

Raising a concern: Guidance for members of the public and colleagues

How to make a fitness to practise
referral about a worker registered with
the Scottish Social Services Council

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Contents

1. The role of the Scottish Social Services Council.....	1
2. Before we can investigate	2
Is the worker you are concerned about registered with the SSSC?	2
Can we help you achieve what you want?	3
Have you complained to the worker's employer?.....	4
3. What concerns we investigate.....	5
Concerns we can investigate	5
Concerns we can't investigate.....	5
4. How to raise a concern	7
5. What happens next?	9
6. What will we do with the information you give us?	10
7. The investigation process	11
8. What information we will give you	12
9. Temporary Orders	13
10. Possible outcomes.....	14
11. What does no further action mean?	15
12. How long will an investigation take?.....	16
13. More information	17
Appendix – Professional opinions and professional decision making	18
What decisions are social service workers entitled to make?.....	18
What about things that are said in a report?	18



1. The role of the Scottish Social Services Council

The Scottish Social Services Council (SSSC) is the regulator for the social work, social care and children and young people workforce in Scotland. Our work means the people of Scotland can count on social services being provided by a trusted, skilled and confident workforce. We protect the public by registering social workers, social care and children and young people workers, setting standards for their practice, conduct, training and education and by supporting their professional development. Where people fall below the standards of practice and conduct we can investigate and take action.

The Fitness to Practise Department investigates concerns about registered workers. This document will give you information about:

- what we can and cannot consider
- what information we need from you
- the investigation process and possible outcomes.

If you require this guidance in another format or language, please contact us on 0345 60 30 891.

2. Before we can investigate

Is the worker you are concerned about registered with the SSSC?

The concern must be about a worker and not a care service

We only regulate social workers, social care and children and young people workers and not the care services where they work (for example, nurseries, care homes, housing support services or social work departments).

The Care Inspectorate regulates organisations which employ workers and provide registered care services. The Care Inspectorate also provides advice and promotes good practice to improve standards across the social service sector.

When a registered employer does not meet the expectations set out in the SSSC Code of Practice for Employers of Social Service Workers, action may be taken by the Care Inspectorate. The Care Inspectorate gives advice to care service providers on following the Code and, if necessary, can take action against employers. You can find out more about the Care Inspectorate at www.careinspectorate.com

We must be able to identify the worker

We expect you to tell us the name of the worker, if possible. If you don't know the worker's name, we will need details about where and when the incident or events took place and some way of identifying the worker. If we have this information, we will make reasonable efforts to identify the worker.

The worker must be registered with us

We can only investigate workers who are registered or applying to be registered. Not all social service workers are registered with us, for example childminders and personal assistants do not register with the SSSC.

Some workers are registered with other bodies such as the Nursing and Midwifery Council (NMC). Even if they are working in a care home, nurses are still registered with the NMC. You can find out more about the NMC at www.nmc.org.uk

You can check if a worker is registered with us by searching the Register at www.sssc.uk.com/search-the-register or by calling us on 0345 60 30 891.

Can we help you achieve what you want?

We can only change who is and is not on the SSSC Register and impose warnings and conditions. If you would like to achieve other outcomes, you will need to take legal advice on the correct organisation to contact. There are time limits on some actions you may want to take (for example, appealing a Children's Panel decision), so you should take advice as soon as possible. Do not miss your chance to take action while you are waiting for a decision from us.

The Law Society of Scotland may be able to help you find a solicitor at www.lawscot.org.uk/find-a-solicitor You can also seek advice from Citizens Advice Scotland at www.cas.org.uk

We can't change the decision of a court, panel, tribunal or hearing

If you disagree with a decision that has been made by any decision-making body, we cannot change that decision or ask the court, panel, tribunal or hearing to change it. You may be able to appeal the decision or seek a review of it, but there may be strict timescales for this. You should take legal advice as soon as possible.

We can't change the worker assigned to you

We cannot ask an employer to change the allocated worker. This is the service's decision and you should speak to them.

We can't change the law or government policy

If you think there are changes that should be made to the law or the policy of any government (local, national or international), you should contact that government or your elected representative.

We can't help you to claim compensation

Even if we investigate and find that a worker has done something wrong, we do not have the power to make a financial penalty or a compensation order on any social service worker or organisation. If you think you are entitled to compensation, you should take legal advice as soon as possible.

We can't change records held by other organisations or make organisations disclose records to you

The only records that we have control over are our own. The Information Commissioner's Office (ICO) is the independent authority set up to uphold information rights in the public interest, promoting openness by public bodies and data privacy for individuals. You can find out more about the ICO at www.ico.org.uk.



