

**Guide for employers of Social Care Wales’ referral, investigation and fitness to practise hearing process**



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This leaflet is for employers of social care professionals who are registered with Social Care Wales. It provides information about the following:

* checks you should make before employing a social care professional who is required to register with us
* when to refer an employee to us
* our investigation process and your role in it
* our fitness to practise hearings process and your role in it
* length of proceedings
* working with and providing information/evidence to us
* contacting us.

**Checks you should make before employing a social care professional who is required to register with us**

Before you employ a social care professional you should check our Register. It will provide you with confirmation of a worker’s identity and ability to work in the role they have applied for. Checking the Register will provide you with:

* their current name
* their registration number
* their registration date
* the county in which they are currently employed
* confirmation of the part for which they are registered
* confirmation that they are qualified for the role for which they are registered
* information about whether they are or have been the subject of fitness to practise proceedings by us, including:
* whether we have placed any restrictions on their registration e.g. conditions imposed on their registration status;
* whether they are currently suspended from the Register, including temporary suspensions while we investigate allegations about their fitness to practise.

We also issue registered persons with electronic proof of registration and this includes the following information:

* current name
* registration number
* date registered
* registered role.

**When to refer an employee to us**

As an employer, you have a key role to play in initially assessing and dealing with any allegation(s) regarding an employee’s fitness to practise.

You should refer your employee to us at the start of your processes:

* if your employee has been suspended or dismissed
* If your employee has resigned or left prior to you being able to complete your process and the outcome would have been dismissal
* if they are subject to a Police or Safeguarding investigation.

You should keep us informed while these processes are ongoing, inform us when they are concluded and provide us with relevant supporting evidence.

Otherwise, if there are fitness to practise issues, please let us know at the end of your disciplinary or capability process, and provide us with relevant supporting evidence.

Examples of the types of matters that **do not** need to be referred to us are:

* employment matters relating to annual leave, lateness or sickness absence;
* where a letter of concern has been issued by you but no disciplinary sanction has been given;
* concerns which, after initial consideration were not investigated further.

In some circumstances, you should refer your employee directly to us irrespective of your own internal investigation procedures, for example:

* if the person has been placed on the barred list held by Disclosure and Barring
* if they have been convicted of a criminal offence

You can refer an employee to us by completing our referral form at: <https://socialcare.wales/resources/reporting-a-fitness-to-practise-concern-form-for-employers> and sending it to us by e-mail or post using the contact details at the end of this document.

**Compromise Agreements**

When there’s a duty to refer a worker to us, you should do so even where a compromise agreement has been signed. We don’t need any financial details, but we need to know the reasons for the compromise agreement. When writing the agreement you should make it clear that any confidentiality clause entered into does not apply to information passed to Social Care Wales. Under Section 160 of the Regulation and Inspection of Social Care (Wales) Act 2016, we can apply for a court order to obtain this information.

**Our investigation process and your role in it**

When you refer a registered social care professional to us, our Fitness to Practise Team will undertake an assessment to decide whether the information is appropriate for us to consider and whether the individual’s fitness to practise is or may be impaired.

If we decide that the allegation isn’t appropriate for us to consider, we’ll take no further action but will inform the registered person that we have received the information.

We take all referrals that we investigate to an initial case conference to decide on risk level and action. We do this within 14 days of receiving the information.

We consider whether an individual’s fitness to practise is or may be impaired on one or more of the following grounds:

* poor practice or deficient performance
* serious misconduct, whether as a registered person or otherwise
* their inclusion in a barred list held by the Disclosure and Barring Service
* a decision by another body, such as the Nursing and Midwifery Council, that their fitness to practise is impaired
* poor physical or mental health
* a conviction or caution in the United Kingdom for a criminal offence, or a conviction elsewhere for an offence which, if committed in England and Wales, would constitute a criminal offence.

A registered social care professional’s fitness to practise may be regarded as being impaired in the following circumstances:

* whether they were or were not on the Register when the matter took place
* whether the matter took place inside or outside Wales
* whether the matter took place when they were at work or outside work.

When we investigate referrals we notify the registered person and provide them with the opportunity to respond. We may also contact you for additional information. We will appoint an officer from the Fitness to Practise team to the case and this person will be your point of contact throughout the investigation.

After we have made these enquiries, we’ll evaluate the information and assess the level of risk to decide whether there is a real prospect of a finding of impaired fitness to practise. We will then make one of the following decisions:

* close the case e.g. where we consider that you have adequately dealt with the matter
* further investigation is required e.g. where we consider that there is insufficient information/evidence currently available to enable a decision to be made regarding which way to proceed with the case
* forward the case to an interim orders panel, to either suspend the registered person from the Register or impose conditions on their registration while our investigation is underway
* send the case directly to a fitness to practise panel e.g. if the registered person has received a caution or has been convicted of an offence by a court in the UK or elsewhere for which a custodial sentence was or could have been imposed.

