

# **Employer Referral Guidance**

How to tell us your concerns about a social service worker

August 2022

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**This guidance sets out when employers should refer workers to us. We set thresholds about the referrals we accept to make sure we focus our resources on cases which could involve risks to the safety of people who use services or which could damage the public's confidence in the social service profession.**

## **1. The role of the Scottish Social Services Council**

We are the regulator for the social work, social care and early years workforce in Scotland, protecting the public by registering social workers, social care and early years workers. We do this by setting standards for their practice, conduct, training and education and by supporting their professional development.

Our work means the people of Scotland can count on social work, social care and early years services being provided by a trusted, skilled and confident workforce. Where people fall below the standards of practice and conduct we can investigate and take action.

Employers play an important role in protecting the public by having robust recruitment processes and by taking appropriate action when a worker falls short of the expected standards.

### **What is fitness to practise?**

We expect social service workers and employers to meet the standards set out in the SSSC Codes of Practice for Social Service Workers and Employers (the Codes). A worker is fit to practise if they meet the standards of character, conduct and competence to do their job safely and effectively. The fitness to practise process considers if a worker's fitness to practise is currently impaired.

Our process is not about resolving general complaints or punishing workers for past mistakes.

## 2. Why employers need to tell us about fitness to practise concerns

Employers have responsibilities which are set out in the Code of Practice for Employers of Social Service Workers (the Code for Employers) and the Regulation of Care (Scotland) Act 2001 (the Act). The relevant sections are set out below.

The Care Inspectorate enforces the Code for Employers. The SSSC regulates the workforce.

### From the Code for Employers

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#### **Code 2.8**

As a social service employer, you must have in place the culture and systems to enable social service workers to meet the SSSC Code of Practice for Social Service Workers. This includes reporting to the relevant authority workers whose fitness to practise is or may be impaired.

#### **Code 5**

To meet their responsibilities in relation to regulating the social service workforce, social service employers must publicise and promote the SSSC's Code of Practice for Social Service Workers to people who use services and their carers and cooperate with the SSSC's proceedings.

#### **Code 5.5**

Follow the SSSC guidance on making a referral about a worker whose fitness to practise may be impaired and where appropriate inform the worker that you have made a referral.

## From the Regulation of Care (Scotland) Act 2001

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### Section 57A

The employer of a social service worker shall:

- a) on dismissing the social service worker on grounds of misconduct, or
- b) on the social service worker resigning or abandoning the worker's position in circumstances where, but for the resignation or abandonment
  - i) the worker would have been dismissed on the grounds of misconduct, or
  - ii) dismissal on such grounds would have been considered by the employer

forthwith notify the Council (SSSC) of the dismissal, resignation or abandonment and the employer shall in doing so provide the Council (SSSC) with an account of the circumstances which led to the dismissal or which were present when the resignation or abandonment took place.

**Section 53** of the Act states that the employer of a social service worker shall, in making any decision which relates to the conduct of that worker, take into account any code published by the SSSC.

**Section 57B** of the Act places a responsibility on an employer of a social service worker to provide the SSSC with such information on the worker as the SSSC may require when exercising its functions.

### 3. What an employer must tell us about registered workers and when

#### What do you need to tell us?

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- That you have suspended, dismissed, demoted a social service worker.
- That a social service worker has resigned during a disciplinary investigation where the employer would have considered dismissal.
- Anything you would refer to Disclosure Scotland.
- That a worker has been charged or convicted of a criminal offence.
- In any other circumstances where you are concerned that the behaviour or actions of a worker **raises a serious concern** about their fitness to practise (see **page 7** for guidance on our thresholds).

#### When?

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Immediately if the:

- behaviour is serious (see page 7)
- worker is suspended
- worker resigns and dismissal was likely outcome
- worker is charged with a criminal offence.

If a worker is no longer employed by you, you should still make a referral even if you think that the worker may not look for other work in social services.

## Regulatory action may be required if the concern relates to the following.

1. Misconduct – behaviour towards service users, colleagues or other people which is serious and is:
  - physically, sexually, emotionally or financially abusive
  - reckless or negligent, and likely to cause harm
  - an improper relationship or breach of boundaries
  - dishonest or lacks integrity
  - discriminatory
  - a breach of confidentiality.
2. Deficient professional practice – serious and/or persistent failure to carry out the duties of their role competently and meet the Codes of Practice.
3. Health which is not being managed and puts people who use services at risk of harm.
4. Behaviour that is fundamentally incompatible with registration, such as serious criminal acts, or bringing the profession into disrepute.

If you have taken action which is less than suspension, dismissal or demotion, please do take time to consider if the concerns of a worker raise a serious concern about their fitness to practise (as listed above). A pattern of behaviour may be an indicator of seriousness.

**Remember:** if the allegations against the worker are serious and meet our thresholds, you **must** still make a referral to us even if you have undertaken an investigation and found no case to answer. You should make a referral to us regardless of any evidence that you may have to suggest the behaviour did not occur.

## Settlement agreements

When there is a duty to refer a worker to us you should do so even if you have entered into a settlement agreement (these used to be called compromise agreements) with a former worker. We do not need the detail about any money paid but we need to know the reasons for the settlement agreement.

When drafting the agreement, you should make it clear to the worker that any confidentiality clause does not apply to information being passed to the SSSC. You should also make sure you do not enter into an agreement that prevents you complying with your responsibilities under safer recruitment and the Code of Practice for Employers of Social Service Workers to request and provide reliable references.



## Matters you should not refer to us

You do not need to refer employer investigations and disciplinary matters about the conduct, professional practice or health of workers that result in less serious outcomes (for example, a warning or a performance management plan), unless the conduct/professional practice/health concerns meet **our** thresholds.