We can't amend risk assessments or recommendations in reports

We will not usually investigate what a registered worker decides to include in a report, or the conclusions reached. We will discuss this in more detail below. Even if we do investigate something that is said in a report and find that the worker has done something wrong, we can't amend that report or order anyone to change it.

Have you complained to the worker's employer?

In some cases, we need to take immediate action to stop a worker from carrying out work without restrictions. In these cases, we will investigate even if you have not yet completed the employer's complaints process. For all other cases, the employer is usually the first place to start when you have a concern. That might be the service itself or their head office.

Most organisations will have a complaints procedure on their website. If you can't find it, you can contact the organisation to ask for it. You can find contact details for services registered with the Care Inspectorate at <https://www.careinspectorate.com/index.php/care-services>.

When you make a referral to the SSSC, please give us a copy of the employer's response to your complaint. If you haven't complained to the employer, we will usually ask you to do that first using their complaints procedure. Once you have been through that, you can contact us again if you think that a registered worker's fitness to practise is impaired (see below).

3. What concerns we investigate

Concerns we can investigate

We can investigate concerns that a worker's fitness to practise may be impaired. This could be because of:

- their conduct
- their professional practise
- a health condition which has an adverse effect on their ability to do their job safely and effectively.

The standards we expect are set out in the SSSC Codes of Practice for Social Service Workers. Examples of behaviour you can refer to us include:

- physical or verbal abuse of people who use services or colleagues
- dishonesty
- failure to deliver an acceptable level of care
- failure to follow policies and procedures
- other serious behaviour.

Concerns we can't investigate

Professional decision making

Social service workers make decisions that not everyone will agree with. They must also work with the resources available to them. Workers use their knowledge, skills, experience and training to make these decisions and consider the circumstances of each case. If you are concerned about a decision made by a worker, you should raise this with their employer.

Concerns about what is in a report should also be made to the service. Reports contain information from various sources, as well as opinions and risk assessments. The report writer can include opinions of other people and information other people have given them. The report writer may reach conclusions that not everybody will agree with. We will usually only investigate report writing in cases of serious deliberate dishonesty (whether that is information included or left out of a report), or where grossly inappropriate or offensive material is included.

There is more information about professional decision making and report writing in the Appendix.

Concerns about a service

We regulate individual registered workers, not services.

Concerns about how a complaint, subject access request or freedom of information enquiry has been handled

These are complaints about the service you have received. You should complain to the employer and/or to the Scottish Public Services Ombudsman (SPSO) or ICO.

Concerns that fall below our thresholds

Not every mistake a registered worker makes will result in an investigation. We recognise that social service workers are human and that it would not be proportionate to investigate every time there is any error. Although the Codes of Practice set out the standards of conduct and practice that apply to social service workers, that does not mean we will investigate every concern that falls short of those standards. In other words, we have levels of seriousness and only investigate concerns above a certain level. We call them our thresholds.

We will not usually investigate the following.

- Lateness, poor timekeeping or abandoning post unless it has a direct impact on people who use services.
- Personality conflicts provided there is no evidence of bullying or harassment.
- Sickness or other absence provided there is no impairment of fitness to practise and the registrant is managing their health.
- Misuse of social media where it does not relate to the worker's practice or display discriminatory views or raise any other serious concern.
- Smoking tobacco contrary to an employer's policy.
- Misuse of work property for personal use.
- Minor student plagiarism.
- Removal from course for academic reasons.
- Fixed penalty notices unless people who use services are involved.
- Medication failings which are minor and/or administrative.

4. How to raise a concern

The best way to raise a concern with us is to complete the online referral form at: <https://www.sssc.uk.com/fitness-to-practise/raising-a-concern/referral-mop/> Please provide as detailed answers as you can, as this will allow us to understand your concerns and decide whether we should investigate.

If you can't use the online form, you can contact us by any other method. We would encourage you to use the online form if you can, so we have all the right information at the start.

Your contact details

Please provide your details if you can. You can raise a concern anonymously; there are two options.

- Tell us your details but ask us not to name you. This is best, as we can contact you for more information.
- Do not tell us your details. You can make a referral this way but we may not be able to take action if we are missing important information and can't contact you.

If you are raising a concern for somebody who cannot do it themselves, please also include their details.

The worker you are concerned about

Please give us as much information about the registered worker as you can. If we can't identify the worker, we can't investigate.

