

Fitness to Practise



Registered worker events
October 2015



THE ROLE OF THE FITNESS TO PRACTISE DEPARTMENT:

- To determine if someone applying for registration is of good character, conduct and competence.
- To investigate allegations of misconduct against registered workers in order to determine their continued suitability for registration with the SSSC.



FITNESS TO PRACTISE (FTP):

- FtP deals with referrals about applicants, registrants and social service employees who are not registered with the SSSC but where the worker has or would have been dismissed on the grounds of misconduct by the employer.
- We receive referrals/information from numerous sources including: members of the public; service users; employers; registered workers and applicants; the police; PVG; Care Inspectorate.
- Types of cases include criminal charges/convictions , employer disciplinary action, member of the public complaints, failure to meet the conditions of registration with the SSSC.



WHAT WE EXPECT FROM REGISTERED WORKERS:

When registering with the SSSC you agree to tell us as soon as reasonably practical about:

- Any events that call into question your good character such as formal charges, criminal convictions, criminal proceedings or alternatives to prosecution.
- Any disciplinary action taken against you
- Any changes to your personal details

You agree to undertake the equivalent of 15 days post-registration training and learning (PRTL) and provide evidence of this if requested to do so

You agree you will comply with the Codes of Practice for Social Service Workers.



CODES OF PRACTICE:

- The Codes of Practice for Social Service Workers is a list of statements that describe the standards of professional conduct and practice required of social service workers as they go about their daily work.
- The purpose of this code is to set out the conduct that is expected of social service workers and to inform service users and the public about the standards of conduct they can expect.
- The SSSC expects social service workers to meet this code and may take action if registered workers fail to do so.

SOCIAL SERVICE WORKERS MUST:

1. Protect the rights and promote the interests of service users and carers
2. Strive to establish and maintain trust and confidence of service users and carers
3. Promote the independence of service users while protecting them as far as possible from danger or harm
4. Respect the rights of service users whilst seeking to ensure that their behaviour does not harm themselves or other people
5. Uphold public trust and confidence in social services
6. Be accountable for the quality of their work and take responsibility for maintaining and improving their knowledge and skills.



- SSSC • 2.2.- you must communicate in an appropriate, open, accurate and straightforward way
- 2.3 – you must respect confidential information
- 3.5- you must inform your employer or an appropriate authority where the practice of colleagues may be unsafe or adversely affecting standards of care
- 5.4 – you must not form inappropriate personal relationships with service users (this includes through social media)
- 5.8- you must not behave in a way, in work or outside work, which would call into question your suitability to work in social services

As a registered worker **you are expected to co-operate with the SSSC**. Failure you do so may be considered misconduct. This includes failure to provide requested information, failure to inform changes in your circumstances, failure to attend our proceedings as a witness.



EXAMPLES OF APPLICANT CASES WHERE GOOD CHARACTER, CONDUCT AND COMPETENCE IS QUESTIONED:

- Patterns of offending, even if a long time ago
- Serious offences such as violence
- Offences resulting in serious penalties such as imprisonment
- Live disciplinary sanctions.
- Non-registered worker information

The majority of applicants will be registered at conclusion of the case, often with a condition on their registration. Examples of cases where registration has been refused:

- Recent violent behaviour
- Pattern of serious offending which only stopped recently
- Serious recent dishonesty

APPLICANT CASE DECISIONS

Possible outcomes

- Register
- Register with conditions (with the applicant's consent)
- Refer matter to a Registration Sub-committee for consideration. The Sub-committee can register, register subject to conditions or refuse registration.
- If refused registration an applicant cannot reapply for registration for on the same register part for at least a period of 2 years. They can reapply after 2 years, if there has been a material change in the individual's circumstances otherwise they cannot reapply for a period of 3 years.



REGISTERED WORKERS:

The vast majority of social service workers act in accordance with the Code of Practice and consistently meet the high standards expected by the public. However, the SSSC can take action against registered workers who do not meet the standards expected of them. Failure to meet the standards expected will be considered misconduct.

“Misconduct” means conduct, whether by act or omission, which falls short of the standard of conduct expected of a person registered with the SSSC, having particular regard to the Code of Practice for Social Service Workers.



WHAT HAPPENS IF I AM COMPLAINED ABOUT?

