

# **What happens when a complaint is made to the SSSC about a registered worker?**

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## **About this booklet**

This booklet contains information for social service workers who have had a complaint<sup>1</sup> made about them to the Scottish Social Services Council (SSSC). The booklet explains how the SSSC will handle the information it has received about a registrant and how we will communicate with the registrant about it.

Full details of our processes are contained in the SSSC Conduct Rules which are available on our website [www.sssc.uk.com](http://www.sssc.uk.com) or can be sent to you in hard copy. Details of how to contact us are at the end of this booklet.

## **About the SSSC**

The SSSC was established by the Regulation of Care (Scotland) Act 2001 and has responsibility for the registration and regulation of social service workers.

One of the SSSC's primary responsibilities is to protect and enhance the safety and welfare of those people who use social services. As part of meeting that responsibility we are required to be assured of the good character, conduct and competence of applicants for registration and to investigate any information we receive about alleged misconduct<sup>2</sup> by registrants.

The SSSC recognises that the majority of social service workers work hard, conscientiously and to a high standard often under difficult and challenging circumstances. However complaints are received about registered workers and these need to be dealt with properly.

When we receive complaints we firstly advise complainants that complaints about social service workers are usually most appropriately dealt with at a local level by the employer of the registered worker or by a university in the case of a social work student. We explain that employers of social service workers are responsible for overseeing the practice of their staff and this includes managing the performance of their workers, supporting and monitoring their workers' professional judgement and investigating and resolving complaints about the work of their staff. We explain that employers can review decisions about practice matters and/or that more work is required in order that the needs and views of a user of the social services they provide are more fully understood and addressed.

We may also refer complainants to a body that can deal with their complaint e.g. the Care Commission.

We explain that the focus of the SSSC's conduct work is on taking action where it appears that a registrant has done something, or failed to do something, that is

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<sup>1</sup> A "complaint" means a specific allegation of misconduct against a named registrant which, if proved, would in the reasonable opinion of the Council be likely to result in the registrant being warned, suspended or removed from the register or having a condition placed on their registration.

<sup>2</sup> "Misconduct" means conduct, whether by act or omission, which falls short of the standard of conduct expected of a person registered with the Scottish Social Services Council, having particular regard to the Code of Practice for Social Service workers issued by the Council under Section 53(1)(a) of the Act and the Scottish Social Services Council (Registration) Rules 2009, both as amended or substituted from time to time.

sufficiently serious to call into question their suitability to remain registered as a social service worker.

### **What type of information and complaints will the SSSC consider?**

We can receive information from any source including:

- registrants
- employers of social service workers
- service users
- carers
- the police
- the press.

Registrants are required to tell the SSSC about any changes in their circumstances, in particular they are required to tell us if they are:

- charged with a criminal offence
- convicted of a criminal offence
- subject to disciplinary investigation by their employer.

We ask registrants to tell us if they are subject to a disciplinary investigation in case the alleged matter is so serious that we need to take some immediate action in relation to it. If the alleged misconduct is of a serious nature the SSSC will consider whether an Interim Suspension Order (ISO) is necessary. If an ISO is imposed the registrant's entry is temporarily suspended from the Register while the alleged misconduct is investigated. However, we will normally not take any action until a relevant employer's disciplinary investigation and any related proceedings are complete.

Where a complaint does appear to suggest that a registrant has done something, or failed to do something, that is sufficiently serious to call into question their suitability to remain registered we will begin an investigation. There are a number of stages to the SSSC's investigation and conduct procedures which are outlined below.

### **SSSC investigations**

First we allocate a conduct case officer who will be the person responsible for handling the case.

Conduct case officers understand the type and complexity of the work undertaken by social service workers and the level of intervention that is at times required to protect and enhance the safety and welfare of service users. They recognise that social service work can involve making difficult decisions about people's lives which the individual may be angry about or unwilling to accept. They recognise that workers are trained to make such decisions using their knowledge of the particular situation and their skills and experience. They are also aware that workers make be the subject of vexatious complaints.

The conduct case officer will first try to identify whether the matter is already being investigated by a relevant employer, the police, or other agency. If this is the case we will normally defer our investigation until other relevant investigations are concluded and we will take account of the outcome of any such investigations.

When we begin our investigation a conduct case officer will send the registrant the information that we have received about them and ask them to comment on it. The fact that we send the information for comment does not mean that we have accepted it as accurate - rather we are seeking to hear the registrant's views on the information that has been provided about them. We ask for comments from the registrant in order to get as full and as balanced a view as possible about the matter.

