



# **Northern Ireland Social Care Council**

## Registration and Regulation of the Social Care Workforce

Guidance for Employers

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## **About this guidance**

This guidance is intended to enable you as an employer to understand both your responsibilities and those of your staff in complying with the law in relation to regulation of the social care workforce.

Part One of the guidance outlines the responsibilities of both registrants and employers in relation to the registration process. Part Two outlines your responsibilities as an employer in reporting misconduct to NISCC and explains our process when allegations are made.

We aim to make our processes as open and clear as possible and are committed to working with you to agree the most effective ways to meet these responsibilities.

## **About us**

We are the Northern Ireland Social Care Council (NISCC). We were set up on 1 October 2001 under the Health and Personal Social Services Act (Northern Ireland) 2001 with the aim of protecting the public by regulating the social care workforce in NI. We achieve this through:

- maintaining an up to date register of the social care workforce
- setting standards for their training and practice
- taking appropriate action where workers do not meet expected standards of conduct

## **Part One – Registration of the Social Care Workforce**

### **Compulsory Registration**

We have registered the social care workforce in phases according to job role.

Currently the following groups of workers must be registered with us in order to work in their job role or attend their course of study:

- Social workers
- Social work students
- Social care managers of residential, day care and domiciliary care
- Residential child care workers
- Social care workers in adult residential or nursing home settings

Compulsory registration means that a social care worker must be registered before they can work in the specified social care posts.

The regulations<sup>1</sup> impose a requirement on providers not to employ people in specified positions unless they are registered in a relevant part of the NISCC Register. A provider who fails to comply with this requirement without reasonable excuse, will be guilty of an offence.

All other groups of social care workers can apply to be registered on a voluntary basis.

### **Employers' Responsibilities**

You have the following responsibilities in the registration process:

1. to decide who will verify and who will endorse applications
2. to notify us of any information you have which may lead to a change in the registration of an individual
3. to ensure that any registered social care workers you employ, including registrants with dual registration, have maintained their registration
4. to support registrants you employ to meet their PRTL requirements
5. to notify us of any information about a social care worker who is not

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<sup>1</sup> The Northern Ireland Social Care Council (Social Care Workers Prohibition) and Fitness of Workers Regulations (Northern Ireland) 2013

currently registered, which might be relevant to future decisions about that worker's registration

6. to undertake the employer responsibilities for the Assessed Year in Employment (AYE) as specified in the Departmental Circular HSS (OSS) AYE 3/2010, and the NISCC Revised AYE Guidance for Registrants and their Employers ( revised March 2014)
7. to ensure that any social work student on placement is registered

## **1. To decide who will verify and who will endorse applications**

Where an applicant is employed in social care work, their application for registration must be endorsed by an employer and their identity verified.

### *Who can endorse applications?*

The person who endorses an application must be a senior representative of the applicant's social care employer. Endorsers cannot endorse the application of a family member. We will agree with employers who should act as endorsers within their organisation. Nominated endorsers are required to complete the Proforma for Endorsing Applications to Register with us. We also request that all social care employers nominate a lead endorser. We currently keep a record of all endorsers nominated by their employing organisation. If an application is endorsed by someone who is not on our records, we will contact the lead endorser to confirm if the person is authorised to endorse and will request that the person complete the Proforma for Endorsing Applications to Register with the NISCC, should they be authorised.

### *Who can verify applications?*

The person who verifies an application (checks the applicant's identity documents) should normally be the same person as endorses the application. In large organisations this may not be practical and other arrangements may be made for verification, for example, a Team Leader may be nominated by their employer to verify applications.

In summary, therefore:

- the Verifier is asked to confirm the identity of the applicant
- the Endorser is asked to confirm the suitability of the applicant for registration. The Endorser should check any declarations the applicant has made with regard to any criminal convictions or disciplinary actions against them. We welcome any additional comments from an Endorser where criminal convictions or any disciplinary action is declared

## **2. To notify the NISCC of any information you have which may lead to a change in the registration of an individual**

You must notify the Council of relevant changes in the circumstances of a registrant particularly in relation to their conduct. (For further information see Guidance on Regulation in Part Two of this document).

You will need to:

- (a) identify a person within your organisation who will provide us with such information; this may be the same person who acts as Endorser, and
- (b) decide how the information will be communicated to us

### **3. To ensure that any registered social care workers you employ, including registrants with dual registration, have maintained their registration**

Social care workers are required to renew their registration every three or five years according to their work role<sup>2</sup> and to pay an annual registration fee; failure to do so will affect their registration status.

