



## **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 Social Care Council's Fitness to Practise Disclosure and Publication Policy, Version 1.0.

## 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 seek to avoid publishing any personal data relating to the health of a registrant.

## 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

- UK General Data Protection Regulation (UK GDPR)<sup>1</sup>
  - 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
  - Justice (Sexual Offences and Trafficking Victims) Act (Northern Ireland) 2022<sup>2</sup>
  - 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 website<sup>3</sup>;
  - Via the 'Interim Orders' page on the Social Care Council website;
  - Via the 'Fitness to Practise 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. It also contains the name and SCR number of registrants who have been removed from the Register as a result of fitness to practise proceedings.
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.
13. A registrant who is subject to a fitness to practise investigation but has not paid their annual fee or applied for renewal is said to be 'lapsed'. Whilst lapsed registrants are not permitted to practise, they are not removed from the Register until the fitness to

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<sup>1</sup> Both the Data Protection Act 2018 and the UK GDPR will be referenced as 'data protection legislation' in the remainder of this document.

<sup>2</sup> Currently subject to Judicial Review. Awaiting judgement.

<sup>3</sup> [www.niscc.info](http://www.niscc.info)

practise process has concluded but a lapsed registrant's registration will not appear in the online search results on the PFR. If the investigation results in a Removal Order, they will subsequently appear as 'removed'.

14. The PFR discloses a registrant's full name, registration number, town of employment, part of the Register and status of registration.
15. Status of registration indicates whether a registrant:
  - Is registered without restriction;
  - Is registered with conditions on their practice;<sup>4</sup>
  - Has been suspended from the Register on an interim basis;
  - Is subject to an existing sanction imposed by the Fitness to Practise Committee or the Council i.e. a Warning, Undertakings, a Conditions of Practice Order or a Suspension Order;
  - Has been removed from the Register as a result of fitness to practise proceedings.
16. All registration status details displayed online are fully explained in an online glossary below the search option.
17. 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.
18. Details of all sanctions imposed or agreed which no longer display on the PFR are kept in line with retention schedules (as per Paragraph 54), and may be disclosed to employers and other enquirers with a legitimate reason on request where it is in the public interest for us to do so. We may not disclose 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.
19. 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 either listed for hearing or unless an Interim Order is imposed.

## **Registration Committees**

20. Registration Committee proceedings are held in private and decisions are not published.

## **Consensual Disposals**

21. Instead of referring a case to the Fitness to Practise Committee, we may decide that there are alternative ways of addressing concerns about a registrant's conduct

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<sup>4</sup> Additional information will show the type of condition which has been applied. The Council and the Registration Committee can impose time-bound conditions if there are concerns about the conduct, character, competence or health of an applicant at the time of registration, whilst AYE conditions apply to all newly qualified social workers and PiP conditions apply to all early career social workers.

or practice, for example by issuing a warning or agreeing undertakings or removal from the Register.<sup>5</sup>

22. 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 'Fitness to Practise Decisions' page of the website. Information relating solely to the registrant's health will not be published.
23. We publish details of these disposals subject to the following time limits:

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

24. We publish information about upcoming fitness to practise hearings on our website on the 'Scheduled Hearings' page. We aim to do this no later than seven days before the date of the 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.
25. 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 the particulars of the allegation may be amended in advance of or during the hearing and / or not proved by the Social Care Council.
26. We publish information about upcoming restoration hearings on the 'Scheduled Hearings' page to the same timescale as above. We publish the registrant's name, former registration number, part of the Register, and the date, time and venue of the hearing. Scheduled fitness to practise review hearings are also published, with the registrant's name, registration number and date, time and venue for the hearing.

## Fitness to Practise Hearing Outcomes

27. 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

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<sup>5</sup> [Consensual-Disposal-Guidance-for-FTP-Officers-1.pdf \(nisc.info\)](#)

not connected with the hearing should withdraw from the whole or any part of the proceedings for reasons such as confidentiality<sup>6</sup>. Decisions are announced in public whether or not all or part of the hearing was held in public.