If you believe the concerns on which you took action **do not** meet **our** thresholds, but you have taken any of the actions listed on page 6, please update the worker's record on MySSSC. You can do this by selecting the worker, then selecting View and Amend details in the registrant's section (change of details). When doing this, please also provide a short but detailed summary of why you think the behaviour does not meet our thresholds.

If in doubt as to whether you should refer a worker, please check with us.

- **Email:** We have a dedicated email you can use to contact us for advice on whether to refer a worker. This is managed by experienced advisers who will be happy to offer referral advice on a case-by-case basis. You can email us at: [employerlink@sssc.uk.com](mailto:employerlink@sssc.uk.com)
- **Phone:** We also have a dedicated phone line for employers looking for referral advice. You can phone 0345 60 30 891, selecting the option for Employer Advice Line.

## 4. What an employer must tell us about non-registered workers and when

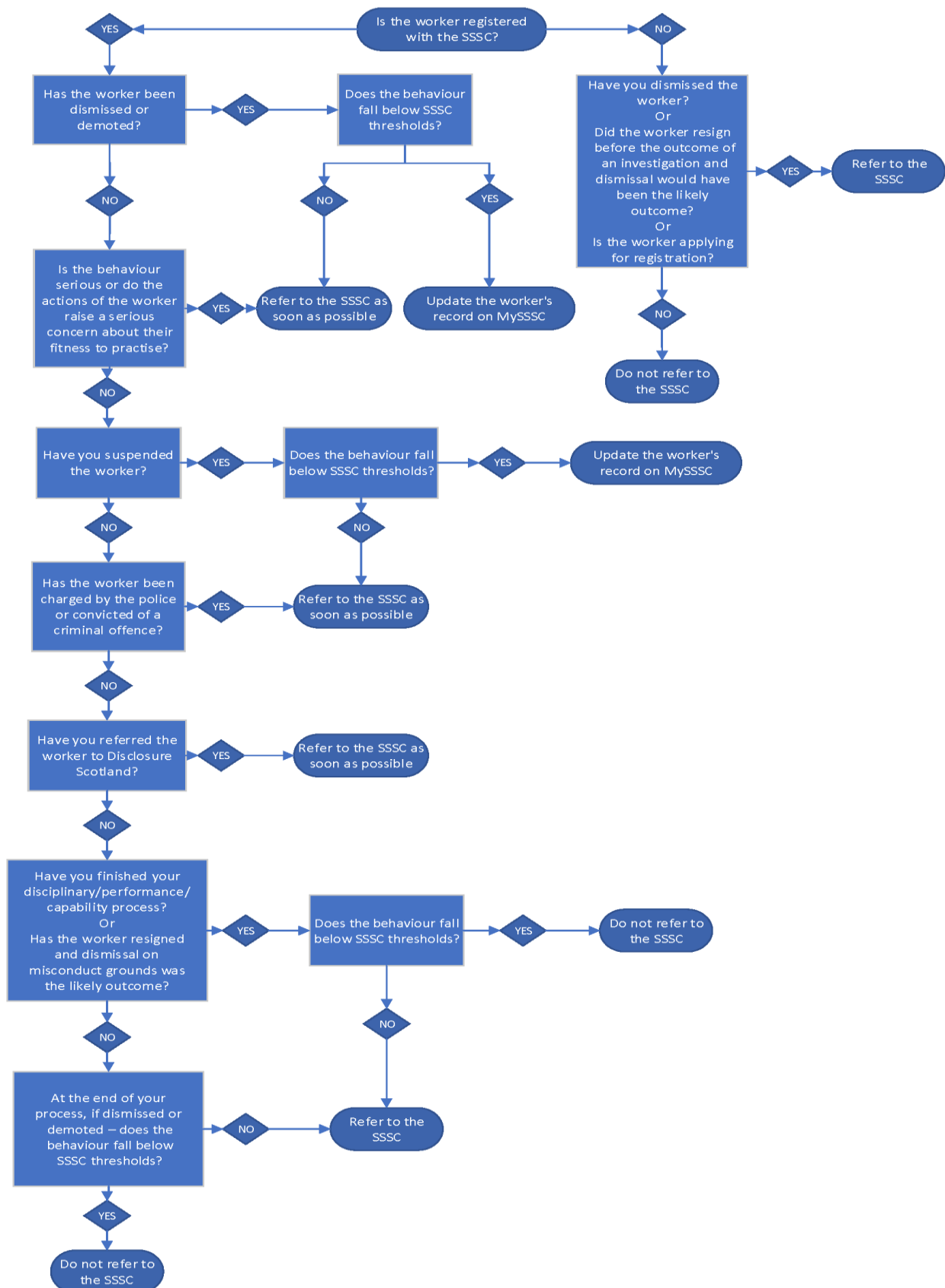
If a worker is **not registered** with the SSSC you must tell us if:

- you dismiss a worker
- a worker resigns and, had they not done so, you would have considered dismissing them
- a worker abandons their job and, had they not done so, you would have considered dismissing them.

You should notify us when your own disciplinary process concludes. We will not carry out any further investigation, although we may request information from other relevant bodies such as the police and Disclosure Scotland.

We will also decide whether to retain the information on public protection or other grounds.

## 5. Employer referral flow chart



The information in this flow chart is outlined within the body of this referral guidance.

## 6. Referral categories

Some cases are complex and it will not always be clear if the matter is about the conduct, professional practice, or health of a worker, or a combination of these.

