

**NOTICE OF DECISION OF THE CONDUCT COMMITTEE**

**To:**

Name: Daniel Bester

Registration No: 1136996

**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 21 January 2010 made the following decision about the Registrant's Registration with the General Social Care Council:

While employed as a social worker by Surrey County Council (SCC), you:

- a. In or about late June 2008 or early July 2008 became aware that Thomas Ritzler, a SCC social work colleague, was having an unlawful sexual relationship with Child K, a fourteen year old female
- b. Failed to exercise your professional duty to safeguard Child K by not reporting the fact that you had been aware of Mr Ritzler's relationship with her to the appropriate professionals

And in relation to the above facts, you are guilty of Misconduct.

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**STAGE 1: FINDINGS OF FACT**

The Registrant admitted all facts of the Formal Allegation and the Committee found the Formal Allegation proved on this basis.

### Advice from the Legal Adviser:

The Legal Adviser advised the Committee that it was entitled to find the facts of the Formal Allegation found proved on the basis of the Registrant's admissions.

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## **STAGE 2: MISCONDUCT**

### **The Committee found Misconduct proved in relation to all parts of the allegation.**

The Committee was satisfied to the required standard that the conduct of the Registrant called into question his suitability to remain on the Register. The Committee concluded, on the basis of its finding of fact, that the Registrant was in breach of 5.7, 3.2, 3.5 and 5.8 of the GSCC Codes of Practice ('the Codes').

In respect of paragraph 5.7 of the Codes, the Committee was satisfied of the Registrant's failure to disclose his knowledge of the illegal sexual relationship between a colleague and K, a child, put K at unnecessary risk.

In respect of paragraph 3.2 of the Codes, the Committee was satisfied that the Registrant had failed to use established processes and procedures to report the abusive and exploitative behaviour of a fellow social worker. The Committee was of the view that the Registrant had allowed his personal friendship with his colleague to affect his judgement and was of the view that, but for the fact of that relationship, he would probably have followed the correct procedures as he was duty-bound to do.

In respect of paragraph 3.5 of the Codes, the Committee was satisfied that the Registrant had had sufficient opportunity to inform his employers of the illegal and inappropriate sexual relationship between his colleague and K and had not done so. The Committee took into account the fact that, although he did ultimately cooperate fully with the authorities, he had not volunteered the information but had done so only when challenged.

In respect of paragraph 5.8 of the Codes, the Committee was satisfied that the behaviour of the Registrant in not disclosing the illegal and inappropriate sexual relationship between his colleague and K, either to the police or to his employers, he had called into question his suitability to work in social care services. The Committee was of the view that the Registrant had failed fully to appreciate that the nature of the sexual relationship between his colleague and child K was not only inappropriate but was also illegal and, in those circumstances, he was in breach of paragraph 5.8.

Advice from the Legal Adviser:

Misconduct is defined in Part 1, paragraph 2 of the GSCC (Conduct) Rules 2008 ('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 GSCC. 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 Schedule 2, paragraph 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.

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### **STAGE 3: MITIGATION AND SANCTION**

**The Committee considered that suspension for one year was the appropriate sanction in all the circumstances of this case.**

**This sanction shall take immediate effect.**

The Committee considered:

1. the seriousness of the proven misconduct,
2. the protection of the public,
3. the public interest in maintaining confidence in social care services,  
and
4. the issue of proportionality.

The Committee considered the Indicative Sanctions Guidance. The sanction for each instance of proved misconduct was considered, starting with the least serious before deciding which sanction was the appropriate one to impose.

The Committee decided that this was an incident of grave misconduct.

It considered the available sanctions as follows:

1. No sanction: the proven misconduct was too serious for there not to be any sanction.
2. Admonishment: the proven misconduct was also too serious for an admonishment.

**3. Suspension: the Committee considered that suspension was the appropriate sanction in all the circumstances of this case.**

The Committee considered that this behaviour amounted to serious Misconduct and the Registrant did not protect a child whom he knew to have been abused. The Committee took into account the fact that the Registrant's failure to disclose his knowledge of the abuse was a gross lapse of judgement but was nonetheless a single incident.

In deciding that suspension was an appropriate sanction, the Committee considered all the available material and was satisfied that the Registrant had acknowledged his failure to disclose and he was unlikely to repeat it. The Registrant's previous good record was taken into account, as was the fact that he himself had had no responsibility for, or involvement in, the abuse of the child.

The Committee concluded that suspension from the Social Care Register **for one year** was the minimum period that could be justified on the available facts. Furthermore, the Committee determined that this sanction was proportionate in all the circumstances, including the personal mitigation and other documentary evidence which the Registrant had submitted.

Advice from the Legal Adviser:

In deciding what sanction is to be imposed, the Committee should have regard to Schedule 2, paragraph 25 of the Rules and, in particular, the Committee must take into account:

- a) The seriousness of the Registrant's 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.

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**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.....