



## **Managing the impact of an investigation**

**This factsheet is for employers and services with a current or former member of staff being investigated by our Fitness to Practise Department.**

We are committed to promoting equality and valuing diversity.

We want our processes to be fair, transparent and objective.

Please contact us on 0345 60 30 891 if you need this factsheet in a different format or to discuss how we can help you further.

### **Our role**

We are responsible for protecting and enhancing the safety and welfare of people who use services. As part of meeting that responsibility, we must be confident that the right people are on the Register.

### **Fulfilling our role**

We conduct independent investigations to obtain all relevant information to allow us to decide whether a worker is fit to practise and able to carry out their job safely and effectively.

- For registered workers, we can decide to conclude the case and take no further action, issue a sanction or refer the case to a Fitness to Practise Panel Impairment Hearing. In high risk cases, we can also decide to impose a Temporary Order while we progress our investigation.
- For workers applying for registration, we can decide to take no further action and grant their application, grant their application subject to conditions or refer the application to a Fitness to Practise Panel Application hearing.

### **The potential impact on your service**

We recognise that our investigations and the decisions we make may have an impact on your service. We understand you will be keen to minimise any potential impact on the delivery of care and will wish to support individuals who use your service and staff members during this time. We have outlined some key areas you may be concerned about and suggested some steps you may wish to take to overcome these concerns. Remember, the circumstances of each case will be different.

## **Countersignatories**

If the member of staff we are investigating is a countersignatory for your organisation, they will not be able to endorse any registration applications. We will remove their name from the countersignatory option in MySSSC. You should make sure you have alternative countersignatories in place.

If any other workers have submitted applications which the member of staff has endorsed, we may return those applications and ask for a different countersignatory. We won't tell the worker applying for registration why we returned it.

## **Individuals who use your service, their carers and families**

People using your service and their carers or families may be affected if members of staff are anxious or worried about an investigation, are suspended or dismissed or removed from care duties. They may also hear about our investigation from information on our website or in the media and be upset or concerned by the allegations or a decision we take. If they were a witness to the matter we are investigating, we may also want to explore taking a statement from them (see below).

When you know we are investigating a member of your staff, you may want to tell the individuals using your service and their carers or families. You may find it helpful to:

- explain what is going on
- explain what steps you have taken to deal with the matter and any other steps you intend to take
- reassure them you have taken the correct action by referring the worker to us
- reassure them they will still receive a high standard of care
- tell people directly affected when a hearing is due to take place and that there might be media coverage naming the worker and the service
- identify a contact at the service who they can speak to about any concerns.

## **Members of your staff**

Some staff may be worried or upset because we ask them to help our investigations by giving statements or taking part in a hearing as a witness. We know our requests are often made some time after the incident took place and this means they may not remember all the details. Their statements are still of value to us and we rely on people cooperating with our investigations.

Code 3.6 in the SSSC Codes of Practice for Social Service Workers highlights our expectation that staff will cooperate with any investigation by the employer, the

SSSC or another authority into the fitness to practise of others. This includes taking part in hearings and providing witness statements, documents or other information.

The cooperation of your staff is vital to our ability to investigate fairly and make the right decision with the best evidence available.

### **The worker we are investigating**

We understand that workers can feel stressed, unsettled and uncertain while we investigate. In addition to any support you provide, they can get support through our [Wellbeing Support Line](#).

Workers can also access support through the [Workforce Specialist Service on the National Wellbeing Hub](#). This service has expertise in confidentially treating regulated health and social service professionals.

Communicating with the worker is an important part of our investigation process and we aim to do it regularly. If you have any concerns about a worker's ability to communicate with or engage in any part of our process, we would encourage you to discuss this with the SSSC caseholder.

You may also want to suggest that a worker gets advice from any union or professional body they are a member of, or from Citizens Advice. They can also seek legal representation from a solicitor.

### **MySSSC for employers**

MySSSC is a useful tool for employers to:

- see details of employees registered with or in the process of registering with the SSSC, including the date we received their application.
- know if an employee's registration has been removed or suspended.
- know if an employee has a live warning on their registration.
- know if an employee is registered with a condition, what the condition is and the relevant dates.
- provide updates on suspensions, dismissals and demotions that do not meet our thresholds for investigation.

## **Your role in our investigations**

### **Registered workers**

When we are considering cases about registered workers, it is likely we will need to ask you for information during our investigation. At the start of our investigation, we are likely to need all the information you have taken into consideration during your own investigation and at a disciplinary hearing. It is

helpful if you provide this as early as possible and we may ask you to provide information urgently if the case is assessed as being high risk. This will usually be because we need to do a risk assessment to consider if a temporary order should be placed on the worker's registration.