If there is a combination of concerns that may impair a worker's current fitness to practise, we will consider **each area of concern** individually and then decide whether the concerns individually or collectively (or both) meet our thresholds and, in turn, which of these concerns would impair the worker's fitness to practise. Where one allegation or one part of the concern meets our thresholds, but you are unsure about the other concerns, you should refer **all** concerns so we can assess the allegations both individually and collectively.

If you need help deciding if the behaviour meets our thresholds and whether you should make a referral to fitness to practise, please contact us on the email address or phone number listed on page 8.

### Conduct

Conduct is about how a worker has behaved.

Our definition of Misconduct is 'behaviour (whether by act or omission) which does not meet the standards set out in the Codes and includes a breach of a condition agreed with or imposed by a regulatory body and behaviour which has led to a criminal sanction.'

We explain what and when to refer to us in section 4.

You will find examples of conduct referrals in the [Appendix](#).

### Professional practice

Fitness to practise may be impaired due to the deficiency of a worker's professional practice (whether by act or omission) that does not meet the standards set out in the Codes. This is about the worker's competence.

Professional practice is about how a worker carries out their role, whereas conduct is about their behaviour.

Where the concerns relate to professional practice, we would expect you to have completed your internal capability processes and procedures before making a referral to us.

For example, you may have:

- tried to identify a possible cause for the practice concern
- addressed any problems formally with the worker
- put in place a performance improvement plan with agreed targets to address the issues
- identified any training and support needs
- given the worker adequate training, support and supervision to help them reach a satisfactory standard
- reviewed progress against agreed targets for improvement.

You will find examples of professional practice referrals in the [Appendix](#).

It might not be clear whether the referral is about conduct or professional practise. We will decide this at the end of the case.

If you need any support deciding if a behaviour meets our thresholds and whether you should make a referral to fitness to practise, please contact us at the email address listed on page 8.

## Health

### General information

Many people living with a health condition can practise safely and effectively with or without adjustments.

We would expect workers to manage health conditions by:

- being open and honest with their employer about their condition and any limitations they may have
- complying with any recommended steps to manage the condition.

### When health might be an impairment

A worker's fitness to practise may be impaired if they have a health condition (which includes a dependency on alcohol or drugs) which has an adverse effect on their ability to do their job safely and effectively. For example, where the worker's reasoned decision making, thinking and/or behaviour are affected or where there is a physical symptom that means they cannot carry out their role safely and effectively.

## Workers who are signed off

A worker may be signed off as 'unfit for work' due to ill health but this does not necessarily mean their fitness to practise is impaired. Cases of ill health are likely to be better managed with the support of an employer to safely reduce any risk to people who use services and may not require regulatory investigation.

This might include where the worker:

- has shown good insight into the extent and effect of their condition
- is taking appropriate steps to access treatment and is following advice from the health professionals treating them
- is receiving support from occupational health through the employer
- is managing his or her practice appropriately, for example by taking sick leave.

Employers remain responsible for meeting their duty of care to their worker and people who use services. You should not refer to us until you have concluded your normal employment procedures, unless you believe the worker presents an immediate risk, including to themselves.

## Dismissal due to health

There will be occasions when you have concluded your normal employment procedures and there are no reasonable adjustments that can be made to support the worker to remain in your employment, and/or the worker's health condition is so serious they cannot remain in work.

If the worker has shown good insight into the extent and impact of their health condition and they do not intend to return to work in a registerable role until they are well enough to do so, a fitness to practise referral is not required. You should however tell us by updating the worker's record on MySSSC, confirming that there are no current fitness to practise concerns.

## Examples of health conditions

Here are some examples of health conditions that **might** mean fitness to practise is impaired (this is not a complete list):

- periods of unconsciousness or blackouts
- serious memory loss
- inability to control anger or other emotions
- reduced ability to make decisions
- inability to carry out certain physical tasks
- lack of self-awareness and impact of behaviour on others
- lack of concentration
- alcohol and/or drug dependency
- a serious communicable disease.

Long term **untreated** (or unsuccessfully treated) or **unacknowledged** physical and mental health conditions will be of particular concern if they suggest a risk to public protection.

Short term illnesses and conditions related to pregnancy should be managed by the employer and should not usually be referred to us.

We expect an employer to have evidence or reasons for a referral, however we understand you may not have access to a diagnosis. You should still refer to us. We also understand an employer can only tell us what they know based on the information disclosed to them by the worker. See section 10 for guidance about sharing health information.

### **What about workers whose health fluctuates?**

There may be situations where a worker goes through periods of ill health when they cannot practise safely and then are well again. This may happen when a person is living with a mental health condition. If the worker acknowledges the situation and you are managing it together there is no need to refer it to us.

You will find examples of health referrals in the [Appendix](#).

## 7. How do I make a referral to Fitness to Practise?

Employers can make a referral through their MySSSC account. If you don't already have an account, it's easy to create one. You'll find the Make a referral tile on your MySSSC homepage.

Sign into MySSSC here <https://www.sssc.uk.com/signin>

You can upload all relevant documents, as part of the referral process. Once you have completed the referral form, please upload any relevant documents before submitting.

If you have any problems with the online referral process, please contact our experienced Investigation Assistants at [ftp@sssc.uk.com](mailto:ftp@sssc.uk.com)

### When to use MySSSC to update a worker's record

There may be matters you have dealt with that led to you taking action against a worker, but the matters do not meet **our** thresholds for investigation.

In these circumstances, employers can inform us of any changes by updating the worker's record on MySSSC. This includes telling us of a worker's suspension, dismissal or demotion, ensuring that you give a summary of why the matters do not meet **our** thresholds. Based on the information you provide, we will decide whether we need further information and will contact you if we do.

If you are not sure whether something meets our thresholds, or you are unsure whether to complete a referral form or update the worker's record on MySSSC, please contact us at the email address or phone number on page 8.