- The SSSC will allocate the case to a Case Officer (this may be a conduct case officer or a solicitor) who will write to you to inform you what information we have received, provide you with our guidance leaflet and to seek your comments.
- The Case Officer will investigate the matter by seeking information from you and other relevant parties e.g your employer, police, social work, witnesses.
- The SSSC will usually await the outcome of any third party investigations prior to making a final determination in your case.
- Decisions are made based on legal advice regarding the legal weight and sufficiency of the evidence and in accordance with our Indicative Sanctions Guidance.
- Our decisions may differ from those made by other including your employer, police and PVG.



REGISTRANT CASE DECISIONS:

Possible outcomes:

- No Further Action
- Officer Warning up to 5 years (with consent)
- Officer Conditions (with consent)
- Officer Warning + Conditions (with consent)
- Refer matter to a Conduct Sub-committee that can impose all of the above outcomes but can also suspend a registrant for a period of up to 2 years (with or without conditions)or impose a removal order. If seeking removal, registrants will be given the opportunity to consent to removal.



INTERIM MEASURES:

While our investigations are on-going into the allegations against a registered worker, the SSSC can refer the case to a Preliminary Proceedings Sub-Committee (PPSC) if it is deemed necessary for:

- I. Protection of members of the public
- II. It is otherwise in the public interest
- III. It is in the interests of the registrant

Possible outcomes:

- No order
- Interim suspension order
- Interim conditions order
- Interim suspension plus conditions



WHEN SHOULD EMPLOYERS REPORT REGISTERED WORKERS TO US?

The situation

A serious matter involving harm or risk of harm to people who use services, sexual or violent offences or dishonesty.

You suspend a worker.

A worker is investigated or charged by the police.

None of the above.

When to tell us

As soon as you start your investigation.

At the point of suspension.

As soon as you know about it.

After you finish your disciplinary process (unless it relates to smoking or sickness absence as set out in the guidance).



WHEN SHOULD EMPLOYERS REPORT NON-REGISTERED WORKERS TO US?

Social service employees who are not registered with the SSSC but **where the worker has or would have been dismissed on the grounds of misconduct** by the employer should be referred to the SSSC.



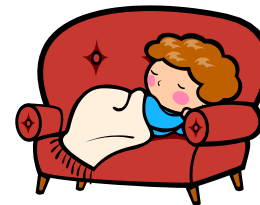
CASEWORK EXAMPLES

- Five casework examples based on real cases we have investigated.
- What action, if any, would you take? Hold up the appropriate card when asked. You will only be given snippets of information about the case.
- At each stage, assume that the information you have been given to that point, is all you will ever know about the case.

Example 1

Carol is a support worker in a care home service for adults. She has been reported to the SSSC by her employer for waking up a service user.

- Green = No action
- Amber = Warning/Condition
- Red = Remove from Register



Example 1

During the investigation it was discovered that this wasn't the first time that Carol had woken a service user up.

- Green = No action
- Amber = Warning/Condition
- Red = Remove from Register



Example 1

The words she used to wake the service user up were:

- "wake up"
 - "sit up"
 - "do not slouch in the chair"
 - "everyone else has been up since 8am and they are not falling asleep in the chair".
-
- Green = No action
 - Amber = Warning/Condition
 - Red = Remove from Register



Example 1

She had been a support worker for five years and this was the first referral the SSSC had received about her.



- Green = No action
- Amber = Warning/Condition
- Red = Remove from Register

Example 1

Carol shouted the words at the service users when waking them up.



- Green = No action
- Amber = Warning/Condition
- Red = Remove from Register

Example 1

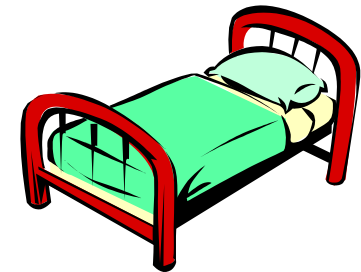
Carol had failed to disclose on her application for registration with the SSSC that she had previously received a final written warning for the way she spoke to service users.



- Green = No action
- Amber = Warning/Condition
- Red = Remove from Register

Example 1

During the investigation it was discovered that Carol also refused to allow service users to go to bed when they wanted to.



