



Memorandum of Understanding

between

The Care Inspectorate (CI)

and

The Scottish Social Services Council (SSSC)

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1. Approval and Revision History

This document was prepared by:

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It was approved by:

Name	Organisation	Role	Signature	Date of Approval
Karen Reid	CI	Chief Executive		04/09/17
Anna Fowlie	SSSC	Chief Executive		28.08.17

Its revision history:

Date	Description of revision	Document updated and circulated by	Updated Document approved by	Date of Approval

2. Introduction

This Memorandum of Understanding (MoU) sets out how the Care Inspectorate (CI) and the Scottish Social Services Council (SSSC) will share information relating to their respective responsibilities for regulating social care services and the social service workforce. It also covers the CI's duty to scrutinise and improve social care and social work services. This MoU is complementary to the Partnership Agreement adopted by both bodies in 2012 that sets out their respective and aligned responsibilities and how they will work together in meeting them.

The CI and the SSSC share information in order to:

- fulfil their delegated functions in terms of the Regulation of Care (Scotland) Act 2001 and the Public Services Reform (Scotland) Act 2010 and in relation to their roles as providers of Official Statistics in

terms of the Statistics and Registration Services Act 2007 and the Public Services Reform (Scotland) Act 2010.

This exchange will be governed by a separate arrangement between the CI and SSSC.

3. Scope of the MoU

This MoU does not affect existing statutory functions or amend any other policies or agreements relating to the activities of the CI and the SSSC. It does not imply any transfer of responsibility from one to the other, nor any sharing of statutory responsibilities. It does not restrict the exercise of each body's respective statutory responsibilities.

This MoU is not enforceable by law. However, the CI and the SSSC agree to adhere to its principles and to show proper regard for each other's activities.

4. Responsibilities of each body

The CI is the independent scrutiny and improvement body for social work and social care services. The SSSC is the regulator for social workers, social services workers and social work students in Scotland. The detailed responsibilities and functions of each body are set out in the Appendix 1.

5. Information Exchange

5.1 General

The CI and SSSC will share information as set out in the Operational Guidance for Data Sharing (Appendix 2).

The CI and SSSC will review this MoU every 3 years or earlier if required and will annually review the Operational Guidance each January. Both organisations will meet as required throughout the year to discuss or review issues as they arise.

Responsibility for maintenance of this MoU rests with the approvers noted in Section 1. Responsibility for conducting the annual review and agreeing proposed changes for approval any changes rests with the Executive Director of Scrutiny & Assurance with the CI and the Director of Fitness to Practise with the SSSC as above.

5.2 Purpose

The purpose of exchanging information is to support each body in the exercise of its statutory duties.

5.3 Data Protection, Freedom of Information and Human Rights considerations.

- a. This MoU shall be construed and applied in accordance with the Data Protection Act 1998 (DPA), the Human Rights Act 1998 and the Freedom of Information (Scotland) Act 2002 (FOISA).
- b. Where either body receives information from the other under this MoU and holds or uses that data for its own purpose, the body receiving the data becomes the "data controller" for the purposes of the DPA.
- c. Where either body receives information from the other under this MoU that relates to an identifiable individual, in order that the receiving body can then process that information on behalf of the disclosing body, the receiving body will become the "data processor" for the purposes of the DPA and will:
 - i. only use the data for the purposes set out in this agreement subject to any requirement that the data processor has to provide the information to third parties
 - ii. ensure that all proper organisational measures are in place to protect the data from unauthorised or unlawful use, or accidental loss, destruction or damage
 - iii. ensure that all employees who may have access to the data are aware of their duties under the DPA and this MoU.
- d. In all cases, the minimum personal information necessary for fulfilment of the purposes set out in this MoU should be exchanged and care should be taken to redact the information of third parties whose identity is not relevant.
- e. If either body considers the information to be particularly sensitive for any reason the information exchange should be authorised by the person with strategic responsibility for information exchange set out in 5.7 below.
- f. The CI and SSSC are subject to the terms of the FOISA and may be obliged to disclose information provided in terms of this MoU. They agree to consult each other in the event that disclosure of information in terms of a FOISA request would be likely to affect the other's interests.
- g. Parties can agree to share information not set out within this MoU or for purposes outwith the scope of the MoU. Where this type of sharing occurs both parties must record what was shared and the purpose(s) of sharing that information.

5.4 Information that will not be shared

Neither the CI nor the SSSC will disclose the content of Disclosure Scotland or Protection of Vulnerable Groups checks to the other body without the express consent of the person to whom the checks relate.

5.5 Data quality

Information provided by the SSSC and the CI is collected from a wide range of sources. Information is subject to checks and every effort will be made to ensure the accuracy of the information. Where there is any doubt as to the accuracy of the information being provided, this will be made clear.

Where the recipient body becomes aware that information provided is not accurate they shall inform the providing body. The providing body shall either note the inaccuracy or where the error relates to statistical matters take all reasonable steps to correct the inaccuracy and inform the other body that this has been done. The providing body will take steps to ensure that the data is corrected with 14 days of notification and if this is not possible will keep the recipient body informed as to progress.