## 8. What information do we need?

We only need a formal Fitness to Practise referral for allegations that meet **our** thresholds. For all other matters you need to tell us about, you can do it on the worker's record on MySSSC.

### When you have suspended a worker

You may not have started a full internal investigation and you may believe you have no paperwork you can send us. However, you are likely to have some very useful information you can share which will help us to make an initial screening decision.

The more information you can send us at this early stage the more likely we will be able to make a defensible and accurate screening decision, and the less likely we will need to come back to you repeatedly for more information.

We ask that you provide as much information as you can at this stage, which may include:

- an incident or accident report
- initial statement or comments from a witness and or an individual who uses services
- initial comments made by the worker, if available
- a copy of a complaint
- names and contact details of any witnesses
- any information that would help us with our investigation, for example if there is any police involvement; if there is any information to suggest at this stage that the behaviour did not happen; the worker's length of service; if there have been any previous concerns, etc.

Remember if the allegations against the worker are serious and meet our thresholds, you **must** still make a referral even if you have undertaken an investigation and found no case to answer. You should make a referral to us regardless of any evidence you may have to suggest the behaviour did not occur.

### When you have dismissed a worker, or the worker resigns during your investigation and the likely outcome would have been dismissal

We are likely to ask for the information you considered through your own investigation and/or at a disciplinary hearing, including:

- notes of relevant meetings, investigation report and outcome of the disciplinary hearing
- statements taken throughout your investigation
- incident or accident reports

- any related policies and procedures
- job description
- training record
- standards of practice where capability and competency has been considered
- any relevant medical report
- if you have taken any action previously, either informally, or formally against the worker, please include this, as we may consider this as part of our decision making and investigation.

The legal requirement to provide us with information is set out at s57B of the Regulation of Care (Scotland) Act 2001 which is summarised in section 3.

Remember if the allegations against the worker are serious and meet our thresholds, you **must** still make a referral to us even if you have undertaken an investigation and found no case to answer. You should make a referral to us regardless of any evidence you may have to suggest the behaviour did not occur.

## How much information to share

When completing the referral, please provide as much detail as you can about the worker's alleged behaviour/deficient professional practice/health. For us to assess the behaviour against our thresholds, we need to understand what the specific concerns are about the worker.

The more information you can give us at referral stage, the less likely we will need to come back to you for further information.

## Details of your concerns

Please be specific about your concerns. The events that lead to a referral are often long and complex. It helps us to understand your concerns if you set out what has happened from the beginning and as much detail as possible. Please include dates where you know them.

A few tips to make the allegations clear.

- Start at the beginning to help us understand who everyone you mention is and how they're involved.
- If you're concerned about something a worker has said, quote the exact words used rather than saying things like 'swore at me' or 'used sexist language'.
- If you use words like 'inappropriate', consider replacing them with something more specific. What was the tone/language/picture/decision and why was it inappropriate?
- If the allegation is of dishonesty, tell us what was said, what the truth was and how the worker knew what they said was untrue. If it is in a



document, please say which document and on what page of that document.

- Think about whether you have given us the who, what, where, when, why and how of the allegation, or at least as many of those things as possible.

## Documents

You need to decide what documents to share, considering the relevant data protection legislation. We need enough information to understand if a worker's fitness to practise may be currently impaired. This would likely include the issue, the impact on their work, and their current employment position.

If you have concerns about sharing information and are considering redacting any information in documents before making the referral please contact us, as we may ask for the information to be unredacted for us to be able to investigate fully. We know you may wish to remove the names of people who use services in the information you give us. This can make it more difficult to understand the behaviour and decide if there is enough evidence to show a worker's fitness to practise is impaired. It is better if you send us as much unredacted information as you can. If you choose to redact some information, do not edit more than is necessary and use initials where possible. We often redact information (including personal details of vulnerable people, personal details of people not connected to the allegations and any information not relevant to the fitness to practise concern) before we send papers to the worker or the Fitness to Practise Panel.

Be assured we have a public duty to manage confidential information correctly and will always ensure anything shared publicly will be managed safely in accordance with our procedures and relevant data protection legislation.

It is helpful if you tell us about health issues that may affect how and when we contact the worker, for example if they are suffering from an acute mental or physical health condition. If you have the worker's consent, you may be able to release detailed health information such as GP or occupational health reports. If not, we will contact the worker to get more information from them and may ask them to sign a mandate authorising you or their doctor to release information.

We may also contact you for more information about how the worker's health affects their ability to carry out their job and how it is managed. If you are aware a worker has a terminal diagnosis or is severely ill, please make sure you tell us, so we do not cause them unnecessary distress by contacting them in an insensitive manner.

## The Equalities Act 2010 (the Act)

The Act prohibits discrimination against people with the protected characteristics set out in section 4 of the Act. These are:



- age
- disability
- gender reassignment
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation
- marriage and civil partnership.

Discrimination may be direct or indirect. Direct discrimination in services and public functions happens when someone is treated less favourably than another person because of a protected characteristic. Indirect discrimination happens when there is a rule, a policy or even a practice that applies to everyone but which particularly disadvantages people who share a protected characteristic.

We cannot provide employers with advice about complying with this legislation. We consider that our model of regulation is compliant with this legislation and you can see our Equalities Impact Assessment on our website. You can find more information and guidance about equalities on the websites below.

