

Information for social workers and social care workers who have been referred to the Social Care Council's Fitness to Practise (FtP) Committee

A fitness to practise hearing has been arranged to consider the allegation(s) against you, and we are sending you this leaflet to help you understand what will happen and to help you prepare for the hearing. You are entitled to attend the hearing and to be represented, to give evidence, to cross examine Council witnesses and to call your own witnesses. You should read this Guidance carefully and in conjunction with the Northern Ireland Social Care Council Fitness to Practise Rules which have been sent to you, and which are also available on the Social Care Council website, www.niscc.info.

Hearings are held in public and can attract media interest. If any members of the media are present, they are not permitted to approach you or your representative while on the Council's premises. In line with our Publication and Disclosure Policy, the decision will be published on our website. If your hearing is being held under the Health Procedure it will be held in private, meaning that no observers are permitted to attend. The decision will still be published on our website although in redacted form.

Why happens next?

You have been sent a **Notice of Hearing** which gives you the date, time and venue of the hearing and which sets out the '**Particulars of the Allegation**' against you. The '**Particulars of the Allegation**' set out what you are alleged to have done, and the **hearing bundle** which you have been sent contains the **evidence** which the Council will be using to try to prove the allegations. You should read the Notice of Hearing and the hearing bundle very carefully. If there is anything in the hearing bundle which you

do not agree with, you must contact us without delay.

The FtP Committee

The FtP Committee is made up of a Chair and two Committee Members. One of the Committee Members is a registered social care worker. The other Member and the Chair are lay people, meaning that they do not work in social care and are not on the Social Care Register. No Committee Member who has considered your case at a previous Committee will sit as a Member at your hearing.

The FtP Committee is independent of the Council.

The Committee is assisted by a Legal Adviser, who is a qualified solicitor or barrister. The Legal Adviser's role is to provide advice to the Committee on points of law and procedure, and to make sure that the Committee acts fairly and in accordance with the law. The Legal Adviser does not make any decisions regarding your case.

Seven days before the date of the hearing, the Committee Members are sent a copy of the Notice of Hearing and the hearing bundle. They will also receive any evidence that you send in.

Procedure at the Hearing

Hearings are formal and you are entitled to attend the hearing and speak to the Committee yourself or be represented by a solicitor, barrister or trade union representative. **If you attend the hearing, you should bring along all of the papers which have been sent to you.** If you do not attend, the Committee can proceed in your absence as long as they are satisfied that we have sent you the Notice of Hearing and that reasonable efforts have been made to inform you of the hearing.

The hearing is heard in 3 stages:

1. Finding of Facts
2. Fitness to Practise
3. Mitigation and Sanction.

Stage 1: Finding of Facts

At the beginning of the hearing, the Chair of the Committee will introduce him / herself, the other

Committee Members and all others in the room. The Chair will read out your full name and registration number and ask you (or your representative) to confirm that the information is correct.

The Clerk will read out the Particulars of the Allegation. The Chair will ask you if you admit any or all of the allegations. If your answer is 'no', then the Chair will ask the Council's Solicitor to present the Council's case.

The Council's Solicitor presents the evidence which it has in relation to the Particulars of the Allegation. This may include calling witnesses. You or your representative may cross-examine the Council's witnesses.

The **burden** to prove the facts is on the Council. This means that the Council has to prove that the allegations are true - you do not have to prove that they are not true. The Committee makes its decision based on the oral and documentary evidence which it hears from both Parties. The **standard of proof** required is the **balance of probabilities** (i.e. that the facts alleged are more likely to be true than not). If you decide not to attend the hearing, the Committee will only have the Council's evidence upon which to base its decision and will not have the opportunity to hear your version of events and take them into consideration.

After the Council has presented its case, you will have the opportunity to present your case and also to call any witnesses which you may have. The Committee will then withdraw for private discussion to determine whether or not the Particulars of the Allegation have been proved.

The Committee will return to the hearing room to announce their decision on the facts – this can take some time as they will discuss in detail, and carefully consider, all of the evidence which they have heard and read before they make a determination.