5.6 Security arrangements and retention

Unless otherwise agreed between the CI and SSSC, once exchanged information will be handled in terms of the receiving body's relevant data protection, data security and retention policies and procedures.

6. Practitioner Inspectors

The CI has introduced a trial of a new job role of Practitioner Inspector. In relation to this role it is agreed that:

- a. Individuals fulfilling this role are Authorised Persons as defined in section 56 of the Public Services Reform (Scotland) Act 2010.
- b. As Authorised Persons, they require to apply for registration as a SCSWIS Authorised Officer with the SSSC as soon as reasonably practicable after taking up their post.
- c. The SSSC will amend the eligibility criteria for admission to the register part for SCSWIS Authorised Officers to accept a relevant practice qualification in a health or social care discipline at SVQ 3 at SCQF level 7 or above.

- d. A Practitioner Inspector who is fit to practise will be registered for 2 years with a condition that they will complete two units from the Professional Development Award (PDA) in Scrutiny and Improvement Practice (Social Services) at SCQF level 10 or such other level as may be agreed by the CI Executive Director of Strategy and improvement and the SSSC Head of Learning and Development. Successful achievement of learning to be evidenced through completion of assessment carried out by CI assessors. The two units from the PDA award are:
 - i. Frameworks for Scrutiny Practice
 - ii. The Craft of Scrutiny
- e. The trial will last for 18 months from August 2017 and will be reviewed, the review commencing not later than 12 months after the commencement with content to be agreed by both organisations including:
- f. When endorsing an application for registration on the part of the SSSC register for SCSWIS Authorised Officers the CI will confirm whether the individual's job role is that of an Inspector or a Practitioner Inspector.

7. Disagreements

The CI and SSSC aim to resolve queries from each other within 10 working days.

Where a disagreement cannot be resolved, the person with strategic responsibility for information exchange from each body are jointly responsible for securing a solution acceptable to both organisations and where necessary referring matters to the Chief Executives of both organisations for resolution.

8. Signatures

Karen Reid

Chief Executive of the Care Inspectorate

Signed Karen Reid
Date 04/08/17

Anna Fowlie

Chief Executive of the Scottish Social Services Council

Anna Fowlie

Signed

Date 28 August 2017

Appendix 1: Responsibilities of the Care Inspectorate and the SSSC.

Care Inspectorate

The Care Inspectorate (CI) is the everyday name for Social Care and Social Work Improvement Scotland and is the body that regulates and inspects care services and carries out multi-agency, social work and child protection inspections.

- A. The CI regulates and inspects care and support services to ensure that people experience high quality, safe and compassionate care.
- B. The CI protects and promotes the rights of people using care services and their carers, including those whose rights are restricted under Adults with Incapacity legislation, in our role as corporate parents or with those who have limited communication abilities.
- C. The CI expects all providers to continuously improve and we take action to demand improvement where quality of care is poor, targeting our finite resources on poorly performing services.
- D. The CI signposts good practice and innovation by offering a range of resources to support improvement through our dedicated online portal 'The Hub' and in our regulatory, inspection and improvement activities.
- E. The CI reports publicly on our findings to provide assurance and protection on the quality of care and help people make confident and informed decisions.
- F. The CI makes independent and fair judgements based on risk using the rigour of our intelligence, evidence and professional expertise.
- G. The CI undertakes joint inspections of services for children and adults across community planning partnerships and holds chief officers responsible for working together effectively to promote the rights and meet the needs and choices of people living in local communities.
- H. The CI collaborates and co-operates with other scrutiny and delivery partners to deliver public value in our scrutiny and improvement activities.
- I. The CI registers care services that meet the standards set out in legislation, current best practice and our requirements to deliver high quality, safe and compassionate care.
- J. The CI investigates complaints about care providers and the Care Inspectorate.
- K. The CI works with people who use services and their carers and the public to listen and ensure that their views and experiences inform all our scrutiny and improvement activities.
- L. The CI uses our equality outcomes and action plan to ensure we eliminate discrimination and value everyone equitably.

- M. The CI advises Scottish Ministers and inform national policy, based on evidence from our scrutiny and improvement activities.
- N. The CI exercises our legal powers (and will continue to work with policy makers to ensure we have the necessary effective powers) to take action where acceptable standards are not met and act quickly to provide protection and assurance for people using services and their carers.
- O. When making any decisions under Chapters 1, 2 or 3 of the Public Reform (Scotland) Act 2010 (the 2010 Act), the CI has a duty in terms of section 50 (4) of the 2010 Act to take into account the Code of Practice for Employers published by the SSSC under section 53 of the Regulation of Care (Scotland) Act 2001.