[www.gov.scot/Topics/People/Equality](http://www.gov.scot/Topics/People/Equality)

[www.gov.uk/guidance/equality-act-2010-guidance](http://www.gov.uk/guidance/equality-act-2010-guidance)

[www.equalityhumanrights.com/en/equality-act-2010/what-equality-act](http://www.equalityhumanrights.com/en/equality-act-2010/what-equality-act)

[www.acas.org.uk/index.aspx?articleid=3017](http://www.acas.org.uk/index.aspx?articleid=3017)

## Human Rights Act 1998

The Human Rights Act 1998 sets out that it is unlawful for a public authority to act in a way that is incompatible with a convention right. One of these rights is Article 8 which is 'the right to respect for private and family life.' Article 8 allows interference with this right in certain circumstances. However, we cannot provide employers with legal advice about this. We make sure that we carry out our function in a way that is compatible with human rights legislation. You can find more information and guidance about human rights on the websites below.

[www.gov.scot/Topics/Justice/law/human-rights/ScotlandAndHumanRights](http://www.gov.scot/Topics/Justice/law/human-rights/ScotlandAndHumanRights)

[www.scottishhumanrights.com/](http://www.scottishhumanrights.com/)



## 9. What do we do with the information?

When we receive a referral, we will send you an acknowledgement. The referral is then passed to our screening team who review and risk assess the referral within one working day of receipt.

### Screening stage

There are a number of steps we may take at screening stage, depending on the information we have. If we do not have enough information to make an initial screening decision, including if we are not satisfied that we understand the allegation(s), we will contact you for more information.

If we are satisfied we understand the allegation(s), we will take the following steps.

- We will assess the behaviour against **our** thresholds.
- If the behaviour does not meet our thresholds, we will close the case at screening stage and take no further action. We will notify the referrer and the worker of this decision in writing.
- If the behaviour meets our thresholds, we will complete a risk assessment and consider if the worker is currently impaired. There are different steps we may take in this scenario.
  - If the worker is assessed as not currently impaired, we will take no further action and we will close the case at screening stage. We will notify the referrer and the worker of this decision in writing.
  - If the worker is assessed as currently impaired but we believe some minimal pieces of additional information may satisfy us that the worker is not currently impaired, we may undertake some further enquiries. These enquiries may include, contacting the worker to gain a better understanding of their level of insight/regret/remorse. If on receipt of this information we are satisfied there is no prospect of a finding of current impairment, we will take no further action and close the case. Alternatively, if after undertaking these further enquiries we still consider the worker to be currently impaired, we will proceed to a full investigation.
  - If the worker is assessed as currently impaired and we decide we need to undertake a full investigation, we will open a case and pass to our investigation team. If the behaviour is very serious and we consider the need for temporary measures to protect the public and uphold public confidence, we will complete a temporary order assessment and pass the case to a solicitor.

## Investigation stage

If we decide to carry out a full investigation, we will let the worker know we have received the referral. We will tell the worker the information set out in the referral form so they can comment on it. During our investigation, the worker will receive a copy of all relevant information we receive so they can understand and respond to the allegations against them. You should tell us if there is anything you would prefer we did not send to the worker. We will consider this request but may still need to provide the information. We will not share any information that might compromise a criminal investigation.

We may use any information an employer provides as evidence of the allegations against the worker.

## Fitness to Practise portal

The Fitness to Practise portal is a central place where we store all communications between the SSSC and the employer contact for an investigation.

- Using the portal is the best way to ensure sensitive data relating to an investigation is shared and stored securely.
- We will send details of how to access the portal to the relevant employer contact at the start of a case and place any documents to be viewed there.
- An email alert lets the employer contact know if there are new documents for their attention and that they should access the portal to view them.
- Any paperwork we ask for should be uploaded by the employer, directly into the portal. You will receive an alert when anything new is placed in the portal.

## Fitness to Practice Impairment Hearing

If the matter goes to an impairment hearing, we publish details of the hearing and a summary of the allegations seven days in advance on our website. We do not publish information in advance about:

- a health matter
- application hearings
- temporary orders
- restoration hearings.

Hearings are usually held in public and the media can attend. The media may publish information about hearings from the information we publish on our website.

We publish all Notices of Decision (accepted by the worker or made at a hearing) on our website. Health and other sensitive information may be withheld. The media may report on any published decisions.

The Notice of Decision is always sent to the employer. We may also share information with other regulatory bodies and partner agencies where we consider it appropriate. If sharing information we will comply with data protection legislation. We may also release information as part of a subject access request made under data protection legislation or a freedom of information request.

We keep information about non-registered social service workers so we can consider this information should the person apply for registration in the future.

## **Confidentiality**

### **People who use services**

You may wish to remove the names of people who use services in the information you give us. This can make it more difficult to understand the behaviour and decide if there is enough evidence to show a worker's fitness to practise is impaired. It is better if you send us as much unredacted information as you can. If you choose to redact some information, do not edit more than is necessary and use initials where possible. We take data protection very seriously and regularly redact information before we send papers to the worker or the Fitness to Practise Panel.

### **Statements**

You and your staff may be concerned about sending us statements. These are important and will help us decide if we need to speak to staff and perhaps call them as a witness. We would expect you to support staff to help with our work.

Please ensure that statements are signed and include contact details of each witness. We expect workers to adhere to code 3.7 which states they will 'Cooperate with any investigations by my employer, the SSSC or another authority into my fitness to practise or the fitness to practise of others. This may include attending hearings and providing witness statements, documents or other information'.

## 10. More information

Visit the fitness to practise section of our website at <https://www.sssc.uk.com/fitness-to-practise> to find out about:

- the investigation process
- employing workers under investigation
- registrants subject to temporary orders
- Fitness to Practise Panel hearings
- being a witness
- outcomes of investigations.

We also have factsheets on these topics  
<https://www.sssc.uk.com/knowledgebase/category/?id=CAT-01326>

If you cannot find what you need, please contact us.