You should:

- (a) have a system in place to check the registration status of any newly employed social care workers, and;
- (b) undertake an annual check on existing registrants. Registration status can be checked on our website;
- (c) ensure registrants have been provided with induction into their post in accordance with the NISCC Induction Standards. These can be found on our website.

Some social care workers will be registered with another relevant regulatory organisation, for example, the Nursing and Midwifery Council, and may choose to have dual registration. Where dual registration is in place, checks should be made with both regulatory Councils.

### **4. To support registrants you employ to meet their PRTL requirements**

The NISCC Code of Practice for Employers states that you should provide training and development opportunities for registered staff (Code 3.1) and support staff to meet registration requirements for continuing professional development (Code 3.3). While the primary responsibility for meeting PRTL requirements rests with the individual registrant, as an employer you have responsibility for ensuring that your staff keep their training and learning current and relevant to their role.

You have a responsibility to recognise good performance and to take measures to deal with poor performance. All social care workers should receive regular supervision and an annual appraisal, including the identification of training needs.

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<sup>2</sup> Within the NISCC Registration Rules (2014) social workers and social care managers are required to renew their registration every three years; for social care staff the renewal period is five years

**5. To notify the NISCC of any information about a social care worker who is not currently registered, which might be relevant to future decisions about that worker's registration**

In order to ensure the protection of the public and in the public interest, we have a policy for dealing with information about social care workers who are not registered. We will retain any relevant information we receive about social care workers who are, or will become, eligible to register on the social care register.

Employers, as part of their duty to protect, should refer any employee in the following circumstances:

- when a worker is dismissed, regardless of any intention to appeal
- when a worker resigns during a disciplinary investigation
- when a worker is suspended pending the outcome of a disciplinary investigation
- when you become aware of a criminal charge or conviction against the worker
- any other circumstance which you consider may have a bearing on the worker's registration

This applies to social care workers who have applied for registration and also to those staff who are likely to be registered in the future. Your responsibilities to inform the NISCC about misconduct are given in more detail on page ten.

You should make your staff aware of this policy and should use the Employer Referral Form (this can be downloaded from the NISCC website: [www.niscc.info](http://www.niscc.info)), if you have any information about a social care worker which might call into question that person's future registration with us. There is a separate referral form for non-registered workers.

**6. To undertake the employer responsibilities for the Assessed Year in Employment (AYE) as specified in the Departmental Circular HSS (OSS) AYE 3/2010, and the NISCC AYE Guidance for Registrants and their Employers ( revised March 2014)**

Since April 2006, all new social work graduates<sup>3</sup> entering employment as a social worker in Northern Ireland are registered with a condition that they successfully complete the AYE.

These staff should be clearly identified in the human resources information system with a time restriction and a system should be in place to track individual progress through to successful completion.

The AYE Revised Guidance (March 2014) sets minimum Standards for completion of the AYE. Employers are responsible for nominating a senior officer (Designated Signatory) to sign the AYE Certificate of Completion, thereby confirming that the registrant has successfully completed the AYE and that the NISCC AYE Standards

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<sup>3</sup> New social work graduate=Degree in Social Work graduate

have been met. The Revised Guidance, including AYE forms, are available from us and can be downloaded from our website [www.niscc.info](http://www.niscc.info)

## **7. To ensure that any social work student on placement is registered.**

You should check that any student on placement in your agency is registered on the social work student part of the Register.

We should be informed of any concerns about the student's practice that might be relevant to registration.

Staff working in Northern Ireland who are undertaking a social work degree through distance learning, should be registered with us on the part of the Register for students.

### **Staff Recruitment**

You should check that applicants for posts designated for registration are registered with us. Anyone registered with another Social Care Council should apply to be registered with the NISCC.

Recruitment advertising should state clearly where a post is designated for registration.

You must ensure that the staff you employ are fit and competent to carry out the tasks of the post. It is an employers' responsibility to carry out all necessary checks to ensure the requirements of the post are met.