Where we decide that further investigation is required, we may contact you again for additional information and/or evidence.

At the end of this process we can make one of the following decisions:

* no further action e.g. where we consider that you have adequately dealt with the matter
* provide advice
* offer a warning ranging from 6 months to three years
* offer an undertaking e.g. that the registered person should complete identified training within a specified timescale – these require the agreement of the registered person
* remove the registered person, with their agreement, from the Register via the removal by agreement process
* refer the matter to an interim orders panel to either suspend the registered person from the Register temporarily, or impose conditions on their registration, while our investigation is underway
* refer the matter to a fitness to practise panel.

**Our fitness to practise hearings process and your role in it**

Following our investigation of your referral, we will refer a registered person to a fitness to practise panel when:

* we are satisfied that there is a realistic prospect that the panel will find that their fitness to practise is impaired
* it is in the public interest to do so

Depending on the nature of the case and matters agreed between us and the registered person, a fitness to practise panel can consider the grounds for impaired fitness to practise either at a public hearing, or in a meeting where neither party is present. The outcome will be made publically available on our website.

As part of the preparation for a hearing, you may be contacted by us for the following reasons:

* to obtain further information or evidence that has been requested during the pre-hearing procedures
* to appear as a witness for us if we have taken a witness statement from you

If you are called as a witness for us, you will be contacted either by the officer from the Fitness to Practise Team responsible for the case or by the solicitor presenting the case on behalf of us.

Approximately 4-6 weeks before the hearing, you will be informed of the date, time and venue.

If the hearing is held in public and you are not called as a witness, you will be able attend as an observer. If you are called as a witness, you will only be able to attend once you have given your evidence.

A fitness to practise panel can make the following decisions:

* Where a panel finds that the registered person’s fitness to practise is not impaired:
* take no further action and close the case
* provide advice
* Where a panel finds that the registered person’s fitness to practise is impaired:
* take no further action and close the case
* issue a warning
* remove the registered person by agreement
* impose an undertaking
* impose a conditional registration order
* impose a suspension order, preventing the registered person from working in a role that requires registration for a set period
* remove the registered person from the Register. The person will be unable to work in a role that requires registration in Wales

You will be informed of the panel’s decision. We will also publish the decision on our website and update the Register to show the decision.

**How long will the process take?**

Of the referrals made to Social Care Wales, only a small number (around 12%) are referred to a final fitness to practise hearing. The majority of referrals are closed at officer case conferences or with officer sanctions.

Examples of average timelines for completion of cases are:

* Receipt of allegation to case closure at investigation stage: up to 3 months, but this varies depending on the complexity of the case.
* Receipt of allegation to case closed at a fitness to practise hearing: approximately 9 months, again depending on the complexity of the case. This will include time taken to arrange a hearing, which can take up to 3 months.

Cases can take longer than these timescales if:

* we are waiting for evidence, including evidence from you
* we are waiting for a police investigation or court proceedings to be finalised.
* the registered person is registered with another regulatory body which is also undertaking proceedings against them, as we may need to wait for it to conclude its proceedings before we can complete ours.

**Working with and providing Social Care Wales with information/evidence**

We are aware that working with us during our investigation and hearings processes can be time-consuming. If the matter has also been investigated by another body, such as the police, you may have had to supply the same information twice. However, we have a statutory duty to undertake our own procedures and appreciate your co-operation in providing us with the information we require from you within any timescales provided. We are also aware of the effect our processes can have on the registered person and the need to deal with cases in a timely manner.

To help us obtain the information and evidence we need as part of our investigation and hearings processes, we have the power under the Regulation and Inspection of Social Care (Wales) Act 2016 to require any person to supply that information to us.[[1]](#footnote-1) If that person then fails to provide us with the information or evidence we require within a set timescale, we will be able to apply for a court order to obtain the information. We will also be able to subpoena witnesses to appear before one of our panels.

**Keeping you informed**

The officer from the Fitness to Practise Team managing the case will keep you informed about how the case is progressing at regular intervals during the process. You can also contact us at any time to ask for an update.

**Contacting us**

**Fitness to Practise Team**

To refer a registered social care worker to Social Care Wales and for information about an investigation into a case, please contact:

Fitness to Practise Team: 029 2078 0545 or ftp@socialcare.wales

**Hearings Team**

For information about a hearing on a case, please contact:

Hearings Team: 029 2078 0505 or hearings@socialcare.wales

Address: Social Care Wales, South Gate House, Wood Street, Cardiff, CF10 1EW

Website: [www.socialcare.wales](http://www.socialcare.wales)

1. [↑](#footnote-ref-1)