- **Email:** We have a dedicated email you can use to contact us for advice on whether to refer a worker. This is managed by experienced advisers who will be happy to offer referral advice on a case-by-case basis. You can email us at: [employerlink@sssc.uk.com](mailto:employerlink@sssc.uk.com)
- **Phone:** We also have a dedicated phone line for employers looking for referral advice. You can phone 0345 60 30 891, selecting the option for 'Fitness to Practise' and then 'Employer Advice Line'.



## 11. Appendix - Case examples

### **Example: Conduct**

The relative of a person who uses services has made a complaint about a support worker in a care home service for adults. The complaint is that they witnessed the worker swear at and use excessive force when supporting an individual.

**You should tell us as soon as you start your investigation.**

### **Example: Conduct**

A member of staff attends for work on Monday morning. During her break she tells a colleague about an incident that occurred during a night out at the weekend which resulted in her being charged with breach of the peace and police assault. The colleague informs her manager. You confirm with the worker the information is correct and undertake a risk assessment.

**You should tell us as soon as you know about the charge, regardless of the outcome of your risk assessment.**

### **Example: Conduct**

A practitioner in a care home service for adults answered a buzzer call from a resident requesting support to use the toilet. The worker refused, telling him in a harsh tone that she was too busy supporting someone else and he would just have to wait. The worker did not return and the resident soiled himself. He was embarrassed and did not buzz again for support. After the shift handover, three hours later, another worker went to his room to check if he needed anything. He explained he had asked for support, however had been left without any and had subsequently been unable to make it to the toilet.

This was an intentional abuse of a position of trust and demonstrated a lack of dignity and respect for the individual being supported. This was a serious breach of the rights and choices of the individual using the service. This behaviour would call into question the worker's fitness to practise.

**You should refer this matter to us as soon as you start your investigation.**

**Example: Conduct**

A worker was suspended due to several concerns about the worker's conduct towards residents, including failing to assist a resident when they fell, shouting at the resident 'I told you to wait, you will just have to stay there until I am ready' and failing to report or record a resident's fall.

**You should refer this matter to us as soon as you start your investigation.**

**Example: Conduct**

A worker was dismissed for taking photos of service users. The worker was taking selfies on her phone during her shift and there were residents visible in the background. Another staff member reported this to management. The pictures were not directly of the service users but there was a policy that mobile phones should be switched off while on shift. There were no other practice concerns.

**You would need to notify us of the dismissal but, as the behaviour falls below our thresholds, you do not need to send us a referral. You would just need to update the worker's record on MySSSC.**

**Example: Conduct**

A care home manager was approached by a resident who disclosed that a care home worker had taken a large amount of money from her bank account over a period of several months. This was intended as a loan, but the care home worker had not repaid any money. The resident had been trying to help the care home worker who had disclosed that she was having financial difficulties. The resident spoke to the manager as she was upset that no attempt had been made to repay the money. Police were informed and decided to take no further action as the resident had full capacity and provided the care home worker with her bank card and pin number.

**You should refer this matter to us immediately, regardless of the outcome of the police investigation or any initial investigation you may have undertaken.**

**Example: Conduct**

The manager of a care at home service was made aware by a service user that they gifted £20 to a care at home worker at Christmas. The service has a policy that staff can accept gifts up to the value of £10 but must inform their manager of the gift and document any gifts accepted in the communication logbook. The care at home worker had not informed their manager or documented the gift in the communication logbook. The worker is new to the organisation and explained she had not fully read the organisation's policy. As this is an isolated event you decide to continue to let the worker to remain working while you fully investigate.

**You should refer after concluding your investigation.**

**Example: Conduct**

A worker fails to carry out night checks on a resident which results in them being left overnight having been incontinent of urine, without a continence aid on and no sheets on her mattress. The worker's actions left the resident soaked in urine and she sustained a red mark on her hip.

**This matter would meet our thresholds for investigation and should be referred immediately.**

**Example: Conduct**

A nursery has a policy relating to recording allergies. All staff are required to sign that they are aware of the allergies each child has and check at the beginning of the session if there are any children with an allergy in attendance. A supply worker did not read the policy or the daily records and gave a child a meal containing egg. The child immediately started to scratch and developed a severe rash that resulted in immediate medical attention. The worker came from an agency so you decide not to use that worker again.

**This matter should be referred once you have concluded your investigation.** While harm was caused, it is unknown if the allergy was diagnosed at the time, and we will need more information from your investigation to decide whether this meets our thresholds.

**You should also ensure you report the incident to the recruitment agency so they are aware and take appropriate action.**

**Example: Conduct**

A worker leaves a safe containing medication open. This is noticed at staff change over time. All the medication is checked and accounted for. The worker responsible for locking the safe was on shift when there was a minimum level of staff cover due to workers having to self-isolate, and the shift had been busy. You have started your investigation.

In this case, the safe was kept in a locked office that residents cannot access and no one was harmed. The worker has shown remorse and has apologised for their actions. They have an exemplary record. You issue a first warning. As an isolated incident where no harm occurred, **this matter does not need to be referred** and would not meet our thresholds.

**Example: Conduct**

The employer became aware that the worker had communicated with a vulnerable young person via social media, outwith working hours. The nature of this communication was that the worker had, on numerous occasions, colluded with the young person to arrange for a particular worker to be on shift at the young person's request, as the young person believed this worker was likely to agree to buying cigarettes for her. The employer has copies of the messages. They have not suspended the worker. The worker has been moved to non-front facing duties while the employer investigates.