### **Registrants' Responsibilities**

Registrants have the following responsibilities in the registration process:

1. to submit an application form with supporting documentation;
2. to inform us of any relevant changes in their registration details, including any criminal convictions, disciplinary findings or significant changes in their health;
3. to pay an annual registration fee;
4. to renew their registration with us at the end of their period of registration ;
5. to meet our requirements on Post Registration Training and Learning;
6. if a new social work graduate, to successfully complete the AYE and ensure the Certificate of Completion is returned to us within the required timescale

For further information about registration you can contact the registration helpline: 028 90417600 (option 1) or e-mail: [info@niscc.hscni.net](mailto:info@niscc.hscni.net)

## **Part Two - Regulation of Social Care Workers**

### **Introduction**

The NISCC Code of Practice for Employers of Social Care Workers sets out your responsibilities in relation to the regulation of social care workers. The purpose of workforce regulation is to protect and promote the interests of service users and carers, to strengthen and support the professionalism of the workforce and to help raise standards of practice. The Code is intended to complement rather than replace or duplicate existing employers' policies and it forms part of the wider package of legislation, requirements and guidance that relate to the employment of staff.

### **Employers' Responsibilities**

Under the Code of Practice, you are required to promote the NISCC codes of practice to social care workers, service users and carers and co-operate with the NISCC proceedings: This includes:

- informing the NISCC about any misconduct by registered social care workers that might call into question their registration and inform the worker that a report has been made to the NISCC (Code 5.5), and;
- co-operating with NISCC investigations and hearings and responding appropriately to the findings and decisions of the NISCC (Code 5.6)

Misconduct is conduct which calls into questions the suitability of the registrant to remain on the register. The most common examples of misconduct include:

- physical or verbal abuse of service users
- theft
- failure to deliver safe care or meet the required standards of care

### **Informing the NISCC about Misconduct**

In most cases, incidents involving minor employment issues which do not affect the safety or well-being of service users do not need to be referred to us. Some examples of this might be:

- lateness or poor time-keeping (unless it has a direct impact on service users, such as leaving them at risk)
- personality conflicts, provided that there is no evidence of bullying or harassment
- sickness or other absence from work, provided that the registrant is managing his or her health and is not placing themselves or service users at risk

Whether or not you need to tell us about a matter will depend on the circumstances and seriousness of the case. We should always however be informed in the following circumstances:

- when a worker is dismissed, regardless of any intention to appeal;
- when a worker resigns during an investigation;
- when a worker is suspended pending the outcome of an investigation, or if a worker is redeployed to other duties in lieu of suspension;
- when the employer becomes aware of a criminal charge or conviction against the worker;
- any other circumstance which the employer feels may have a bearing on the worker's registration

If you are unsure about whether we need to be informed, please contact our Conduct Team who will provide general advice on a case-by-case basis.

Referrals regarding misconduct should be made on the Employer Referral Form. This should usually be completed by a senior person in your organisation, for example, the lead endorser or a Director of Human Resources. To avoid any unnecessary delays in investigating the referral, please send the Council any available supporting documentation.<sup>4</sup>

Please note that documents are disclosable.

**Prior to submitting the form and any supporting documentation, you must inform the registered social care worker whose conduct is in question that the information is to be passed to the NISCC.**

## **Employers' Disciplinary Procedures**

In most cases we should be told about the alleged misconduct at the point that you decide there is some evidence of concern, i.e. in accordance with the criteria above. This is usually when the matter goes forward to your formal disciplinary process.

Letting us know about a matter does not necessarily mean that we will begin our conduct process immediately or ask you to suspend or end your own procedures. In many instances it will be more appropriate for us to wait until your internal processes are concluded.

Once we have been told about any alleged misconduct, we can take steps to protect the public. For example, once we are made aware of an allegation, the registrant concerned cannot avoid the potential consequences by removing themselves from the Register or allow their registration to end. We can place interim restrictions on a

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<sup>4</sup> The provision of information for the purposes of public protection is exempt from the usual subject information provisions of the Data Protection Act 1998 (Section 31 (1) )

registrant's right to practise, if that is appropriate. There is more information on Interim Suspension Orders on page 13.

It is not our function to re-hear a disciplinary case. It is for you as an employer to determine whether members of staff are fit to continue working in particular jobs within your organisation. We have a broader responsibility to determine whether the registered worker should be allowed to remain on the register and thereby potentially have access to vulnerable people through social care work. Conduct and employment processes are different and can result in different outcomes however, since the outcome of your disciplinary processes may form part of the evidence placed before a Preliminary Proceedings Committee and a Conduct Committee, it is important that you are able to provide us with full and accurate records of disciplinary proceedings, including evidence used and the reasons for the decisions. We are only able to make decisions on the basis of evidence and will form our own view on the evidence supplied.