- Green = No action
- Amber = Warning/Condition
- Red = Remove from Register



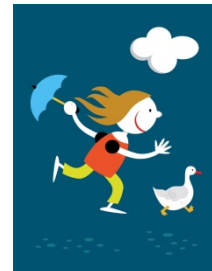
OUTCOME

REMOVAL

Example 2

**Grace is a practitioner in a day care of children service.
She had been disciplined for not properly supervising a four year old child
after the child had been found on the street outside the nursery.**

- Green = No action
- Amber = Warning/Condition
- Red = Remove from Register



Example 2

Grace had been a day care of children worker for 11 years and this was the first referral the SSSC had received about her.

- Green = No action
- Amber = Warning/Condition
- Red = Remove from Register



Example 2

Grace didn't report the incident to her manager and didn't record it in the communications log.

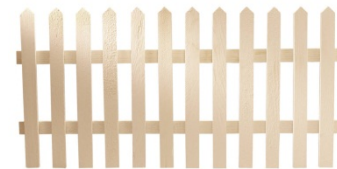
- Green = No action
- Amber = Warning/Condition
- Red = Remove from Register



Example 2

The janitor of the premises had failed to make the nursery premises secure.

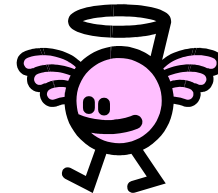
- Green = No action
- Amber = Warning/Condition
- Red = Remove from Register



Example 2

The incident happened 18 months previously and there had been no issues with Grace's practice since.

- Green = No action
- Amber = Warning/Condition
- Red = Remove from Register



Example 2

Grace had not received training before the incident but had now received training relevant to supervision of children.

- Green = No action
- Amber = Warning/Condition
- Red = Remove from Register





OUTCOME

WARNING

Given the training she has received, a condition was unnecessary.

Example 3

We received a referral from an employer that Bob, a supervisor in a care home service for adults, had failed to ensure that 12 service users received their evening medication.

- Green = No action
- Amber = Warning/Condition
- Red = Remove from Register



Example 3

A colleague had taken the keys to the medication trolley home so the medication couldn't be accessed.

- Green = No action
- Amber = Warning/Condition
- Red = Remove from Register





SSSC

Example 3

Bob told the colleague that took the keys home to just return them in the morning, rather than asking him to come back to work with them straight away.

- Green = No action
- Amber = Warning/Condition
- Red = Remove from Register



Example 3

Bob had been working in the role for two years without issue.

- Green = No action
- Amber = Warning/Condition
- Red = Remove from Register



Example 3

Bob didn't contact the on-call manager, didn't ask NHS 24 for advice and didn't contact a locksmith to gain access to the medication trolley.

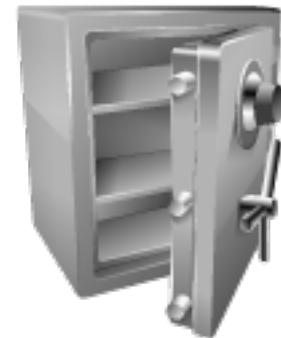
- Green = No action
- Amber = Warning/Condition
- Red = Remove from Register



Example 3

The following night a staff member went home with the keys to the medication trolley again. This time Bob did ensure that he obtained access to the trolley and that the service users received their medication.

- Green = No action
- Amber = Warning/Condition
- Red = Remove from Register





OUTCOME

WARNING

&

CONDITION

- to cover training and learning on personal responsibility in his role as a supervisor in relation to administration of medication.

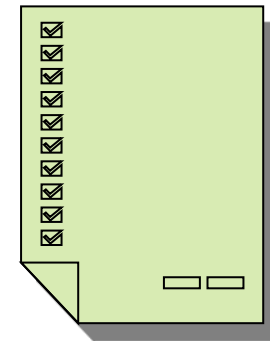


APPLICANT

Example 4

John works as a support worker in a care home service for adults. John declared in his application for registration that he was currently the subject of a final written warning for failing to follow his employer's moving and handling procedures

- Green = Register
- Amber = Register with a condition
- Red = Refuse registration



Example 4

John had failed to ensure that the hoist sling was appropriately attached which resulted in a service user falling to the floor

- Green = Register
- Amber = Register with a condition
- Red = Refuse registration



Example 4

The service user was injured as a result of the fall

- Green = Register
- Amber = Register with a condition
- Red = Refuse registration



Example 4

John did not report the incident immediately and did not press the buzzer to seek assistance

- Green = Register
- Amber = Register with a condition
- Red = Refuse registration



Example 4

John was still in his probationary period at the time of the incident and had no previous care experience. John holds no formal qualifications in social care.

