the Committee's decision are as follows:

1. In respect of part 1 of the allegation, the Committee was satisfied on the balance of probabilities that the Registrant attended at the house of Mrs X on 08 April 2007 at approximately 10.00 pm. The Committee observed there was no dispute between the parties that this had occurred.

2. In respect of part 2(a) the Committee was satisfied on the balance of probabilities that the Registrant had removed Child A from the care of Mrs X without lawful authority. In reaching its conclusion, the Committee found the evidence of the witnesses called by the Council compelling and took account of the fact that no-one with parental responsibility in respect of Child A had given the Registrant authority to remove the child. The Committee also noted that in her letter dated 18 September 2009, the Registrant accepted that she did not follow the correct procedure regarding Child A. The Committee found the evidence of Police Constable Naylor and of Mrs Jensen particularly compelling so far as this part of the allegation was concerned.
3. In respect of part 2(b), the Committee was satisfied on the balance of probabilities that the Registrant had no reasonable excuse to remove Child A from the care of Mrs X. In reaching its conclusion, the Committee noted that no evidence of a reasonable excuse had been provided by the Registrant either on the night in question or since. The Committee had regard to the fact that when spoken to by the police, the Registrant had been given every opportunity to provide an explanation justifying her actions, but had been unable to do so. The Committee also noted that the Registrant had not put forward a reasonable excuse when she was the subject of an investigation and subsequent disciplinary proceedings by Derby County Council.
4. In respect of parts 3(a) and (b), the Committee was satisfied on the balance of probabilities that these were proven. In reaching its conclusion, the Committee found the evidence called by the Council to be compelling and for the reasons applicable for reasons 2(a) and 2(b) concluded that the Registrant had no lawful authority or reasonable excuse to take Child A to her own home.
5. In respect of parts 4(a) and 4(b), the Committee was satisfied on the balance of probabilities that these allegations were found proved. In reaching its conclusion, the Committee took into account the procedures as set out in the document entitled 'The Derby and Derbyshire Safeguarding Children Procedures' together with the evidence from Mrs Jensen and also noted that the Registrant admits in her letter dated 18 September 2009 that she did not follow the correct procedures. The Committee also had regard to the evidence of Mrs Jensen that she could find no reasonable rationale for the actions of the Registrant. The Committee also took into account the fact that although the Registrant had telephoned the Emergency Duty Team ('EDT') at 23.15 hrs on 08 April 2007, she had not done so until after the police had attended at her address in order to seek the return of Child A to her foster carer.
6. In respect of part 5, the Committee was satisfied on the balance of probabilities that this allegation was found proved. In reaching its decision, the Committee took into account the evidence of Mrs X that the Registrant entered her house uninvited; that she had not spoken to Mrs X but had instead addressed the child; and that her manner and demeanour had caused Mrs X to feel guilty, believing that something had happened to the Child A while she was in her care. The

Committee also accepted the description of Mrs X that the Registrant had been domineering and intimidating.

7. In respect of part 6, the Committee was satisfied on the balance of probabilities that this allegation was found proved. The Committee found the evidence of Mrs Shaw compelling and observed that the Registrant herself acknowledges that she was emotional on the night in question.
8. In respect of part 7, the Committee was satisfied on the balance of probabilities that this allegation was found proved. The Committee found the evidence of PC Naylor credible and was satisfied to the required standard that the Registrant had acted as alleged.

STAGE 2: MISCONDUCT – 25 September 2009

Advice from the Legal Adviser:

Misconduct is defined in Rule 2 of the Rules as conduct which calls into question the suitability of a Registrant to remain on the Register. The burden of proof in relation to misconduct rests upon the Council. The standard of proof required is the balance of probability, but the issue of misconduct is an exercise of the judgement or assessment of the Committee on the basis of the facts found proven.

In accordance with Rule 23 of the Rules, in deciding upon the issue of misconduct the Committee should have regard to the Codes of Practice issued by the Council.

The Committee finds Misconduct proved.