The process of investigating information is a formal one, since the outcomes of conduct procedures can have very serious implications for registrants. When conduct case officers write to registrants who have been complained about they write in a formal manner to ensure that the worker is clear about:

- why the SSSC is contacting them
- what type of response is required from them
- the timescales for the response.

We may also write to other relevant people for information and comment, in particular the registrant's employer. The registrant may also wish to identify other people they think would be able to assist with our investigation. Where the employer has already investigated a complaint or undertaken a disciplinary investigation and/or hearing about a matter we will ask them to provide us with copies of relevant documentation. Employers of social service workers are required by law to provide the SSSC with any information about a worker we might reasonably request in connection with our statutory functions. It is important to point out that the SSSC has different responsibilities from those of employers and that it will reach its own decisions on matters to do with the conduct of registrants. Employers will consider the alleged conduct in relation to suitability for a particular post; the SSSC considers general suitability to be in the social services workforce.

Professional regulation is about fairness to all parties and the SSSC will be fair to all involved during any investigation of a registrant's conduct. Conduct case officers will listen carefully to what the person providing information about a registrant has to say, what the registrant has to say and what other relevant parties such as employers have to say before reaching any decision as to action.

### **What is expected of a registrant during an SSSC investigation?**

Registrants are expected to respond to the SSSC's requests for information within specified timescales as part of the responsibilities which come with registration. It is important that they do so in order that their views can be taken into consideration. If a registrant chooses not to respond, that will not make the issue go away. It will only mean that we will have to determine the matter without the benefit of the worker's perspective.

If a registrant wants their trade union, professional body or solicitor to represent them during an investigation they should let the conduct case officer know that in writing so that we know that we can copy relevant documentation to the relevant representative.

### **How long does an investigation take?**

This depends on the complexity and seriousness of the case. We will work hard to complete the investigation as quickly and efficiently as possible. However, the

timescales can vary considerably as there can be delays in us receiving necessary information from other people and organisations.

### **Outcomes of investigations**

When conduct case officers have gathered necessary information about a case they will make a recommendation about further action to senior managers. Senior managers make decisions on the basis of a risk assessment framework which includes consideration of the nature and gravity of the alleged conduct, the amount and quality of evidence provided in relation to it and any action that has already been taken or is planned, for example action taken by an employer to address any identified failings in the conduct of a registrant.

The options available to senior managers are:

- take no further action. We will write to the registrant to tell them and will also write to their employer
- refer the matter to a Screening Sub-committee for determination where the nature of the case is such that an independent view would be helpful
- propose conditions on a registrant's registration. The registrant may refuse to accept a proposal and the SSSC may refer the matter to a Conduct Sub-Committee for determination
- issue the registrant with a warning as to their future behaviour. The registrant may refuse to accept the warning and the SSSC may refer the matter to a Conduct Sub-committee for determination
- refer the matter to the Conduct Sub-committee
- refer the matter to the PPSC for consideration of an ISO

### **Screening Sub-committee**

A Screening Sub-committee normally has three members - the Convener and one other member who are lay members, and one member who is an SSSC registrant who will normally be registered on the same part of the Register as the registrant whose conduct is under consideration. The Sub-committee is advised by an independent Legal Adviser and where it appears to the Council that the alleged misconduct may have been caused or substantially contributed to by the registrant's physical or mental ill health, a Medical Adviser will be appointed to advise the Screening Sub-committee. A clerk is responsible for the administrative arrangements for Screening Sub-committee meetings.

The Screening Sub-committee sits in private and considers written evidence only. Neither a representative of the SSSC nor the registrant has the right to attend. The options open to the Screening Sub-committee are:

- take no further action. The clerk will write to the registrant to tell them and will also write to their employer.
- adjourn and ask for further investigation to be undertaken
- propose conditions on a registrant's registration
- issue the registrant with a warning as to their future behaviour
- refer the matter to the Conduct Sub-committee

## **Preliminary Proceedings Sub-committee (PPSC) and Interim Suspension Orders (ISO)**

The function of the PPSC is to consider applications from officers for Interim Suspension Orders (ISO) and will be convened only at the request of the SSSC to consider the imposition of an ISO or at the request of the SSSC or the registrant to review an existing ISO.

The SSSC will consider seeking an ISO on the following grounds:

- public protection
- public interest
- interests of the registrant

The PPSC has the same membership as the Screening Sub-Committee and the same access to legal and medical advice.

Where the SSSC seek an ISO on the grounds of public protection the usual 28 days notice may be dispensed with. In such cases, the registrant will be given reasonable notice of the meeting.