- Green = Register
- Amber = Register with a condition
- Red = Refuse registration



Example 4

John's employer extended his probationary period and provided John with further training on moving and handling. The incident took place 6 months ago . There have been no further concerns regarding his practice. His employer has provided the SSSC with supporting references.

- Green = Register
- Amber = Register with a condition
- Red = Refuse registration





OUTCOME

REGISTER WITH CONDITION

Requirement to achieve optional SVQ unit: Contribute to Moving and Positioning Individuals in addition to the mandatory Health and Safety and Safeguarding units within the SVQ Level 2 Social Services and Healthcare to provide formal training and learning and ensure his competency in this area of practice.

INTERIM ORDER

Example 5

We received a referral about Helen, a residential childcare worker. Colleagues had noticed that she was drowsy, disorientated and had slurred speech when she turned up for work one evening.

- Green = No Interim Order
- Amber = Interim Conditions Order
- Red = Interim Suspension Order



Example 5

Helen had driven to work that evening.

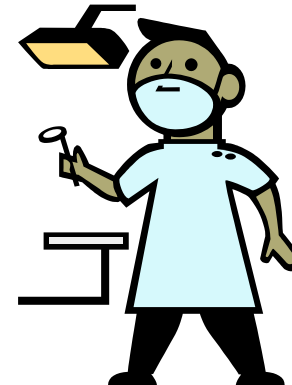
- Green = No Interim Order
- Amber = Interim Conditions Order
- Red = Interim Suspension Order



Example 5

Helen told her manager that she had been to the dentist that day and received painkillers which was why she was behaving this way.

- Green = No Interim Order
- Amber = Interim Conditions Order
- Red = Interim Suspension Order



Example 5

Some service users had seen Helen in this unsatisfactory state.

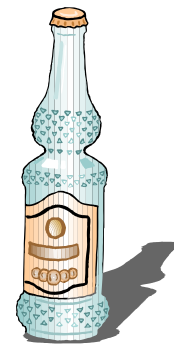
- Green = No Interim Order
- Amber = Interim Conditions Order
- Red = Interim Suspension Order



Example 5

Helen later admitted that she had not behaved in that way due to being at the dentist but had actually been under the influence of alcohol and medication.

- Green = No Interim Order
- Amber = Interim Conditions Order
- Red = Interim Suspension Order



Example 5

The referral to the SSSC was received six months after the incident, in that six months Helen had continued to work without incident, and had been undergoing counselling for addictions.

- Green = No Interim Order
- Amber = Interim Conditions Order
- Red = Interim Suspension Order





OUTCOME

INTERIM CONDITIONS ORDER FOR SIX MONTHS

- Continue to attend addiction counselling
- Have additional supervision every two weeks
- Undertake study focussed on accountability and communication
- Write a reflective account

WHAT DO THESE EXAMPLES SHOW?

- Important to have full facts and to make appropriate enquiries
- Apparently harmless circumstances can mask risk to service users
- Behaviour that might appear to make a Registrant unfit can be explained or mitigated
- An individual's history/context must be considered
- Circumstances may have changed since the behaviour, which will affect the case outcome
- Need to protect service users appropriately, whilst taking account of the Registrant's rights.

WHAT DO THESE EXAMPLES SHOW? (CONT.)

- Removal/Refusal should be used only as a last resort
- Important to recognise subsequent training and learning undertaken by individuals
- Where practice is capable of being remediated, Warning/Conditions should be used.



WHAT DO THESE EXAMPLES SHOW? (CONT.)

Without a framework for decision-making, decision makers' views are likely to vary.

Important for regulator to have corporate view on:

- Aggravating factors
- Mitigating factors
- Use of Sanctions

SSSC uses an **Indicative Sanctions Guidance** document
This ensures consistent decisions.



HOW WE MAKE OUR DECISIONS?

Two point test- Does the referral/information received contain any allegation(s) of misconduct? Does the misconduct amount to a complaint?

