

Northern Ireland



Northern Ireland Social Care Council

Fitness to Practise Disclosure and Publication Policy

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DOCUMENT CONTROL SHEET

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Fitness to Practise Disclosure and Publication Policy

Introduction

1. This policy sets out the approach of the Northern Ireland Social Care Council (Social Care Council) to the routine disclosure and publication of fitness to practise information about social workers, social care workers and social work students on our Register. In this policy, we refer to the social workers, social care workers and social work students on our Register as 'registrants'.
2. This policy replaces the NISCC Disclosure Policy, Version 2.1.

Key Aims and Principles

3. The aims of this policy are:
 - To outline our approach to the routine publication of fitness to practise information;
 - To outline our approach in relation to the routine disclosure of fitness to practise information to interested parties;
 - To outline our approach in relation to individual requests for disclosure of fitness to practise information.
4. When making decisions on what to disclose, we adhere to:
 - **Our legal obligations** – we will comply with our legal responsibilities in relation to the disclosure of information.
 - **Proportionality** – we are committed to ensuring that information which is disclosed is appropriate and proportionate. It is important to achieve the correct balance between the rights of the registrant and the need to consider what is in the public interest.
 - **Transparency** - we will be transparent about our processes, and will publicise the fitness to practise decisions which are made.
5. We do not publish any personal sensitive information relating to the health of a registrant. This information is treated as confidential regardless of whether a fitness to practise hearing is held in public or private.

Legal Framework

6. There are a range of statutory provisions that limit or prohibit the disclosure of information in specific circumstances and, similarly, a range of statutory provisions that require information to be disclosed.
7. This policy has been written in compliance with the following legal requirements and best practice guidance:

- Health and Personal Social Services Act (NI) 2001
 - Public Interest Disclosure (Northern Ireland) Order 1998
 - Data Protection Act 2018
 - Freedom of Information Act 2000
 - Human Rights Act 1998
 - Department of Health (DoH) Code of Practice on Protecting the Confidentiality of Service User Information April 2019
 - Common Law Duty of Confidentiality
 - Information Commissioner's Office 'Anonymisation: Managing Data Protection Risk Code of Practice'
 - Social Care Council Fitness to Practise Rules
 - Social Care Council Standards of Conduct and Practice.
8. Article 8 of the European Convention of Human Rights, incorporated in the Human Rights Act (1998), provides that everyone has the right to respect for his or her private life. A public authority can only interfere with this right if it acts in accordance with the law and if it is necessary in the interests of public safety, for the protection of health, or for the protection of the rights and freedoms of others. We have balanced the public interest in publishing fitness to practise information with the privacy rights of our registrants, and have set out in this policy when we will publish information and for how long.

Publication of Information

9. Fitness to practise information is published in three places:
- Via the 'Check the Register' online search facility on the Social Care Council website¹;
 - Via the 'Interim Orders' page on the Social Care Council website;
 - Via the 'Hearings and Decisions' page on the Social Care Council website.
10. Decisions on applications to the Register which have been refused are not published.

Public Facing Register

11. The Public Facing Register (PFR) on our website is a list of all registrants who have a current and effective registration with the Social Care Council. This means that their registration fees have been paid and that their registration is up to date. If a registrant's registration has lapsed, it will not appear in the online search results.
12. A registrant who does not pay their annual fee or apply for renewal is usually removed from the Register and will no longer appear in the online search results. A 'lapsed' registrant is a registrant who has not paid their annual fee or applied for renewal but is subject to a fitness to practise investigation. Lapsed registrants are not removed from the Register for non-payment or non-renewal until the fitness to practise investigation has concluded. If the investigation results in no sanction, the

¹ www.niscc.info

lapsed registrant will be removed for non-payment or non-renewal and no longer appear in the online search results. If the investigation results in a Removal Order, they will appear as 'removed'.