28. After the conclusion of a fitness to practise hearing, the 'Fitness to Practise Decisions' page of our website is updated, normally within 14 days, to show the decision and reasons. Where a sanction has been applied, the registrant's entry on the PFR is updated to reflect the decision.
29. Full decisions are published subject to the following time limits:

<b>Sanction</b>	<b>Publication Period</b>	<b>Notice of Decision Published?</b>
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
Conditions of Practice Order / Suspension Order allowed to expire	For one month	Yes
Successful application for restoration without conditions	For three months	Yes
Successful application for restoration with conditions	For duration of conditions	Yes
Unsuccessful application for restoration	For one month	Yes
Facts not found or impaired fitness to practise not found	For one month	Yes
Interim Order	Until expiry or revocation	No

30. The Notice of Decision includes:
- Registrant's name;
  - Registration number;
  - Register part;
  - Date of hearing;
  - Committee's findings on the facts, determination on impairment and any sanction imposed, and the reasons for these findings.
31. Where an Order is reviewed at a review hearing, any extensions or variations to the Order will be published on the 'Fitness to Practise Decisions' page of our website and against the registrant's entry in the Register subject to the same time limits set out above.

<sup>6</sup> Schedule 2, Para 10 of the Northern Ireland Social Care Council Fitness to Practise (Amendment) Rules 2019

32. The decision and reasons in the published decision will not include any information relating to a registrant's health. Information relating to health will be redacted from all published decisions. The Council may also redact before publication other information to ensure that it is in compliance with the law.

### **Interim Orders**

33. 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.
34. 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 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 'Active Interim Orders' page of our website.
35. 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.
36. The Interim Order will appear against the registrant's entry on the PFR for the duration of the period of the Order.

### **Restoration Hearings**

37. 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, or to comply with any legal obligations.
38. At the conclusion of a restoration hearing, the 'Fitness to Practise 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 three months if the application is granted without conditions and for one month if the application is refused.
39. Where restoration is granted subject to conditions, the full decision will be published for the duration of the conditions.

### **Publication Periods**

40. We will remove from the website and the PFR all details relating to a case once the publication periods set out above have expired, with the exception of a registrant who has been removed from the Register. A registrant who has been removed from the Register as a result of a Removal Order or Removal by Agreement will remain on the PFR with a status of 'removed' unless and until they make a successful application to be restored to the Register, or until the information is



disposed of in line with the Department of Health Good Management, Good Records disposal schedule<sup>7</sup>.

41. Notwithstanding the publication periods, any information still held regarding a fitness to practise decision and reasons may still be accessible via a Freedom of Information request (subject to any applicable exemptions therein), as well as under provisions of subject access as set out in data protection legislation.

## **Successful Care Tribunal Appeals**

42. Where a successful appeal is made to the Care Tribunal against a fitness to practise decision, and the original decision is still published on our website, we will update the website to show the new outcome or, where relevant, remove the publication. We will aim to do this within one week of the date on which we are told about the Care Tribunal decision.

## **Name Changes**

43. Where a registrant is referred to us over concerns about their fitness to practise and they use, or intend to use, a different name from the name under which they were referred, the Senior Leadership Team will decide which name/s to include in our published information. This also applies in cases where:
- The person changes their name after a hearing and there is relevant published information about their fitness to practise on our website under their previous name;
  - There is a relevant consensual disposal outcome about them following fitness to practise concerns;
  - The person was removed from the Register under a different name and is now applying for restoration.

## **Monthly Alert Spreadsheet**

44. 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.
45. The spreadsheet contains the following details:
- Name, registration number and Register part;
  - Sanction or Interim Order applied (or revoked), date of application and expiry date (if applicable).