While they have not suspended the worker, the behaviour is serious. **This matter should be referred immediately.**

**Example: Conduct**

The worker is a prison-based social worker. The employer becomes aware the worker is in an intimate relationship with an individual who was previously a prisoner in the same establishment, although they had never been the allocated worker for this individual. A colleague reported the matter to the employer. The employer has not suspended the worker and is investigating.

**The matter should be referred after concluding your investigation.**

**Example: Conduct**

A care worker resigned eight weeks ago and since this time the employer has become aware that the worker has been providing care to a former service user. The employer considers the worker is working outwith their Register part and they are breaching professional boundaries. The former service user has capacity and there are no other concerns regarding the worker's behaviour and no information to suggest the worker has abused their position to maintain contact with the service user.

There are no specific concerns relating to public protection or public confidence and **there is no need to refer.**

**Example: Conduct**

Colleagues witnessed a worker dragging a young person off the sofa by their ankles, resulting in carpet burns to the young person. The worker then refused to let go of the young person when a colleague instructed them to and challenged the young person to assault them, threatening the young person that he would 'put her on the floor' if she hit him again.

There are serious public protection and public interest concerns. **You should refer this matter to us immediately.**

**Example: Conduct**

A worker failed to communicate with a resident, as she was required to do, to make sure he was ok. The worker completed the employer's communication sheet confirming she had spoken to the resident by intercom when she had not. The resident was later found on the floor by his son after suffering a stroke. He had been there for approximately 16 hours.

**You should refer this to us immediately.**

**Example: Conduct**

A social worker used their work vehicle for personal use, which was in breach of their employer's policies and they also claimed fuel costs for this. The worker was dishonest with their employer when they were asked about it. Although it was determined by the employer's investigation that this was an isolated incident, they decided to dismiss the worker.

**You should notify us at point of dismissal.**

**Example: Conduct**

A worker in a care home leaves work 10 minutes early every night to catch her bus and never records this on her time sheet. Her manager is unaware. The night staff are in the building and colleagues are happy to cover for her. While there is no risk to residents as adequate staff are available to support, the worker is dismissed.

**You will need to notify us the worker has been dismissed but as the behaviour falls below our thresholds a formal referral is not needed. You can tell us about the dismissal by updating the worker's record on MySSSC.**

**Example: Conduct**

The worker made sectarian comments to, and in the presence of, users of a learning disability service. It is also alleged the worker has treated service users differently depending on their football-related allegiances. You have suspended the worker.

**This matter should be referred immediately.**

**Example: Conduct**

It has been reported to you that a worker has posted photos and made derogatory comments on social media regarding a user of service's learning disability. The worker's comments are discriminatory towards the person they were supporting, including saying 'you're not that disabled, pipe down' and 'no wonder people don't wanna work with people who have learning disabilities'. A video shows the worker making offensive racial remarks, referring to the individual they were supporting at the time. You have also been told the worker has posted a video where she uses the 'N word.'

This would meet our thresholds for investigation and **you should refer immediately.**

**Example: Conduct**

A worker posts on social media making negative comments about the organisation where she is currently employed, stating that it is a 'terrible place to work' and that staff are 'overworked.' A colleague reports the behaviour to you. You have seen a screenshot of the comments.

**This matter does not need to be referred to the SSSC as it would not meet our thresholds.**

**Example: Conduct**

The employer has become aware that the worker has shared confidential information about a serving prisoner with a group of other prisoners regarding their offending behaviour and their identity. This resulted in the prisoner receiving credible threats from other prisoners. The worker resigned during the employer's investigation.

**This is serious behaviour and you should refer immediately.**

**Example: Conduct**

The worker made a video of a young person they work with on their personal mobile phone, sent this to the young person and failed to delete it from their personal mobile phone. It was a short video of the young person blowing out candles on their birthday cake and it had been taken at the request of the young person. The employer has not suspended the worker.

**There is no need to refer.**

**Example: Conduct**

The worker is described as having been undermining to colleagues, including making statements which led to colleagues believing their practice was being questioned by more senior workers, when this was not the case. The worker is described as having made suggestions to colleagues about how they should do things differently, causing colleagues to feel upset.

This is an employer matter. It falls below our thresholds and **does not require a referral.**

**Example: Professional practice**

You have concerns about a social worker regarding failed visits to people they support, inconsistent attendance at meetings, failing to contact people they support in line with their care plan, poor record keeping and failing to progress care plans. This practice is evident through numerous cases. An employer's support plan was put in place to support the worker to improve her practice, however she resigned before this could be implemented.

**You should refer immediately after the worker resigns.**



**Example: Professional practice**

You have concerns about the record keeping of a support worker in a care home service for adults when he is administering medication. The worker forgets to record that he's given medication and on several occasions this has resulted in residents obtaining double doses. You decide to manage his fitness to practise through your capability process and provide the worker with increased supervision, mentoring and further training. After further training, supervision and regular assessment of his skills, the capability procedures are completed. However, the worker is still failing to meet the record keeping standards. Despite the additional training and support provided, you are not satisfied the worker can competently complete the required medication records. The worker is dismissed on the grounds of capability due to competence.

**You should refer at the point of dismissal.**

**Example: Professional practice**

You have concerns about a residential child care worker's ability to intervene and support colleagues to deescalate challenging situations that happen in the unit. You decide to manage his fitness to practise through a capability process and put a performance plan in place for the worker which includes further training, supervision and a period of monitoring and assessment which will be reviewed at regular intervals. The worker cooperates fully with the plan and there is an improvement in his practise to a satisfactory standard. You have adequately addressed the practice concerns. There is no concern that the worker's fitness to practise is impaired.