13. The PFR discloses a registrant's full name, registration number, town of employment, part of the Register and status of registration.
14. The PFR indicates whether a registrant has conditions (restrictions) on their practice or has been removed from the Register. If a registrant has conditions placed on their practice, including interim conditions, this will appear against their entry on the PFR as 'Registered with Conditions'. Details of action we have taken in the past may also appear on the Register, including where someone has been removed from the Register by a Fitness to Practise Committee.
15. All registration status details displayed online are fully explained in an online glossary below the search option.
16. No information will be displayed about deceased individuals once we have received formal notification of their death and have had a reasonable opportunity to amend the Register.
17. Details of all sanctions imposed, undertakings agreed and all removal by agreement decisions which no longer display on our website are kept on record and may be disclosed to employers and other enquirers on request indefinitely where it is in the public interest for us to do so. The only exceptions to this are where the information relates to a registrant's health, or where an Interim Order was imposed but the case was subsequently closed without a finding of impairment.
18. The PFR will not indicate whether a registrant is the subject of an ongoing fitness to practise investigation as this information remains confidential until the case is referred for adjudication or unless an Interim Order is imposed.

Consensual Disposals

19. Instead of referring a case to the Fitness to Practise Committee, we may decide that there are alternative ways of addressing concerns with a registrant's conduct or practice, for example by issuing a warning or agreeing undertakings or removal from the Register.²
20. When a registrant's case is dealt with in this way, their entry in the PFR will reflect the disposal which has been made or agreed, and details of the decision will be uploaded onto the 'Hearings and Decisions' page of the website. Information relating solely to the registrant's health will not be published.
21. We publish details of these disposals subject to the following time limits:

² <https://niscc.info/storage/resources/consensual-disposal-guidance-for-ftp-officers.pdf>

Sanction	Publication Period	Notice of Decision Published?
Warning	Until expiry	Yes
Undertakings	For five years from the date of agreement or upon release	Yes
Removal by Agreement	For five years from the date of removal	Yes

Forthcoming Hearings

22. We publish information about upcoming fitness to practise hearings on our website on the 'Scheduled Hearings' page. We do this as soon as possible after service of the Notice of Hearing. We publish the following information:
- The registrant's name, registration number and the part of the Register on which they appear;
 - The date, time and venue for the hearing;
 - The type(s) of allegation against the registrant.
23. We do not (and are not obliged to) publish detailed particulars of the allegation against a registrant before the hearing starts, as we consider that putting such information into the public domain at this stage is disproportionate and can be prejudicial to a registrant as charges may be amended in advance of or during the hearing and / or not proved by the Social Care Council.
24. We also publish information about upcoming restoration hearings on the 'Scheduled Hearings' page as soon as possible after service of the Notice of Hearing. We publish the registrant's name, former registration number, part of the Register, and the date, time and venue of the hearing.

Fitness to Practise Hearing Outcomes

25. Hearings before the Fitness to Practise Committee are generally held in public and members of the public and media are permitted to attend. Hearings held under the Health Procedure are held in private and are not open to the public. There may be times during a public hearing where the Committee is of the view that individuals not connected with the hearing should withdraw from the whole or any part of the proceedings for confidentiality reasons³. Decisions are announced in public whether or not all or part of the hearing was held in public.
26. After the conclusion of a fitness to practise hearing, the 'Hearings and Decisions' page of our website is updated to show the decision and full reasons. Where a sanction has been applied, the registrant's entry on the PFR is updated to reflect the decision.

³ Schedule 2, Para 10 of the Northern Ireland Social Care Council Fitness to Practise (Amendment) Rules 2019

27. Full decisions are published subject to the following time limits:

Sanction	Publication Period	Notice of Decision Published?
Warning imposed by Fitness to Practise Committee	Until expiry	Yes
Conditions of Practice Order	Until expiry	Yes
Suspension Order	Until expiry	Yes
Removal Order	For five years from the date of imposition of the Order	Yes
Successful Appeals	For one month	Yes
Facts not found or impaired fitness to practise not found	For one month	Yes
Interim Order	Until expiry	No

28. Where an Order is reviewed at a review hearing, any extensions or variations to the Order will be published on the 'Hearings and Decisions' page of our website and against the registrant's entry in the Register subject to the same time limits set out above.