Details of your concerns

Please be specific about your concerns. The events that lead to a referral are often long and complex. It helps us to understand your concerns if you set out what has happened from the beginning and as much detail as possible. Including dates or telling us roughly when something happened is helpful too.

A few tips to make the allegations clear.

- Start at the beginning to help us understand who everyone you mention is and how they're involved.
- If you're concerned about something a worker has said, quote the exact words used rather than saying things like 'swore at me' or 'used sexist language'.
- If you use words like 'inappropriate', consider replacing them with something more specific. What was the tone/language/picture/decision and why was it

inappropriate?

- If the allegation is of dishonesty, tell us what was said, what the truth was and how the worker knew what they said was untrue. If it is in a document, please say which document and on what page of that document.
- Think about whether you have given us the who, what, where, when, why and how of the allegation or at least as many of those things as possible.

Our rules say that we can only open a full investigation if we have a specific allegation. If there are details you don't know, we may be able to fill in those missing details, but please provide as full details as you can when you're making the referral.

The worker's health

Most referrals are about something that a worker may have done or not done. We can also consider if a worker has an unmanaged health condition that affects their ability to work safely.

Outcome of your complaint to the worker's employer

It is important that you tell us what the outcome of your complaint was. If there is a reason that you can't complain to the employer, please explain that reason in the form.

Please also send us a copy of the employer's response to your complaint by email.

Uploading documents

You can upload any relevant documents to the referral form before submitting. Examples of documents you could include are:

- any statements, minutes of meetings or other investigatory paperwork
- copies of any reports you are specifically referring to
- video footage, photographs or screenshots
- responses to your complaint by the employer or any other organisation
- other documents that are directly relevant to your concerns.

5. What happens next?

We will consider all the information and decide if we can investigate. If we can, we pass the information to our investigation team.

If we can't investigate, we will tell you who else you may be able to speak to. We may also report the concern to another body (such as the police, social work child or adult protection teams, or other regulators) if we need to.

We may need more information before deciding whether to investigate. If we need more information, we will contact you. We may also ask organisations like the employer, Police Scotland or the Scottish Court Service for information. These early enquiries are not the same as an investigation and are only to give us enough information to decide whether we should open an investigation.

6. What will we do with the information you give us?

If we open an investigation, we will tell the worker and ask for their comments. We will give the worker the information that is in the referral form and all other information we get so they can understand the allegations against them and tell us their position. You should tell us if there is anything you would prefer we did not send to the worker. We will consider this but may still need to provide the information because we need to be fair. We will not share any information that might affect a criminal investigation.

We may use information you give as evidence of the allegations against the worker. If a sanction is placed on a worker, the decision is usually made public (other than in health cases) or if the matter goes to a hearing the detail may become public as hearings (other than those concerning health) are usually held in public and the media can attend.

We may share information with other regulatory bodies and partner agencies where we need to. We comply with data protection legislation when we share. Information may also be released as part of a subject access request made under data protection legislation or a freedom of information request.

7. The investigation process

If we open an investigation a caseholder in the Fitness to Practise Department will investigate your referral. They will ask you for information and ask for information from other relevant parties such as the employer, the police, social work department and any witnesses.

Our investigation is independent and although we will speak to other people for information, such as the employer, we are independent of them.

8. What information we will give you

We regularly review cases to make sure they are progressing. We will not automatically update you with progress but you can contact the caseholder if you would like an update.

Our investigation is about the worker and much of the information we will gather is about them and their registration. This means we can't share all the detail with you. We may also have information and concerns raised by other people which we cannot share. We understand this is hard but our job is to decide about the worker's registration. Sometimes there is information about that decision we can't share with the person who raised the concern in the first place.

9. Temporary Orders

We may make or ask for a Temporary Order at any time during our investigation. This may be to suspend the worker or place conditions on their registration. We do this before all the facts have been proved if there is a public protection or public interest risk. We may also do this to protect the worker, for example where their health is a concern.

10. Possible outcomes

After our investigation we will decide if the worker's fitness to practise is impaired and if it is what action to take. We will use the SSSC Decisions Guidance <https://www.sssc.uk.com/knowledgebase/article/KA-02166/en-us> to help us. The possible outcomes are we:

- take no further action
- place a sanction on the worker's registration which can include:
 - a warning
 - a condition
 - a warning and condition
 - suspension
 - removal from the Register.

We can place a sanction on the worker's registration with their consent or refer their case to a hearing for a decision, if they ask that a hearing takes place. If we hold a hearing, we may ask you for a signed statement and/or ask you to attend as a witness.