We review our files regularly and may need to ask you for further information throughout our investigation. We understand it will take time and resources for you to respond and you may wish to appoint a named member of staff to liaise with us.

### **Workers applying for registration**

Sometimes we receive information about workers before they are registered.

The worker may have declared this information as part of their application, or we may have received the information from a previous employer and held it in our records. This information can include details about disciplinary processes, dismissals, resignations pending disciplinary action, convictions or police charges. We must ask applicants to declare this kind of information and we must hold it in our records so we can take it into account when the worker applies for registration.

Because investigations about a worker applying for registration can be about an incident which occurred some time ago, we may need to ask you or other past employers for historical documentation. We may also wish to speak to members of staff who worked at the service at the time. We understand it can be difficult to locate historical documentation or remember events from some time ago and we do take this into account when making requests.

If you have any concerns, please raise these directly with the SSSC caseholder.

### **Data protection**

We will treat all information you provide with care and process it in accordance with our responsibilities under the Data Protection Act.

If you have data protection concerns about releasing information to us, please contact the SSSC caseholder who will be able to discuss in more detail why we have asked for it and how it could be managed if it contains personal data.

### **Staff statements**

If an incident took place at work, it is likely we will want to take statements from relevant staff members. We may do this if there are aspects we need to clarify or expand upon, even when you have sent us your own statements. We may also wish to speak to staff you have not interviewed.

This is because the focus of our investigation is not based on employment law but an assessment of fitness to practise. It also needs to be independent. We will usually contact you to help with arrangements to take statements first, but

we sometimes approach registered workers directly. In most cases we will note statements from witnesses over the telephone. In some cases, we may ask to attend the service to take statements.

We will make sure we give you and your staff plenty of notice and try to make sure our visit is at a convenient date and time. We will work around your staff rotas as far as possible.

You may wish to meet with staff and address any concerns or questions they have. We also have information on our website [specifically for witnesses](#).

If you are particularly concerned about a witness's wellbeing and/or vulnerabilities, please make this clear on your referral form and/or contact the SSSC caseholder to discuss.

### **Statements from individuals who use the service and/or family members**

Sometimes it may be necessary for the SSSC to consider obtaining a witness statement from an individual who uses services, and/or their family members. This may be because the individual who uses services was the only eyewitness to a particular incident. This could mean that they are the best source of evidence to assist us in proving the allegations. We might also want to explore with a family member the impact a particular incident had on the individual affected.

We are however very conscious that these individuals may be vulnerable, and we will only consider obtaining statements where this is necessary and proportionate.

We appreciate that there can be significant sensitivities in such cases. We aim to adopt a trauma-informed approach to our investigations. We will make every effort to ensure, as far as possible, that any actions we think are necessary and proportionate to take do not retraumatise individuals that we may wish to speak to.

Where we think it is necessary and proportionate to attempt to take a witness statement from an individual who uses services, we will contact the individual's social worker (if they have one) to discuss our need to take the statement and to explore whether this is appropriate for the witness given their circumstances. We may ask you for contact details of the individual's social worker.

If the individual does not have a social worker, we may ask you, another professional involved in the individual's care and/or a family member for an opinion as to whether it would be appropriate for us to explore obtaining a statement from the witness.

If a social worker, you, another professional involved in the individual's care and/or a family member says clearly that the witness should not be contacted, then we will respect this and we will not contact the witness.

We may ask you for contact details of other parties involved in the case, such as family members. You may wish to discuss these requests for information with the individuals involved before providing the information to us and advise them that the SSSC may contact them. You can tell them the name of the SSSC's caseholder when you do this.

We understand that these situations can be complex and sensitive. If you have any concerns at all, please speak to the SSSC caseholder.

### **Timescales and updates**

We understand the pressures that all social service employers are under. If you need more time to respond to a request for information, please just let us know by speaking to the SSSC caseholder.

We cannot say how long our investigations will take as cases vary in complexity. We rely on other parties to provide us with information and this can take time, especially if we are waiting for third party matters (like a criminal investigation) to finish. It usually takes about 11 months to complete cases for registered workers where we decide to take no further action. It can take around 18 months where we decide a sanction should be imposed. The process may take longer if we decide to refer a case to a hearing. These figures are based on the median length of time taken to conclude a case. There will be cases that are much shorter or much longer than this for a variety of reasons. We aim to conclude cases as quickly as possible.

We can give you updates on our investigation if we have permission from the worker to speak to you about their case or if there is another reason to keep you updated. We understand this may be difficult if the incident took place at work and if other staff, or you, have been involved in disciplinary action or helping us. However, our investigation is about the worker's registration rather than about you as employer.

If you refer a worker to us, we will usually update you with the outcome of the case.