Misconduct:

- “conduct, whether by act or omission, which falls short of the standard of conduct expected of a person registered with the SSSC, having particular regard to the Codes of Practice for Social Service Workers”

Complaint:

- “ means a specific allegation(by any means and from any source) 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”

Legal advice on sufficiency and weight of evidence



Indicative Sanctions and use of Interim Orders: Guidance for Sub-committees (ISG)

The ISG contains information on:

- The principles to be taken into consideration- **fairness, proportionality, public interest** and the **least restrictive approach** to sanction
- Mitigating and aggravating factors- what to take into consideration
- The relevance of testimonials, references, medical information
- How to assess genuine insight, regret and remorse
- When each sanction may be appropriate
- Examples of what behaviours the SSSC considers serious misconduct



MITIGATING FACTORS:

- **Insight**
- Length of time since the incident and any evidence of good practice in the meantime
- Evidence rehabilitative/ corrective steps have been taken
- Relevant and appropriate references and testimonials
- Behaviour was isolated incident
- Minimal actual or potential impact on victim
- Previous good history with employer and/or SSSC
- Circumstances leading up to the incident
- Registrant's physical or mental health
- Admission of facts alleged
- Genuine expression of regret/apologies.

AGGRAVATING FACTORS:

- Lack of insight
- Dishonesty
- Abuse of trust
- Risk posed to and/or impact on victim/s
- Concealment of wrongdoing
- Pre-meditated actions
- Offence committed whilst at work
- Previous record with employer/SSSC or previous convictions
- Failure to co-operate
- Lack of regret



EXAMPLES OF MISCONDUCT RELEVANT TO SANCTION IN THE ISG:

The most serious areas of concern are:

1. Sexual misconduct
2. Dishonesty
3. Failing to provide an acceptable level of care
4. Abuse of a position (including physical, verbal and financial abuse) or violation of rights of users of services



FITNESS TO PRACTISE STATISTICS

NUMBER OF REFERRALS 2014-2015

- Applicants: 1, 299 (3.7% of applications received in this year)
- Registrants: 1, 269 (1.6% of all registrants 2014-2015)
- Total new cases: 2, 568
- Current open cases: around 3,100