The registrant has the right to attend the hearing and to be represented by a solicitor, counsel or trade union representative or a representative from a professional body or representative from a student body (where the registrant is a student). The SSSC may also attend and be represented. Both parties may make oral submissions and present evidence, call witnesses and cross examine witnesses.

If an ISO is granted the registrant's registration is suspended for an initial maximum period of six months after which it can only be extended following a review hearing. The PPSC can only grant such an order if it is satisfied that this is necessary for the protection of the public or is otherwise in the public interest or is in the interests of the registrant.

### **Pre-hearing review**

Once a case is referred to the Conduct Sub-committee a pre-hearing review will be arranged. This review can take place either orally or in writing. The pre-hearing review considers a number of matters including:

- whether the registrant wishes to make an admission of fact
- whether the registrant wishes to admit misconduct
- whether witnesses including expert witnesses will be called
- whether a medical report is required
- any particular arrangements which need to be made, including arrangements for vulnerable witnesses
- potential dates for the hearing
- time estimate for the hearing
- requests for production of documents.

## **Conduct Sub-committee**

The Conduct Sub-committee has the same membership as the Screening Sub-Committee and the same access to legal and medical advice.

Conduct Sub-committee hearings are formal proceedings. The SSSC will have legal representation and the registrant should consider having representation as well.

In accordance with the Regulation of Care (Scotland) Act 2001 Conduct hearings in general are heard in public in order to enable transparent regulation of the social service workforce. However where the Conduct Sub-committee is operating under the Health Procedure the hearing will be heard in private. The Health Procedure is used where it appears that the alleged misconduct may have been caused, or substantially contributed to by the physical or mental ill health of the registrant. The Sub-committee may also take the view that all, or part, of the hearing should be in private, for example, in order to protect the interests of vulnerable witnesses provided that the particular circumstances outweigh the public interest in holding a public hearing.

The public including the press can attend public hearings.

### **What can the outcomes of a Conduct hearing be?**

Following a finding of misconduct, a Conduct Sub-committee can decide to:

- place a warning on the registrant's entry in the Register for up to five years.
- suspend the registrant for a period not exceeding two years
- remove the registrant from a part or the whole Register
- impose a condition on the registrant's registration.

In deciding on what sanction is to be imposed, the Conduct Sub-committee will take the following into account:

- the seriousness of the registrant's misconduct
- the protection of the public
- the public interest in maintaining confidence in social services
- the issue of proportionality ie the sanction imposed will be an appropriate response having regard to all the circumstances

It is important to emphasise that sanctions are not imposed as punishment but are focused on maintaining high standards of practice and helping to ensure public protection in the future.

The Conduct Sub-committee will announce its decision in public and this will be available on the SSSC website. Within seven days of the hearing the Clerk will send the registrant, the SSSC, any relevant employer, where the registrant is a student, the university, and the complainant, the written notification of the decision, which will include the reasons for that decision.

Registrants have the right of appeal to the Sheriff Court against any decision to impose a sanction or alter their registration.

## **Information for the public**

When an Interim Suspension Order is imposed, the following information will be posted on the SSSC website: the suspended registrant's name and registration number; the date the Order came into force; and, the length of the suspension.

A notice of the date and venue of a Conduct hearing will be posted on the SSSC website five days before a hearing is scheduled to take place. The decisions of Conduct Sub-committees are also published on the website.

If a registrant is suspended or removed from the Register, their details will be removed from the extract of the Register that is available on the SSSC website.

We hope you have found this leaflet helpful and that it has provided you with the information required to understand the SSSC Conduct procedures. We would be pleased to receive any comments you would like to make about this leaflet including suggestions about how it might be improved.

## **Contact us**

This booklet is intended to give you an indication of what can happen when a complaint is made about a registrant. If you would like a full copy of the SSSC Conduct Rules you can download them at [www.sssc.uk.com](http://www.sssc.uk.com) or you can get a hard copy sent to you by contacting us on 01382 207101 or Lo-call 0845 60 30 891.

The Regulation of Care (Scotland) Act 2001 is available on the Scottish Government website [www.scotland.gov.uk](http://www.scotland.gov.uk)

If you would like more details about any of the information provided in this booklet please write to:

The Conduct Department  
Scottish Social Services Council  
Compass House  
11 Riverside Drive  
Dundee  
DD1 4NY

Tel: 01382 207101 or Lo-call 0845 60 30 891  
Email: [conduct@sssc.uk.com](mailto:conduct@sssc.uk.com)  
Website: [www.sssc.uk.com](http://www.sssc.uk.com)

If you would like to request this document in another format or language, please contact the SSSC using the details above.