### **Registered workers – working during an investigation**

Being under investigation by the SSSC does not automatically make a registered worker unsuitable for employment. The purpose of our investigation is to make sure the person is suitable to be on our Register and to be confident they are fit to practise. However, at any stage during an investigation we can refer a case to a Fitness to Practise Panel hearing for them to consider a Temporary Order.

### **Temporary Orders**

In the case of registered workers, we may decide to seek either a Temporary Conditions Order or Temporary Suspension Order, or both, at any time during our investigation.

We do this if we have information which suggests the worker's conduct, professional practice or health has caused or presents a risk of serious harm and a Temporary Order is necessary to:

- protect the public, or
- is in the public interest, or
- is in the worker's interests.

We cannot seek a Temporary Order for workers applying to be registered.

A list of all workers whose registration is subject to a Temporary Order is [available on our website](#).

### **Temporary Order Hearings**

If we decide a Temporary Order is necessary, we will refer the worker's case to a Fitness to Practise Panel hearing to decide whether to grant a Temporary Order.

The Panel can impose the following.

- A Temporary Conditions Order, which means a worker's practice may be restricted or they may be required to do something differently or under supervision, but they can continue to work while we investigate their case.
- A Temporary Suspension Order, which means a worker cannot work in the role for which they are registered while we investigate their case.
- Or, in rare cases, both of the above.

A Temporary Order can be imposed for up to two years (or longer in some circumstances).

In most cases, we will ask the worker to confirm they want a panel to hear their case. If they do not ask for a hearing, then we can impose a Temporary Order without a hearing taking place.

Temporary Order hearings are usually held in private.

### **Temporary Order Reviews**

When a Temporary Order is nearing its expiry, and we decide that it is still necessary, then we can ask for a Temporary Order Review hearing. Workers can also ask for these hearings.

At a Temporary Order Review hearing, the Fitness to Practise Panel can extend the order (up to a total of two years except in some circumstances), change the order or bring it to an end.

Where we have asked for the review, we will usually ask the worker to confirm

they want a panel to hear their case. If they do not, we can extend or change the Temporary Order without a hearing taking place.

Temporary Order Review hearings are usually held in private.

## **Workers applying for registration – working during an investigation**

Being under investigation does not automatically mean a worker applying for registration cannot work in the social service sector. In most cases, they can continue to work while we are processing their application.

A worker must apply for registration within three months of starting employment in a social service role which requires registration and must achieve registration within six months of starting employment. It is an offence to employ anyone who is not registered after six months, without a reasonable excuse (the 'six month rule'). If the only reason the worker is not registered is because of a fitness to practise investigation, we will not refer an employer to the Care Inspectorate.

If you think you are employing any workers who fall into this category, you should discuss this with your allocated Care Inspectorate Inspector.

More information [is available on our website](#).

## **Information about hearings**

### **Application Hearings**

We will refer a case to an application hearing if we decide:

- not to grant an application for registration
- to grant an application for registration with conditions, but the worker does not consent to the conditions.

The panel will consider if the worker's fitness to practise is impaired and whether to grant the application. They may also consider additional registration conditions. Application hearings are usually held in private.

### **Impairment Hearings**

After an investigation, we may decide a registered worker's fitness to practise is impaired. If we decide a sanction should be imposed, we will tell the worker what that sanction is and ask if they want a hearing on their case. If the worker tells us they do, we will refer the case to an Impairment Panel hearing. If they do not tell us they want a hearing, we will impose the sanction without referring the case to an Impairment Panel.

The panel will decide whether a worker's fitness to practise is impaired and

whether to impose a sanction. Impairment hearings are usually held in public.

The panel can decide to impose:

- no sanction
- a warning
- a condition
- a warning and condition
- a Suspension Order
- a Suspension Order and condition
- a Removal Order.

### **Restoration Hearings**

We will refer a case to a Restoration Hearing for a panel to consider an application made by a former registered worker who was previously removed by a Removal Order, who had an application for renewal of registration refused by a Fitness to Practise Panel or was removed by any other decision of a Fitness to Practise Panel, where we decide:

- not to grant an application to restore
- to grant an application to restore with conditions, and the worker asks for a hearing.

The panel will consider if the worker's fitness to practise is impaired and whether to grant the application. They may also consider additional registration conditions. Restoration Hearings are usually held in private.

### **Who is present at hearings**

- The worker may attend. They may have someone representing them. Sometimes the worker will not attend and will not be represented.
- A Fitness to Practise Panel. This will usually include a legally qualified chair (a qualified solicitor or advocate and the person who will lead the hearing), a social service member and a lay member. The social service member will have experience of working in a similar role to the worker and will be registered with us.
- A Hearings Officer. This is an employee of the SSSC who makes sure the hearing process runs smoothly.
- A presenter. This is a solicitor employed by the SSSC to present the Fitness to Practise Department's case to the panel.