## **NISCC Procedure Following Receipt of Information**

### **1. Initial Investigation**

When we receive a referral, we will first assess it to decide whether it is capable of amounting to a complaint. To constitute a complaint, the information must relate to an identifiable registrant and make a specific allegation of misconduct.

The case will then be passed to one of our Conduct Officers who will manage the case. They will be your main contact during the process and we will give you their contact details.

The registrant will be informed that an allegation has been made and given the opportunity to respond.

The Conduct Officer will carry out an initial investigation to determine whether the complaint calls in to question the registrant's suitability to remain on the register.

At this stage the case can either be closed or referred to the Preliminary Proceedings Committee for further consideration.

We will usually ask solicitors to act for us and they will take witness statements if these are needed. We will give you the details of the solicitors who will act for us and they will contact you if they need to speak to you or members of your staff to take a formal statement.

### **2. Preliminary Proceedings Committee (PPC)**

The PPC is independent of Council and is made up of both lay and registrant members. It will determine whether there is sufficient evidence to support the allegation of misconduct and whether the alleged misconduct is serious enough, if proved, to affect the worker's registration.

The PPC may decide to adjourn consideration of the case if they consider that further information is required. There may be more than one adjournment.

If the PPC considers that there is sufficient evidence to support the allegation of misconduct, it will refer the case to a Conduct Committee. Where it does not, no further action will be taken.

The decision and the reason(s) for the PPC's decision will be shared with you and with the registrant.

### **Interim Suspension Order**

If the allegation is serious enough to suggest that the registrant may cause harm to themselves or to others, or there are other reasons in the public interest, we may apply for an Interim Suspension Order. This prevents a registrant from practising until the case is heard. We may take this action even where the worker has been suspended or dismissed, as it may be important in the interests of public safety that they are not able to secure employment elsewhere in the sector while further proceedings are being organised.

Each case is considered on its own merits but the types of cases where we may apply for an Interim Suspension Order include:

- allegations of sexual misconduct
- alcohol or drug abuse
- acts of violence against a service user
- dishonesty
- one or more serious incidents of poor practice

A hearing will be convened to decide whether an Interim Suspension Order should be made and the registrant will have the right to put forward a case against suspension.

Following the hearing we will let you know if an interim order has been imposed.

### **3. Conduct Committee**

Conduct Hearings are usually heard in public, except in the following circumstances:

- where it is determined that the registrant's ill health may be at the root of their alleged misconduct and the Health Procedure should be used or,
- where a Conduct Committee decides that some or all of the proceedings should be held in private to protect the interests of vulnerable witnesses or,
- if the particular circumstances of the case outweigh the public interest in holding a public hearing

Therefore, the majority of evidence presented to Conduct Committees will be heard in public. This may include previous decisions and actions of employers in relation to

the alleged misconduct which may become the subject of media interest and/or detailed examination by the Care Tribunal (on appeal) or the High Court (in a Judicial Review).

Even if the Committee holds a hearing in private, any decisions the panel makes and the reasons for them, will be made public.

Where the Committee does not make a finding of misconduct, the case will be dismissed. Where there is a finding of misconduct, the Committee will impose one of the following sanctions:

- removal from the register
- suspension from the register for up to two years
- recording of an admonishment for up to five years

Registrants and employers will be informed of the decisions of Conduct Committees by a notice sent within seven days of the conclusion of a hearing.

Registrants have the right to appeal to the Care Tribunal within 28 days of the Committee's Notice of Decision.

Further information on the conduct process, including a flowchart of the stages in a conduct investigation, is available on the NISCC website.

## **Witness support and giving evidence**

If you or any of your staff are asked to provide a witness statement, we may also need you to come to the hearing and give evidence. We understand that the process can be intimidating and will allocate a NISCC contact person who will provide practical support and information throughout the Conduct hearing process.

## **How long will the process take?**

We understand that the conduct process can be stressful for registrants and employers alike and we try to consider cases as quickly as we can. The time a case takes to reach the end of the process can vary depending on the nature of the investigation we need to carry out and how complicated the issues are. The types of issues that can delay a case may include difficulty in gathering information from another organisation, an on-going police investigation or a criminal trial as we may wait until the criminal case has finished.

## **Contact**

If you need any further information or advice we will be happy to assist you with any aspect of making a referral. Please contact the Conduct Team at NISCC.

## **Employer Referral Form**

The Employer Referral Form can be downloaded from the NISCC website;  
[www.niscc.info](http://www.niscc.info).