SSSC

- A. The SSSC's principal functions are to regulate the social service workforce through registration and Codes of Practice and also to promote the education and training of social service workers.
- B. The SSSC has the general duty of promoting high standards of conduct and practice among social service workers; and in their education and training.
- C. The SSSC has a statutory responsibility to maintain a register of social service workers. Registration is mandatory for social workers and many categories of social service worker.
- D. In order to be registered, social service workers must meet a number of requirements for entry on to the register, including requirements relating to good character, conduct and competence.
- E. The SSSC has published a Code of Practice for Social Service Workers (the Code) that sets standards of care for registered workers. Once registered, workers must abide by the standards set in the Code and continue to meet the requirements for registration.
- F. The Council has a duty to investigate allegations of misconduct against a registered social service worker, or concerns about their fitness to practice as a social service worker.
- G. The SSSC will take account of the Code in considering issues of misconduct and decisions as to whether a registered worker should remain on the register.
- H. The SSSC has published a Code of Practice for Employers of Social Care Employers. The employer of a registered worker is required to take the Code of Practice for Employers of Social Service Workers into account in making any decision related to the conduct of that worker.
- I. The SSSC has a duty to produce workforce data reports in the exercise of its powers, including delegated powers, under the Regulation of Care (Scotland)

Act 2001 and in particular, those powers delegated under section 58 of that Act as amended from time to time and also for the communication and development work of the Council.



Appendix 2

Operational Guidance for Data Sharing

between

The Care Inspectorate (CI)

and

The Scottish Social Services Council (SSSC)

Roles responsible for information exchange

Body	Strategic Responsibility	Operational Responsibility
SSSC	Director of Fitness to Practise	Head of Fitness to Practise
	Director of Strategic Performance and Engagement	Head of Registration
CI	Executive Director of Strategy & Improvement	Information Governance Manager
	Director of Inspection	Chief Inspector (relevant specialist area)

Ref.	From	To	Information	Where Held	Responsible Post Holder	Purpose	Frequency
1			Registrants subject to fitness to practise action.				
	SSSC	CI	Where a registrant is registered as a Manager and is subject to a temporary order or a sanction, the SSSC will inform the CI of this fact and any additional information necessary to ensure public protection..	Fitness to Practise	Head of Fitness to Practise	To ensure public protection by providing the CI with information which may affect the CI's regulation of a care service.	Notified when the temporary order or sanction is imposed.
2			Information about any person working in a registered care service.				
	SSSC	CI	Any information about a person working in a service (whether registered with the SSSC or not) which the SSSC has a reasonable belief that it would be in the public interest to disclose to the CI.	Fitness to Practise	Head of Fitness to Practise	To ensure public protection by providing the CI with information which may affect the CI's regulation of a care service.	In response to each case

3			Information about a provider of registered care services or social workers.				
	SSSC	CI	<p>Information about a service that may come to the attention of a the SSSC and in its reasonable opinion be likely to affect the CI's regulation of a service, such as:</p> <ul style="list-style-type: none"> • Non-compliance with Required Registration and/or the SSSC's Code of Practice for Employers. • Information about practice within a service that has come to the attention of the SSSC. • Information identifying service managers who are required to be registered and who are not registered with the SSSC (or have not confirmed their registration with another relevant regulatory body.) • Information about the number of workers in any particular service who are registered with the SSSC, including the part of the 	Registration and Fitness to Practise	Heads of Registration and Fitness to Practise	<p>To ensure public protection by:</p> <p>Providing information to enable the CI to enforce provider compliance with The Registration of Social Workers and Social Service Workers in Care Services (Sctoland) Regulations 2013</p> <p>Providing the CI with information which may affect the CI's regulation of a service.</p> <p>Enabling the CI to check that managers are registered appropriately and qualified (or seeking to be.)</p>	As required

			register they are on.				
4			List of registered care services.				
	CI	SSSC	<p>A list of;</p> <ul style="list-style-type: none"> • all registered services • those cancelled since the last report 	Intelligence and Methodologies	Intelligence and Analysis Manager	<p>To promote high standards of education and training among social workers and social service workers by:</p> <p>Enabling the SSSC to maintain an accurate list of care services and thus ensure it is communicating with the full range of service providers and making them aware of their responsibilities in relation to registration and regulation of their staff and registrants on the function based parts of the Register are appropriately registered.</p> <p>To contact registrants registered to a care service known by the Care Inspectorate to be a cancelled service and confirm their employment status.</p>	Monthly
5			Fitness to practise of social service workers.				
	CI	SSSC	Information about the fitness to practise of a social service worker. The CI will advise the provider of their statutory duty to refer to the SSSC and will also make a referral to SSSC.		Caseholding inspector Complaints team	<p>To ensure public protection by.</p> <p>Providing information to the SSSC to enable them to make a risk assessment about a worker and carry out subsequent actions.</p>	In response to each case
6			Number of staff in each job description in a				

			registered care service.				
	CI	SSSC	Data on all staff working in registered care services, plus data on the service and organisation that it is a part of.	Intelligence and Methodologies	Intelligence and Analysis Manager	To enable the SSSC to produce statistical analysis or to carry out research which is relevant to the responsibilities and role of the Council in exercise of its powers, including delegated powers, under the Regulation of Care (Scotland) Act 2001 and in particular, those powers delegated under section 58 of that Act as amended from time to time and also for the communication and development work of the Council."	Annually
7			Intelligence Sharing				
	SSSC	CI	Trend analysis of fitness to practise referrals and outcomes	Strategic Performance and Engagement	Head of Strategic Performance and Engagement	To inform risk-based assessment methodology.	As developed