- Other witnesses (if any).
- Members of the public and local and national media may attend (if the hearing is held in public).

### **Witnesses giving evidence at a hearing**

If we hold a hearing, we may ask you or members of your staff to take part as witnesses. We will always try to request witness availability in advance. If a hearing is being held over multiple days, we may be able to offer a degree of flexibility as to when witnesses can attend. However, there may be occasions when we cannot do this.

Most hearings take place remotely using Microsoft Teams. However, some hearings may take place in person. We will tell witnesses the format of the hearing when we get in touch to ask them to take part in the hearing.

Witness evidence is very important in hearings. Without cooperation from witnesses, we may not be able to take action to protect the public or maintain public trust and confidence. When witnesses take part in a hearing, the panel get a better understanding of the circumstances and they can ask questions.

We do understand that witnesses may be nervous about giving evidence. You can help by making sure they have read the information we have given them.

However, you should not discuss their evidence with them.

We understand that having one or several members of your staff take part in our hearings may be disruptive and we aim to balance the needs of your service with the need for us to take action to protect the public and maintain public trust and confidence in the social service profession. We expect workers and employers to follow our Codes of Practice for Social Service Workers and Employers, which includes cooperating with our investigations. This includes attendance at hearings. We may investigate a failure to follow the Codes as a fitness to practise matter.

We do understand that taking part in a hearing can be a difficult and worrying experience and we will give the witnesses further information before the hearing. You may wish to discuss this with them. The SSSC caseholder will also be happy to discuss any concerns witnesses may have too.

If we have invited several members of your staff to give evidence, it is important they do not discuss their evidence with each other before or after the hearing.

After the hearing, witnesses may be upset or worried about what they said, or did not say, or about the questions they were asked. We understand it can be a difficult experience if the worker, their representative, or the panel question or challenge their evidence. This is an important part of ensuring the hearing is fair. You can assist by providing support to your staff member after the hearing and reassuring them they are a key part of the process.

## **Publicity relating to hearings and decisions**

### **Notice of hearings**

You will receive at least 28 days' notice that we have referred the worker for a hearing before it takes place. This will include a list of the allegations to be considered at the hearing. For Impairment Hearings involving registered workers only, we give advance notice to the public by publishing a summary of the allegations on our website seven days before the hearing is due to start.

We will also send you the Notice of Decision following the hearing and for Impairment Hearings, publish it on our website. This means for Impairment Hearings the final allegations, findings in fact, decision on impairment, decision on sanction and reasons will usually be published on our website within 14 days of the hearing concluding.

### **Decisions made without a hearing**

If we decide on a sanction for a registered worker and the worker doesn't ask for a hearing within a set timescale, we will send you a final Notice of Decision and publish it on our website.

The final allegation, findings in fact, decision on impairment, decision on sanction and reasons will usually be published on our website on the date the decision takes effect.

### **Publicity and your business**

The Notices of Decisions we publish on our website are detailed so the worker knows exactly why we think their fitness to practise is impaired.

We often remove details from the published notice to protect the identity of people connected with the case, such as individuals who use services, or to protect sensitive personal information. Our notices usually name the service and the town that it is in.

Releasing information about fitness to practise hearings, Temporary Orders and decisions is necessary to:

- allow people with an interest to attend hearings
- reassure people that we can and do take action
- educate the public, the social service workforce and employers about fitness to practise issues

- reassure the public that complaints are considered fully by publishing a summary of the allegations before a hearing and the findings in fact and reasons for the decision after a hearing or decision
- help employers with recruitment decisions
- protect and enhance the safety and welfare of people who use services and their families and carers.

The media can attend hearings held in public or report on what they read on our website. There may be news articles in the local press or online. We cannot control or influence what the media say in their reports.

The media may use your business name and quote something the worker or a witness has said during a public hearing.

They may also contact you for a statement. You may want to prepare for this by:

- ensuring you are aware of and understand our processes
- making sure the business owners, partners or management boards are aware of the circumstances of our investigation
- talking to any local authority or other body that procures services from you
- asking your organisation's communications team, if you have one, for advice or preparing drafts of any statements you wish to make
- agreeing who will formally give statements to the media
- ensuring all members of your staff know what to say if a member of the media approaches them.

If you have any concerns about publicity in a specific case, please contact the SSSC caseholder who will be able to discuss these with you. You can find out more about information we publish by reading our [Public Information Policy](#).

If you would like a printed copy of any document, please contact the SSSC caseholder.