If the Committee finds that the Council has not proved its case, the hearing is concluded and the fitness to practise proceedings against you are at an end, with the result being that your registration with the Council is unaffected. If, however, the Committee finds that some or all of the facts have been proved, the hearing

continues to the second stage: Fitness to Practise.

Stage 2: Fitness to Practise

If the Committee finds the facts proved, the next step is to consider whether your fitness to practise is impaired. Considering impaired fitness to practise means that the Committee needs to decide if the facts which they have found proved call into question your suitability to remain on the Register, or to remain on the Register without conditions attached to your registration, because of one or more of the following reasons:

- Misconduct;
- Lack of competence;
- Physical or mental health;
- A conviction or caution in the UK for a criminal offence, or a conviction elsewhere for an offence which, if committed in the UK, would constitute a criminal offence;
- A determination by another regulator that your fitness to practise is impaired;
- Inclusion on a list maintained by the Disclosure and Barring Service.

The Committee needs to decide whether the facts which they found proved at Stage 1 of the hearing (i.e. the Particulars of the Allegation) affect your ability to work as a social worker or social care worker or whether, despite the facts being proved, there is no issue with your fitness to practise.

If you attend, the Chair will ask you if you admit that your fitness to practise is impaired. If your answer is 'no', the Chair will ask the Council's Solicitor to address the Committee on the issue of **impairment**. The Council's Solicitor will tell the Committee which **Standards of Conduct and Practice** he / she thinks that you have breached, and will try to persuade the Committee that your fitness to practise is **impaired** because of those breaches.

You or your representative will then be given the opportunity to address the Committee on the matter.

The Committee will withdraw to discuss the issue in private. When making its decision, the

Committee will take into account the Standards of Conduct and Practice which all social workers and social care workers must adhere to. The Committee will also think about the following questions:

1. Have you acted in such a way that would pose a risk to service users?
2. Have you brought the profession into disrepute and / or are you likely to in the future?
3. Have you breached one of the fundamental principles of your profession and / or are you likely to in the future?
4. Can your integrity be relied upon?
5. Is the conduct / practice which led to the allegation(s) against you easily remediable (that is, easy to be put right)? Has it been remedied? How likely is it to be repeated?

The Committee has a booklet called '**Making a Determination of Impaired Fitness to Practise: Guidance for Committees on Remediation**' to guide them when making their decision. This booklet has been sent to you with your Notice of Hearing and is also available on the Fitness to Practise section of our website.

As before, the Committee will return to the hearing room to announce its decision.

If the Committee finds that your fitness to practise is not impaired, the hearing is concluded and the proceedings against you are at an end, with the result being that your registration with the Council is unaffected. If, however, the Committee finds that your fitness to practise is impaired, the hearing continues to the third stage: Mitigation and Sanction.

Stage 3: Mitigation and Sanction

Initially, the Chair of the Committee will ask the Council's Solicitor if the Council has held any proceedings against you before. The Chair will then invite the Council's Solicitor to address the Committee on the issue of sanction. During the Council's Solicitor's submission, he / she will refer the Committee to the Social Care Council's **Indicative Sanctions Guidance**, a copy of which is available on the Fitness to Practise section on our website and which has been sent to you with your Notice of Hearing.

You will be given the opportunity to address the Committee about any mitigating circumstances and factors which you feel the Committee should consider. You may call character witnesses and / or provide written references or testimonials. If you do not plan to attend the hearing, you can still provide information or references to the Committee by sending them to the Committee Clerk before the hearing.

As before, the Committee will then withdraw to make its decision. The Committee will take the Indicative Sanctions Guidance into consideration when making its decision. The options open to the Committee are as follows:

- Impose no sanction; or
- Place a Warning on your registration for a specified period of up to 5 years. You would still be able to work in social work or social care; or
- Impose a Conditions of Practice Order on your registration for a specified period. This would mean that you would still be able to work but there would be certain restrictions; or
- Impose a Suspension Order, which would mean that your registration would be suspended for a specified period of time and you would not be able to work as a social worker or a social care worker during this time; or
- Impose a Removal Order, which would mean that your registration would be removed from the Register. This means that you would not be able to work in social work or social care. You would not be able to apply to come back onto the Register for a period of 5 years from the date of removal.

