

**Workforce Regulation Policies and Procedures**

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Prosecution Policy – Misuse of Title Cases

**1. Introduction – reason for the policy**

* 1. Social Care Wales is responsible for keeping the social care register in Wales and our main objective is to protect, promote and maintain the safety and

well-being of the public in Wales. Unregistered social workers compromise our ability to keep the public safe. They can also undermine public confidence in our regulatory work and the social care profession.

1.2 Under section 111 of the Regulation and Inspection of Social Care (Wales) Act 2016, it is an offence for a person in Wales who is not registered in a relevant register as a social worker to –

1. take or use the title of social worker
2. take or use any description implying registration as a social worker, or
3. pretend to be a social worker in any other way,

with intent to deceive another.

1.3 Section 111(3) of the Act sets out that a person who is guilty of such an offence is liable on summary conviction to a fine.

1.4 We regard prosecution as a last resort and, where appropriate, we will use other ways of securing compliance with the registration requirement before considering prosecution.

1.5 However, we will prosecute offenders where we feel that it is necessary.

1.6 This policy sets out the measures we will use to address protection of title offences and the circumstances in which we will prosecute.

1.7 Under current legislation, we can only prosecute social workers for protection of title offences. However, section 111 of the Regulation and Inspection of Social Care (Wales) Act 2016 makes provision for the Welsh Government to extend protection of title to other social care groups.

**2 Protection of Title offences - Intention**

2.1 Intention to deceive is a key part of the protection of title offences set out in section 111 of the Regulation and Inspection of Social Care (Wales) Act 2016. To establish that the unregistered social worker had an intention to deceive, we would have to prove that they sought to lead others to believe that they were registered.

2.2 Intention to deceive includes, but is not limited to, situations where the unregistered person:

* tells people that they are a registered social worker when they are not (this includes those who are qualified, but unregistered, social workers)
* uses advertising material that implies that they are a registered social worker

2.3 However, it does not include situations where they have used the title social worker in a way that makes it clear that they are not registered as a social worker. For example:

1. where they use an appropriate prefix such, as ‘student’ to indicate that they are not registered as a qualified social worker
2. where the person was on the register, is no longer on it and is referred to in a way that makes it clear that they are no longer registered – e.g. retired social worker
3. by a course provider offering social work education and training

**3 How we address protection of title offences**

3.1 Where we are satisfied that an unregistered person has misused the title ‘social worker’ with no intention to deceive, or where we are unable to establish whether they intended to deceive, we will:

1. send them a warning letter[[1]](#footnote-1)
2. notify their employer

3.2 If an unregistered person continues to misuse the title social worker after we have sent them a warning letter and we are satisfied that they did not intend to deceive we will:

1. send a further letter to the unregistered person and their employer, if they have one, to re-state the position
2. when we have received confirmation from the unregistered person that they have ceased misusing the title ‘social worker’ we will take no further action

3.3 Where we are satisfied that an unregistered person has misused the title ‘social worker’ with intention to deceive, we will

1. send them a warning letter[[2]](#footnote-2)
2. notify their employer

3.4 If an unregistered person continues to misuse the title social worker after we have sent them a warning letter, we will prosecute the individual.

3.5 The Registrar will make the final decision about whether to ask for a prosecution.

3.6 Where we decide to prosecute, the Fitness to Practise Manager will notify the relevant Common Law Police Disclosure team.

3.7 If an unregistered person continues to misuse the title social worker after we have prosecuted them we will then take further steps to prosecute them again.



**Gerry Evans**

Cyfarwyddwr o Reoleiddio a Gwybodaeth a Dirprwy Prif Weithredwr

Director of Regulation and Intelligence and Deputy CEO

**Appendix 1 – text from a cease and desist letter**

**Misuse of the title ‘social worker’**

Social Care Wales regulates the social care workforce in Wales and is legally required to maintain a register of these workers. The Register holds the names of those who are permitted by law to work in the social care sector in Wales.

All social workers must register before they can practice as a social worker and use the title ‘social worker’.

Under section 111 of the Regulation and Inspection of Social Care (Wales) Act 2016, it is an offence for an individual who is not registered in a relevant register to:

* take or use the title of social worker; or
* take or use any title or description implying that they are registered as a social worker; or
* pretend to be a social worker in any other way

with intent to deceive another.

It has come to our attention that you are practising as a social worker and using the title ‘social worker’. However, you are not permitted to use this title because you are not registered.  We are therefore requesting that you stop these activities when you receive this letter. You can only resume these activities once you have registered with Social Care Wales.

Please contact us in writing to confirm that you have stopped practising and using the title social worker. If we do not hear from you **within 14 days of the date of this letter** we may start our own prosecution against you or inform the police about this matter.

If you would like to register with Social Care Wales, please visit [www.socialcare.wales](http://www.socialcare.wales) or contact the Registration Team on 029 20780646.

Yours sincerely,

[Name]

**[Job Title]**

1. The letter will set out the legal requirement to register, the potential consequences of non-compliance and the process for registering. It will also require a response confirming that the individual has stopped working as a social worker (Appendix 1). [↑](#footnote-ref-1)
2. The letter will set out the legal requirement to register, the potential consequences of non-compliance and the process for registering. It will also require a response confirming that the individual has stopped working as a social worker (Appendix 1). [↑](#footnote-ref-2)