When we have decided, we will write to you to let you know.

11. What does no further action mean?

There are several reasons why we might take no further action. This does not mean that we don't believe you or think nothing has gone wrong. We might take no action because of the following.

- There is not enough evidence – we call it insufficient evidence. This does not mean your evidence does not count but that it doesn't meet the legal test. We keep a record of the investigation and may reinvestigate if we get more evidence later.
- The worker's fitness to practise is not impaired. This means that even if we have evidence of the facts, we do not think that the worker is currently impaired. This might be because they have worked safely since the incident, apologised and understood the effect of their actions or carried out training.

12. How long will an investigation take?

Each case is different and we cannot tell you how long it will take. However, on average cases take six months if we take no further action. If a sanction is placed on the worker's registration it takes an average of 12 months. This will be longer if we hold a hearing.

13. More information

Visit the fitness to practise section of our website
<https://www.sssc.uk.com/fitness-to-practise> to find out about:

- our investigation process
- Fitness to Practise Panel hearings
- being a witness
- outcomes of investigations.

Dissatisfied with the SSSC?

If you are unhappy or dissatisfied with how we have dealt with your referral the SSSC has a Complaints Procedure. We define a complaint as an expression of dissatisfaction about the way in which we work. You cannot complain about any decision regarding the outcome of an investigation. For more information about our Complaints Procedure please contact 0345 60 30 891 or see our Complaints Handling Procedure at www.sssc.uk.com/knowledgebase/article/KA-02043/en-us

Appendix – Professional opinions and professional decision making

In our guidance, we say that we can't consider professional decisions made by social service workers. This is confusing because almost everything that anyone does involves a decision.

What do we mean when we say that we won't investigate professional decision making?

We are saying that the worker was entitled to make the decision. We are not saying whether the decision was correct or whether a different decision would have been better.

What decisions are social service workers entitled to make?

This will depend on the role. Generally, a worker is entitled to make any decision that the worker's employer gives them the authority to make unless that decision is so clearly harmful that no worker with the required qualifications and a reasonable level of skill would ever make it.

We appreciate that everyone who disagrees with a decision believes that it is harmful and that it should not have been made. Your disagreement, or even the existence of other workers who would have done differently, is not enough to make it a fitness to practise issue. For us to investigate, it would have to be a decision that no worker of ordinary skill acting with an ordinary level of care would make.

There are usually processes for deciding whether the decision was wrong and potentially changing it (for example, an appeal or complaint) but that is not our role. If you follow the employer's complaints process and the outcome shows that an individual worker has knowingly made a decision they were not entitled to make, please contact us again. You can use the contact details of the person who sent you this information to discuss whether we can investigate at that stage.

What about things that are said in a report?

We often receive referrals saying that a worker has lied in a report. We take dishonesty very seriously and we understand how upsetting it can be to see things in a report that you disagree with.

We will not investigate allegations of dishonesty in a report in the following circumstances.

The report writer did not know the information was incorrect or was relying on information from somebody else.

Report writers are entitled to include information from various sources in reports. One example of this is where a social worker includes a timeline from social work reports, which may include information recorded by several different people.

Another example is in a report that includes a section setting out the position of somebody the worker has spoken to. It might not say 'ZZ told me that...' at the start of every sentence, but the report writer is still saying what ZZ has told them.

The concern is about errors that would be unlikely to make a significant difference to an outcome

We recognise that workers sometimes make minor mistakes that are either unlikely to impact on any decisions made or can easily be cleared up. Typos, incorrect dates or ages, mixing up names or occupations and other minor errors would not result in a SSSC investigation. We would only usually investigate if the incorrect information was likely to make a significant difference to an outcome.

The report writer was expressing an opinion or assessing risk

A report may say something like 'ZZ was hostile and aggressive throughout our meeting' or 'the children's bedroom felt cold and the bed looked uncomfortable'. This is the opinion of the report writer and is not a fitness to practise matter. The court or panel the report was prepared for may have questions about how the report writer reached that opinion, but it is not something that we investigate.

This includes the outcome of risk assessments, even if another risk assessment reached a different outcome. For example, a risk assessment prepared for a criminal case might assess a person as being a low risk of reoffending, but a risk assessment in a child contact case might assess the same person as high risk.

The report writer was making a recommendation

Recommendations within a report fall within professional decision making, as discussed above.



Scottish Social Services Council
Compass House
11 Riverside Drive
Dundee
DD1 4NY

Tel: 0345 60 30 891
Email: enquiries@sssc.uk.com
Web: www.sssc.uk.com

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