Committee's decision:

The Committee was satisfied to the required standard that the conduct of the Registrant called into question her suitability to remain on the Register. The Committee concluded on the basis of its finding of fact that the Registrant was in breach of paragraphs 2.2, 3.8, 5.7, 5.8, 6.1 and 6.5 of the GSCC Codes of Practice for Social Care Workers.

In respect of Code 2.2, the Committee was satisfied that the Registrant had failed to communicate with Mrs X and Child A in an appropriate, open, accurate and straightforward way.

In respect of Code 3.8, the Committee was satisfied that on the 08 April 2007, the Registrant had represented to the individuals concerned that she was acting as a social worker and that, in so doing, she had failed to recognise and use responsibly the power that comes from working with service users and carers. By behaving in such a manner, the Committee was satisfied that she was also in breach of Code 5.7 and put herself and Child A at unnecessary risk.

It was also the view of the Committee that the way in which the Registrant had acted on the night in question was in breach of Code 5.8, in that her behaviour called into question her suitability to work in social care services.

The Committee concluded that the evidence demonstrated that the Registrant had failed to meet relevant standards of practice and had failed to work in a lawful, safe and effective way, which was in breach of Code 6.1.

The Committee was satisfied that the Registrant had failed to work openly and co-operatively with the Stoke on Trent Emergency Duty Team ("EDT") and had failed to treat them with respect thereby breaching Code 6.5.

In reaching its conclusions, the Committee considered all the available evidence including the representations contained in the Registrant's letter dated 18 September 2009.

STAGE 3: MITIGATION AND SANCTION – 25 September 2009

Advice from the Legal Adviser:

In deciding what sanction is to be imposed, the Committee should have regard to Rule 25 of the Rules and, in particular, the Committee must take into account:

- a) The seriousness of the Registrants misconduct;
- b) The protection of the public;
- c) The public interest in maintaining public confidence in social care services; and
- d) The issue of proportionality.

The Committee was advised that it should take into account the guidance and criteria set out in the Indicative Sanctions Guide for Conduct Committees 2008.

The Committee shall announce its decision on sanctions in public and give reasons for its decision.

The Committee has decided to suspend the Registrant and direct that a record of the suspension be placed on the Registrant's entry on the Register for a period of six months.

The reasons for the Committee's decision are as follows:

The Committee took into account the guidance set out in the Indicative Sanctions Guide for Conduct Committees 2008. The Committee was satisfied in light of its findings that there were no exceptional circumstances that could justify no sanction being imposed. The Committee was also of the view that an admonishment was not a sufficient sanction, as the Registrant's behaviour may have caused direct or indirect harm to service users and was not at the lower end of the scale of Misconduct.

The Committee concluded that a suspension was the appropriate sanction on the basis that the misconduct, whilst serious, was not so serious as to justify removal. In arriving at its conclusion, the Committee took into account the fact that the misconduct related to a single incident of unacceptable conduct and not to her competence as a social worker. The Committee was also influenced by the fact that the Registrant acknowledged that she was at fault and that, by so doing, had demonstrated some insight. The Registrant's previous good record was also taken into account.

The Committee decided that a period of six months was a proportionate sanction and in the public interest. The Committee was influenced by the fact that the incident occurred almost two and a half years ago.

This sanction shall take immediate effect.

This decision shall take effect immediately, in accordance with paragraph 25(4) of Schedule 2 to the Rules.

The effect of this decision is that you are suspended from the Register and must not practise as a social worker, or purport to be a registered social worker able to practise while the order is in place. To do so may result in prosecution. This is in accordance with Part IV(61) of the Care Standards Act 2000.

The Registrant has a right to appeal to the Health, Education and Social Care Chamber of the First-tier Tribunal against this Decision no later than 28 days of service of Notice of it.

(Service is treated as having taken place on the day after this Notice was posted by registered post or recorded delivery)

It should further be noted that the First-tier Tribunal does not have jurisdiction to extend this 28 day period and any appeal must be submitted to the Tribunal within that timescale.

Signed:
Clerk to the Conduct Committee

Dated: 25 September 2009