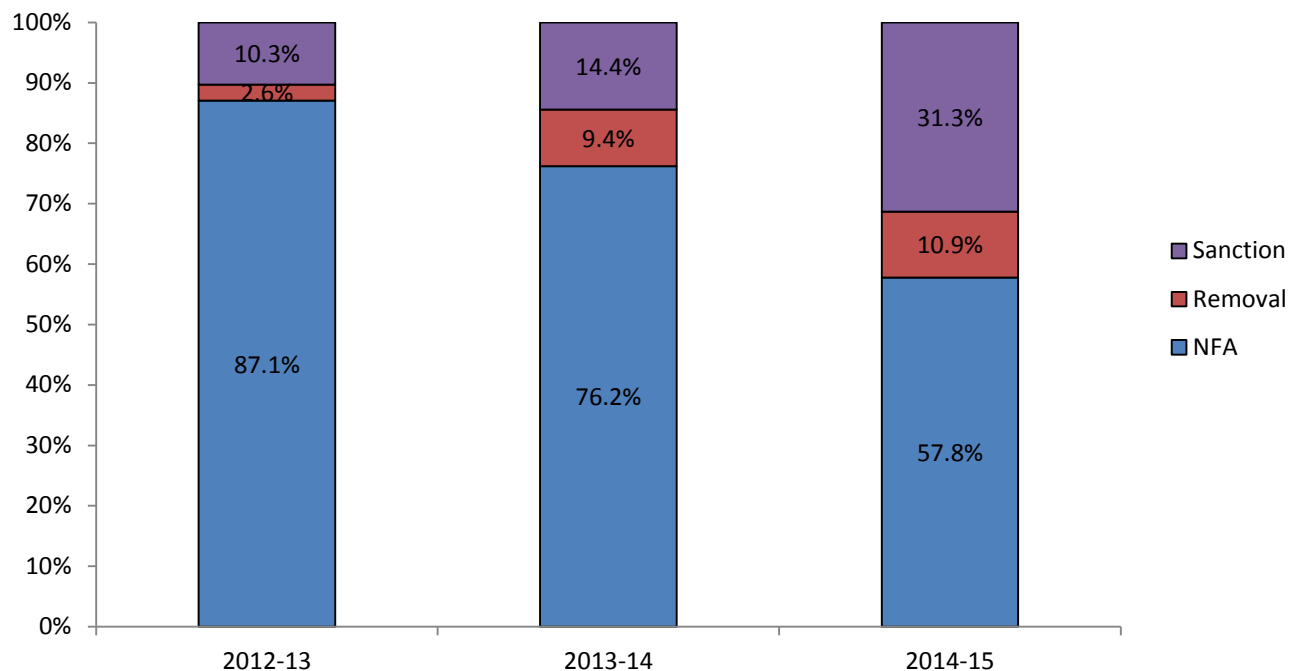


STATISTICS

Referral rates:

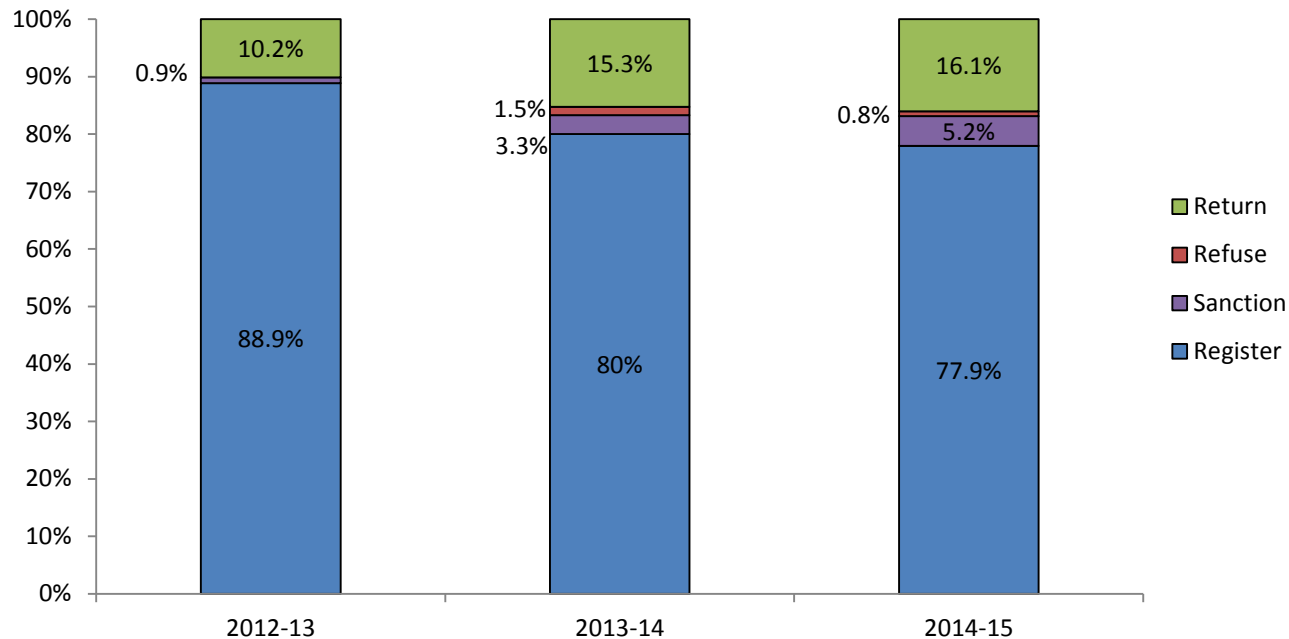
- Currently we are receiving the highest percentage of referrals about workers in Care Home Services for Adults.
- 56% of our current cases are workers from Care Home Services for Adults. 40% are registered workers.
- Residential Child Care Workers only form 8% of the Register but are 20% of cases
- Day Care of Children Workers form 38% of the Register but are only 21% of cases

Decisions in registrant cases:



- In the last 12 months there have been 79 Conduct Sub-committees and 232 orders with consent (Officer sanctions and removal with consent).

Decisions in applicant cases:



- In the last 12 months we have registered 39 workers with additional conditions with consent and have held 42 Registration Sub-committees.

