

Title: Revised Fitness to Practise Disclosure and Publication Policy

Date: 19 June 2024

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ACTION REQUIRED

This Paper is	For approval
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SUMMARY

The Social Care Council has reviewed its Fitness to Practise Disclosure and Publication Policy to update its approach to the routine disclosure and publication of fitness to practise information about social workers, social care workers and social work students on our Register.

BACKGROUND

This is the first three-year review of the Fitness to Practise Disclosure and Publication Policy, which was approved by the Board on 30 June 2021. It focuses on the Social Care Council's approach to handling information which it holds for fitness to practise and hearing purposes, in order to be open and transparent with registrants and the public.

The Policy has been reviewed and amended in compliance with legal requirements and best practice guidance, has been assessed against similar policies adopted by other UK healthcare regulators, and covers all aspects of the circumstances in which a registrant's information will be published or disclosed.

KEY ISSUES AND IMPLICATIONS

The Social Care Council holds personal, sensitive information regarding its registrants for the purposes of fitness to practise proceedings. It is important that we set out clearly our procedures to inform and assure that we will disclose information in a proportionate manner, balancing the rights of registrants with the public interest, whilst complying with our legal obligations.

The main amendments which have been made to the revised Policy are as follows:

1. **Legal Framework (Paragraph 7)**

Legislation updated to include UK GDPR and the Justice (Sexual Offences and Trafficking Victims) Act (Northern Ireland) 2022.

2. **Public Facing Register**

Paragraph 15 has been added to clearly define the different types of status of registration (as mentioned in Paragraph 14).

3. **Registration Committees**

Paragraph 20 has been inserted to indicate that Registration Committee proceedings are private and that its decisions are not published. This was not contained within previous versions of the Policy.

4. **Fitness to Practise Hearing Outcomes – Publication Table**

The time limits contained within the publication table have been updated to include:

- Conditions of Practice Order / Suspension Order allowed to expire;
- Successful application for restoration without conditions;
- Successful application for restoration with conditions; and
- Unsuccessful application for restoration.

‘Successful appeals’ has been removed as it is now covered in more detail at Paragraph 42.

5. **Fitness to Practise Hearing Outcomes – Paragraph 30**

In the interests of transparency, Paragraph 30 has been inserted to set out what information is contained within the publication of a decision.

6. **Publication Periods – Paragraph 40**

Version 1.0 of the Policy advised that following the publication period as set out in the publication table, a record of a registrant’s sanction would continue to be accessible on the website albeit without access to the full Notice of Decision. Following legal advice received on the appropriateness of this approach, we will now remove from the website and the PFR all details relating to a case once the publication period at Paragraph 29 has expired, with the exception of a removed registrant, whose status on the PFR will continue to indicate that they have been removed.

7. **Successful Care Tribunal Appeals – Paragraph 42**

A new section has been inserted at Paragraph 42 to outline the process which is followed for the publication of successful Care Tribunal appeals.

8. **Name Changes – Paragraph 43**

A new section has been inserted at Paragraph 43 to deal with publication in circumstances where a registrant has changed their name during or after fitness to practise proceedings or restoration applications.

9. **Transcripts and Recordings – Paragraphs 53 & 54**

Paragraph 53 has been amended to set out that recordings of proceedings are not available for disclosure, whilst also advising that consideration will be given to requests from registrants to obtain transcripts of their proceedings other than fitness to practise hearings.

Paragraph 54 sets out the retention periods for recordings.

10. **Decisions not to publish – Paragraphs 62 – 65**

These paragraphs have been amended to enable the Senior Leadership Team, in exceptional circumstances, to take the decision not to publish in full, or at all, a decision even when a registrant has not made a request not to publish themselves.

ENGAGEMENT AND CONSULTATION

The Policy is based on best practice and has been benchmarked against similar policies of other UK health care regulators.

The Policy was discussed with the Participation Partnership at its meeting on 4th June 2024.

The Policy has also been reviewed by the Assistant Chief Legal Adviser in the Directorate of Legal Services within BSO, and additionally the information governance team within BSO has been engaged and is satisfied that the Policy meets our legal requirements.

RECOMMENDATIONS

That the Board review the Policy for approval.

ATTACHED DOCUMENTS AND/OR LINKS HERE

Paper L Appendix I - Fitness to Practise Disclosure and Publication Policy

Paper L Appendix II – Screening Report