29. The decision and reasons in the published decision will not include any information relating to the registrant's health unless they have explicitly asked for this information to be included. Information relating to health will be redacted from all published decisions.

Interim Orders

30. Details of upcoming Interim Order hearings are not published on our website. Interim Order hearings are generally held in private and are not open to the public.

31. Detailed decisions on Interim Order hearings are not published as these hearings do not make findings of fact, and no information is published when an Interim Order is not made. When an Interim Suspension Order is imposed, we will publish the registrant's name, registration number, part of Register and the date on which the Interim Order was imposed on the 'Interim Orders' page of our website. When an Interim Conditions of Practise Order is imposed, the public conditions are also published.

32. No other details pertaining to the investigation will be published at this time. Once an Interim Order is no longer in effect, details will be removed from the website as soon as practicable.

33. The Interim Order will appear against the registrant's entry on the PFR for the duration of the period of the Order.

Restoration Hearings

34. A registrant may apply to be restored to the Register five years after they have been removed following a fitness to practise sanction or disposal. Their application will be referred to the Restoration Committee for a restoration hearing. A restoration hearing is held in public where the Fitness to Practise hearing at which the Removal Order was imposed was held in public unless there is a need to hold the hearing in private due to health issues.
35. At the conclusion of a restoration hearing, the 'Hearings and Decisions' page of our website is updated to show the decision and full reasons, whether the application for restoration was successful or not. The full decision will be published for six months if the application was successful and for one month if unsuccessful.
36. Where restoration is granted subject to conditions, the public conditions will be published on our PFR.

Publication Periods

37. Once the publication period is over, an archive will be retained on the website to continue to provide a historical record of a fitness to practise determination. The archive section of the website will only publish the following information about a determination:
 - Name of registrant
 - Date of determination
 - Registration number
 - Part of register
 - Determination
38. Once archived, the full 'Notice of Decision' will no longer be available on the website, but may be still accessible via a Freedom of Information request.

Monthly Alert Spreadsheet

39. A monthly alert spreadsheet is issued to social work and social care employers and other interested parties to alert them to changes to the Register as a result of fitness to practise proceedings in the last calendar month.
40. The spreadsheet contains the following details:
 - Name, registration number and Register part;
 - Sanction or Interim Order applied, date of application and expiry date (if applicable).

Disclosure of Information

Employer Checks

41. Employers are expected to check a social worker or social care worker's registration with the Social Care Council before first employing them. Employers can verify the registration status and details of any conditions of practice of prospective employees by calling our Fitness to Practise team. They may be asked to confirm their identity.
42. In addition to the information published on the PFR and on the 'Hearings and Decisions' page of our website, we may disclose to employers or prospective employers information about any fitness to practise concerns that are currently under investigation but are not subject to an Interim Order, either as part of our investigation work or on public interest grounds.

Disclosure of information about a specific case

43. Any requests for information that the Social Care Council holds within a case file about a specific case will be considered under the Data Protection Act 2018 (DPA).
44. Information about cases closed by the Preliminary Proceedings Committee or by the Social Care Council will normally be considered exempt under relevant legislation⁴.
45. The Social Care Council may be required by law to provide information to other statutory bodies, for example via a Court Order.
46. We are happy to provide a registrant's representative with a copy of the papers which are going before a Committee ('the bundle'). A request for the bundle or any other documentary information to be provided to a registrant's representative must be submitted in writing by post or email by the registrant. No information will be shared with a representative unless we have received written consent from the registrant. Bundles and any other documentary information will be provided electronically and will not be posted to representatives.
47. No specific information will normally be disclosed to anyone not involved in a hearing before, during or after the hearing regarding any aspect of the hearing, save what is published on the 'Scheduled Hearings' and 'Hearings and Decisions' pages of our website and on the online Register.