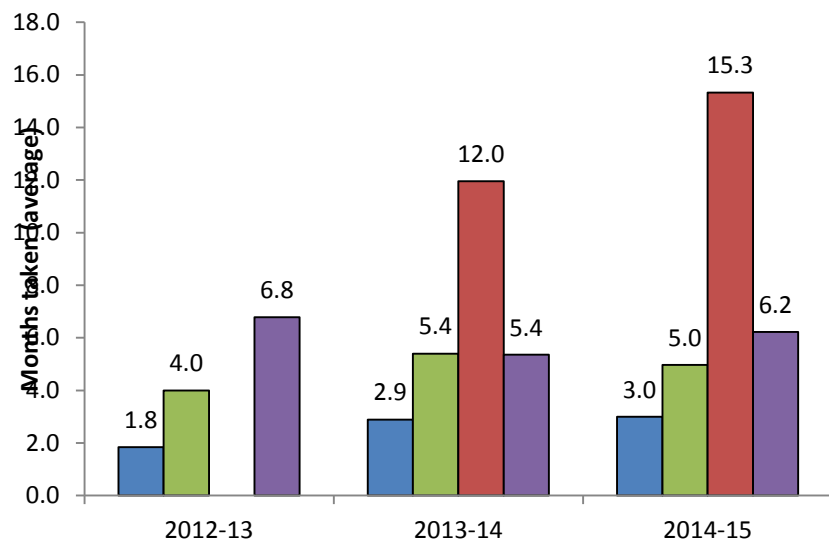


STATISTICS

Interim Orders:

- 23% of all CHSA cases are referred for IOs
- Currently 34% of all Interim Orders in force come from this part of the Register.
- The second highest group to be referred for IOs are RCCWs. They currently represent 8% of interim orders in force
- Currently around 165 registrants subject to Interim orders

- Overall average timescale at the moment is around 9 months
- Cases with lower level misconduct where no sub-committee or sanction process are concluded quicker as shorter process- on average 3-6 months
- Cases prioritised by risk and level of seriousness of misconduct
- Main reason for delay is waiting for third party information- no powers to compel





NEW MODEL OF REGULATION

A change from a **conduct model** to a **fitness to practise** one

Follows on from a consultation in 2013

It is a change in emphasis that will also bring practical changes



What is the move to fitness to practise?

For **applicants**, they declare they are:

“of good character, conduct and competence and **fit to practise**”

For **registrants** we investigate whether: **Fitness to Practise has been impaired** by:

- Conduct
- Health
- Competence

Why are we doing this?

Health: Currently we cannot refuse an application or take action about a registered worker in cases when serious ill health is putting people at risk.

Competence: Currently we can only deal with competence issues by saying that registrants have committed misconduct. The language does not represent the situation fairly.

Conduct: Allows us to continue to deal with conduct issues.

Modernisation: Other health/social care regulators are moving in this direction.



What stage are we at?