**You do not need to refer this to us.**

**Example: Professional practice**

You have concerns about the ability of a criminal justice social worker to carry out adequate risk assessments and make decisions they will defend in court. You decide to manage her fitness to practise through your managing performance at work procedures and a performance improvement plan is put in place. You provide the worker with mentoring and further training. While this is being carried out all the worker's risk assessments are countersigned by her line manager. The worker resigns halfway through the process. You still have concerns that her practice is unsafe in this area.

**You should refer the concerns to us when she resigns.**

**Example: Health**

A worker raises concerns about their colleague's ability to carry out their role due to increased breathlessness and the impact this is having on the rest of the staff. It is known the worker has chronic obstructive pulmonary disease (COPD) and, although reasonable adjustments have been made, the worker's condition has worsened and they are no longer able to help with the moving and handling of people they support. The service is small and at times the worker's inability to support with moving and handling is putting service users at risk of harm. There has been no actual harm to date due to the manager helping, however this is not sustainable in the long term. The worker shows little insight into the impact and extent of their health condition and denies they are placing people at risk. The employer decides to terminate the worker's contract.

**You need to refer immediately as the health condition is not being managed safely.**

**Example: Health**

A worker advises her manager she has been diagnosed with multiple sclerosis (MS) and is undergoing further tests. At the moment her symptoms are not impacting on her ability to carry out her role and are being managed by medication. The worker has agreed to keep her manager updated and advise of any future concerns she may have about the impact of her condition on her ability to carry out her role.

**There is no need to refer as the health condition is being managed safely.**



**Example: Health (alcohol dependency)**

A residential child care worker has told you she suffers from alcohol dependency but her addiction is under control and she is attending counselling sessions.

The worker is managing her health condition and you are satisfied she has insight and an understanding of the impact her alcohol dependency could have on colleagues and people who use services. You and the worker discuss the worker's progress and the stability of her condition at regular supervision sessions. The worker has never attended work under the influence of alcohol and you have no concerns regarding the worker's practice.

**You do not need to tell us about it as the health condition is being managed.**

However, due to personal circumstances the worker starts to drink alcohol again, attends work and attempts to provide care to people using the service while under the influence of alcohol. You ask her to go home and suspend her.

**You should now tell us about this and make a referral to us.**

**Example: Health (clinical depression)**

A social worker has clinical depression and is taking medication for it. Her doctor recommends she changes her medication and when she does, she experiences difficulties managing her condition. In particular, she finds some aspects of work difficult and distressing. She speaks to you and you agree that her workload will be adjusted so she is office based for a short period until the issue with her medication is resolved.

The social worker has identified an area of work where she may not be able to meet our and your standards. By doing this she has shown appropriate insight and understanding into her condition and the impact this could have on her ability to practise safely and effectively. She has discussed it with you and effectively restricted her scope of practice. She is currently managing her condition.

**You do not need to tell us about this.**

**Example: Health (severe back pain)**

A support worker in a care at home service for adults tells you she has been experiencing back pain for some time. She now finds it very painful to undertake moving and handling of residents or to carry out the majority of the personal care tasks which her role requires.

An occupational health assessment confirms the worker's back pain is severe. Continuing to carry out some tasks presents a high risk of damaging the worker's back further. You consider any adjustments you can make to allow the worker to continue carrying out her role, including whether a colleague can assist with moving and handling and personal care. However, the care service is quite small and anyone assisting would be carrying out the majority of the worker's role. As you cannot make adjustments to allow the worker to continue carrying out her role safely and effectively, the worker is dismissed on the grounds of capability due to health.

**You should tell us about this at dismissal.**

**If the worker recognises she is unfit for work and will not be looking for future work in the sector you can notify us through updating the worker's record on MySSSC. Please provide this information in your notification.**

**Example: Health (diabetes)**

A manager at a care home service for adults has type 2 diabetes. He has been taking medication and insulin injections for over seven years and has never fallen ill at work. He has told all his colleagues about his condition and keeps a small amount of medication somewhere safe at work. The worker's insight into understanding and management of his condition means he can practise safely.

**You do not need to tell us about this.**

**Example: Health (epilepsy)**

A support worker in a care at home service for adults was recently diagnosed with epilepsy and let you know. You recommended that the worker tell his colleagues and asked him to make sure he takes his medication. The worker chose not to tell any of his colleagues and in the following months did not take his medication on a significant number of occasions.

The worker had a seizure when he and his colleague were carrying out personal care with a vulnerable person. The colleague had to help the worker and the vulnerable person was left unattended. As the colleague did not know about the worker's condition, she became very distressed. As a result, the vulnerable person who was left unattended fell.

You are concerned the worker is not currently managing their health condition safely or effectively as he is not complying with his medical treatment and that he lacks insight into the impact of his condition on his colleagues and people who use services.

**You should tell us about this.**

**Example: Health (mental health)**

A social worker has a history of depression and around 10 years ago was diagnosed with bipolar disorder. Several years ago the worker attempted suicide and was assessed by occupational health and a phased return was recommended. You have no concerns about the worker's standard of practice and his mental health condition has not had a negative effect on people who use services.

The social worker attempted suicide again more recently and was detained under the Mental Health Act. When he was released from hospital he was on medication and was being monitored and supported by his GP, a psychiatrist and was under the care of the local community mental health team. You arranged for an occupational health assessment which found he was not fit for work and he was on long term sick leave.

At an occupational health assessment four months after the worker was discharged from hospital, he was found fit to return to work. This assessment did not identify any work related issues that triggered the last episode. A phased return with reduced hours (gradually building up to full time hours) with regular supervision and caseload reviews was arranged. The worker returned to work and there have been no further concerns. The worker's health condition continues to be managed by him and you.

**You do not need to tell us about this.**



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