## **Disclosure of Information**

### **Employer Checks**

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<sup>7</sup> <https://www.health-ni.gov.uk/sites/default/files/publications/health/gmgr-disposal-schedule.pdf>

46. 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.
47. In addition to the information published on the PFR and on the 'Fitness to Practise 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**

48. Any requests for information that the Social Care Council holds within a case file about a specific case will be considered under data protection legislation.
49. Information about cases closed by the Preliminary Proceedings Committee or by the Social Care Council will normally be considered exempt under relevant legislation<sup>8</sup>.
50. The Social Care Council may be required by law to provide information to other statutory bodies, for example via a Court Order, or where it considers disclosure to be in the public interest, for example, to agencies such as the PSNI or RQIA.
51. We can provide a registrant's representative with a copy of the papers which are going before a Committee ('the bundle') following receipt of written consent from the registrant to do so. Bundles and any other documentary information will be provided to representatives electronically.
52. No specific information will 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 'Fitness to Practise Decisions' pages of our website and on the online Register. The exception to this will be in circumstances as set out in Paragraph 50.

### **Transcripts and Recordings**

53. All Social Care Council proceedings are recorded solely for the purposes of a transcript being required. The recordings are not available for disclosure to any person as we have a duty of care towards all of the participants involved in proceedings and a duty to ensure that data protection legislation is not breached. However, transcripts may be available for disclosure as follows:
  - **Fitness to practise hearings:** upon application, we will send to the registrant and the person making the allegation a transcript 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 charge. Any other person or

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<sup>8</sup> 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 Sections 36 and 40 of the Freedom of Information Act 2000.

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.

- **All other types of proceedings:** consideration will be given to requests for transcripts from registrants only for proceedings other than fitness to practise hearings. The cost of preparing the transcript will usually need to be borne by the registrant.

54. Recordings of proceedings will be deleted 12 months after a case has been closed, with the exception of recordings of fitness to practise hearings, which will be retained according to the timescales detailed in the Council's Retention and Disposal Policy.

## **Media Enquiries**

55. All media enquiries are dealt with by our Communications and Engagement team, who can be contacted by email at [comms@niscc.hscni.net](mailto:comms@niscc.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**

56. We do not publish any information relating to the health of a registrant. 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.

### **Information in relation to a victim of a sexual offence**

57. We do not publish any information in relation to a victim of a sexual offence, any information which could identify the victim of a sexual offence or the identity of any person suspected of such an offence unless that person is charged with such an offence in accordance with the Justice (Sexual Offences and Trafficking Victims) Act (Northern Ireland) 2022.

### **Witnesses and other third parties**

58. The names of service users, relatives, complainants in sexual cases and children are anonymised throughout a hearing. 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.
59. Where witnesses, service users or third parties have particular vulnerabilities, we will take care to, as far as practicable, ensure that individuals cannot be identified from the published reasons.

60. The anonymisation of witness details follows the Information Commissioner's Office Code of Practice on Anonymisation.

### **Committee Deliberations**

61. 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 and decisions not to publish fitness to practise information**

62. There is a strong public interest in publishing fitness to practise decisions and reasons. 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. For this reason, decisions will normally be published.
63. 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 request for non-publication needs to be received within seven days of a registrant being issued with the fitness to practise decision, and must be supported by evidence of exceptional circumstances which would be affected by publication and, based on the evidence provided, a decision on publication would be made by our Senior Leadership Team. Some limited information, such as any sanction imposed, may still be published on the website.
64. Even in the absence of a request not to publish, the Council may decide, in exceptional circumstances, that full publication of a decision and reasons could impact negatively on individuals, placing them at risk of harm or affecting the rights of privacy of third parties. In these exceptional circumstances, the Senior Leadership Team will balance the public interest against the impact of publication, and a decision may be taken to publish limited information or not to publish at all.
65. We will not publish any information in relation to a victim of a sexual offence, or any information which could identify the victim of a sexual offence.

### **Internet Search**

66. Whilst details of decisions are published on our website in accordance with the publication periods set out in this policy, 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. In addition, it is possible for an individual to download and retain a copy of a Notice of Decision beyond that timeframe, and the Social Care Council has no control over individuals in respect of this.

## **Endorsement and Review**

67. This policy was endorsed by the Board on 19 June 2024.
68. This policy will be reviewed every three years. The next review should take place by June 2027.

## **Equality**

69. 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.