Record of Fitness to Practise Hearings

48. All fitness to practise hearings are recorded. Upon application, we will send to the registrant and the person making the allegation an electronic record of any part of the proceedings at which the registrant or, as the case may be, the person making the allegation, was entitled to be present, free of charge⁵.

⁴ For Subject Access Requests, this would normally be considered exempt under Schedule 2, Part 2, Paragraph 7 of the Data Protection Act 2018. For FOIA requests, this would normally be considered exempt under Section 40 of the Freedom of Information Act 2000.

⁵ Schedule 2, Para 28 (2) of the Fitness to Practise (Amendment) Rules 2019

49. Any person or organisation may request a transcript of any public session of a hearing but the cost of preparing the transcript will usually need to be borne by the person or organisation in advance of receiving the transcript. It is not normally possible to estimate the cost of the production of a transcript in advance of it being transcribed.

Media Enquiries

50. All media enquiries are dealt with by our Communications and Engagement team, who can be contacted by email at comms@nisc.hscni.net or by telephone on 028 9536 2600. General information for the press and public about how our fitness to practise procedures work can be found on our website.

Information which we don't publish

Information about a registrant's health

51. We do not publish any information relating to the health of a registrant unless they explicitly ask for this information to be published. This information is treated as confidential regardless of whether the fitness to practise hearing was held in public or private. If information about a registrant's health is disclosed during any part of a hearing that is held in public, it will be redacted from the published decision and reasons. We will also not publish any undertakings or conditions of practice which relate to a registrant's health.

Witnesses and other third parties

52. The names of service users, relatives, complainants in sexual cases and children are anonymised throughout a hearing and in all hearing documents. The names of other witnesses and third parties are not anonymised during a hearing but are normally anonymised in the decisions and reasons published on our website.
53. Where witnesses, service users or third parties have particular vulnerabilities, we will take care to ensure that individuals cannot be readily identified from the published reasons.
54. The anonymisation of witness details follows the Information Commissioner's Office Code of Practice on Anonymisation.
55. Details of a witness may be passed to another regulatory body, the Disclosure and Barring Service or to an appeal body on a confidential basis.

Committee Deliberations

56. No written records are held of the private discussions of a Committee and no information is available for disclosure to any person. The Legal Adviser to the Committee maintains a record of any advice given to the Committee in public and in private, and it is contained within the decision which is provided to the registrant.

Requests not to publish fitness to practise information

57. There is a strong public interest in publishing the decisions and reasons of the Fitness to Practise Committee. We consider that the publication periods set out in this policy strike the right balance between us fulfilling our functions as a transparent and accountable regulator and the rights of the individuals involved in our fitness to practise proceedings.
58. For this reason, registrants will generally not have the right to object to the publication of the findings of a Fitness to Practise Committee. However, there may be exceptional circumstances where the negative impact on individuals affected by full disclosure outweighs the public interest in doing so, and where departing from our general approach would be justified. Any objection to publication would need to be supported by evidence of the exceptional circumstances resulting from publication and, based on the evidence provided, a decision on publication would be made by our Senior Leadership Team. Limited information may be published on the website or press releases issued.

Internet Search

59. Details of decisions are archived on our website in accordance with the publication periods set out in this policy. However, many internet search engines, such as Google, Bing, Yahoo etc. manage information by 'caching', which involves storing a snapshot of a webpage in a database and then refreshing that snapshot periodically. In consequence, historical Social Care Council webpages may remain available on internet search engines (which are not within our control) after they have been removed from our website.

Endorsement and Review

60. This policy was endorsed by the Board on [insert date].
61. This policy will be reviewed every three years. The next review should take place by June 2024.

Equality

62. This policy has been screened for equality implications as required by Section 75 and Schedule 9 and of the Northern Ireland Act 1998 and is not considered to require a full impact assessment. Equality Commission guidance states that the purpose of screening is to identify those policies which are likely to have a significant impact on equality of opportunity so that greatest resources can be devoted to these.