Appeal

If your hearing reaches Stage 3 and the Committee imposes a sanction, you have the right to appeal the decision to the Care Tribunal. An Appeal Form is sent to you with formal notification of the Committee's determination after the hearing.

Giving Evidence

Any person giving evidence at the hearing is required to be sworn or affirm.

Character References

If you submit character references for the Committee's consideration, they should be originals and must be received at least 14 days before the date of the hearing. Contact telephone numbers for each referee must also be provided as all referees will be contacted in advance of the hearing for verification purposes.

Failure to submit the references in time or without contact details may mean that verification is not possible, and as a result the Committee will decide how much weight to place on them.

Documents and Statements

If you submit official documentation such as medical reports, transcripts of disciplinary hearings, appraisal documents etc., or written statements from yourself or others, these should be **originals**. You may submit photocopies in advance as long as the originals are available to the Committee at the hearing. Documents submitted should be in full and not extracts.

All statements should be **signed and dated** by the author and contain the following declaration:

'I believe that the facts stated in this statement are true'.

Any documents which you wish to submit must be sent to the Committee Clerk no later than 14 days before the hearing.

What Should You Do To Prepare For The Hearing?

You should prepare your case before attending the hearing by reading very carefully through the hearing bundle which has been sent to you. The hearing bundle has been put together by the Council's Solicitor and the Fitness to Practise Officer who is dealing with your case. It contains all of the documentary evidence which the Council believes it needs to prove its case against you. **If there is any information within the hearing bundle which you object to, you must contact the Committee Clerk without delay.** If

you have any documentary evidence which you intend to put before the Committee, you or your representative needs to send this to the Committee Clerk no later than 14 days before the date of the hearing, and to bring six copies to the hearing.

If you are representing yourself at the hearing, you should be prepared to present your case to the Committee and to cross-examine the Council's witnesses (if there are any). When presenting your case and cross-examining witnesses, you will be required to adhere to rules of evidence, including rules around admissibility and hearsay evidence. Your evidence must be relevant in that it must be directly related to the Particulars of the Allegation.

Representation

Presenting your own case can be a difficult and daunting task if you do not have a background in these types of proceedings, which is why we would strongly encourage you to engage the services of a trade union representative, solicitor or barrister to present your case for you.

You should arrange to meet with your legal or union representative as soon as possible to check that they are able to represent you on the date which has been arranged. They will also need to see the hearing bundle which has been sent to you. We cannot post a copy of the bundle to your representative although we can send a copy by secure, encrypted email if we have written permission from you to do so. Your representative will need to sign up to the HSC encryption service to open this email. Please note that we are unable to provide confidential information by any other means.

What Happens Now?

You should read all of the documentation which we have sent you very carefully. You can call us on 028 9536 2933 and we will be happy to discuss any aspect of the hearing but please note that we will not be able to offer you any advice.

You should complete and return the Attendance Form which was sent with this leaflet so that we can make appropriate arrangements and liaise with your legal or trade union representative in advance of the hearing.

Contact Details / Receiving Post

It is a requirement of your registration that you notify us if you change your address or other contact details. It is especially important now as you are undergoing fitness to practise proceedings and we must be able to send you important documentation. We are required to send this documentation to the address which we hold for you. If Royal Mail returns documents to us which we sent by Special Delivery and which were not signed for or collected, we will send them again by first class post. You should be aware that fitness to practise proceedings will continue as long as we have made all reasonable efforts to contact you, and you may miss the chance to defend yourself against the allegations.

Address for Correspondence

Please address all correspondence to the Committee Clerk and send it to the following address marked **PRIVATE AND CONFIDENTIAL**. Please quote your name and registration number in all correspondence:

Committee Clerk
Northern Ireland Social Care Council
7th Floor Millennium House
19 – 25 Great Victoria Street
BELFAST
BT2 7AQ

The Committee Clerk can also be contacted on 028 9536 2933 if you have any queries at any stage of the process.

Please note that due to the Covid-19 pandemic, all Social Care Council Committees are currently being held remotely. This guidance should be read in conjunction with the Northern Ireland Social Care Council Registration & Fitness to Practise Proceedings COVID-19 Arrangements.