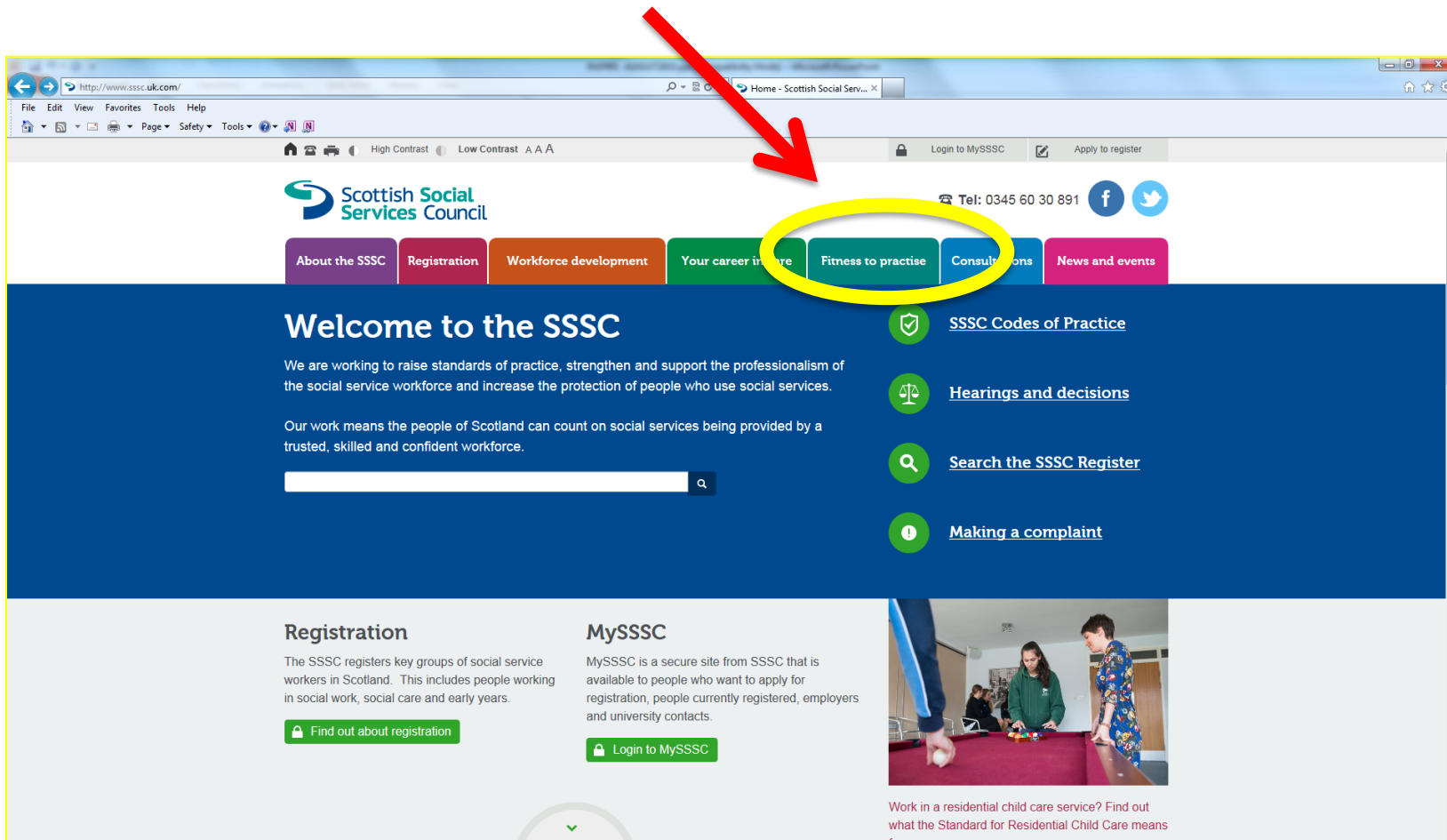
Running events and meetings aimed at understanding what our stakeholders think about how the new model should work. It will help inform the formal consultation that takes place in the autumn.



REVIEW OF THE CODES OF PRACTICE

- Published in 2003
- Changes in policy and practice
- The way we regulate the workforce is changing
- We need to make sure the Codes continue to be fit for purpose in the future
- Formal consultation on new codes Autumn 2016

WHERE TO FIND FURTHER INFORMATION:

A screenshot of the Scottish Social Services Council (SSSC) website. A red arrow points from the top of the page to the 'Fitness to practise' link in the navigation menu. The navigation menu includes links for 'About the SSSC', 'Registration', 'Workforce development', 'Your career in care', 'Fitness to practise', 'Consultations', and 'News and events'. The 'Fitness to practise' link is highlighted with a yellow circle. Below the navigation menu, the main content area has a blue background with the heading 'Welcome to the SSSC'. It includes a search bar and a list of links: 'SSSC Codes of Practice', 'Hearings and decisions', 'Search the SSSC Register', and 'Making a complaint'. At the bottom, there are sections for 'Registration' and 'MySSSC', each with a 'Find out about registration' or 'Login to MySSSC' button. A photo of two people in a residential care setting is also visible.



www.sssc.uk.com

- 'What happens if you are complained about?' booklet
- 'Attending a sub-committee' booklet
- Indicative Sanctions Guidance.
- Publicity Policy
- Details of officer imposed sanctions and Sub-committee decisions.
- Details of up-coming hearings and information regarding the sub-committee process.
- Details of registrants currently subject to interim measures.
- Codes of Practice for employers and social service workers.



ANY QUESTIONS?

Contact details:

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Fitness to Practise Department
Compass House
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Dundee
DD1 4NY

Phone: 0345 60 30 891

email: conduct@sssc.uk.com