



# **The Conduct Process**

**What happens if a complaint is made about me?**

**Guidance for Registrants**

**Feb 2008**

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## **About this booklet**

This booklet has been developed for registered social workers and social care workers who have had a complaint made against them or who have been referred to us by their employer. It is only a brief guide to our procedures and is not a substitute for obtaining independent advice from your Trade Union or Professional Body.

We understand that having a complaint made against you can be a stressful and worrying experience. We want you to know that while we have procedures in place to ensure that concerns are investigated, we also ensure that only cases with evidence of serious misconduct are taken forward. We will start with a presumption of your innocence before any evidence is examined and we are committed to operating a fair process that protects your rights to a fair hearing and to an independent appeal whilst safeguarding the public.

## **About us**

The Northern Ireland Social Care Council (NISCC) was set up on 1 October 2001 under the Health and Personal Social Services Act (NI) 2001 with the aim of promoting high standards of conduct and practice among social workers and social care workers and high standards in their training.

We want to raise the public's confidence in social care services so we have developed Codes of Practice which set out the standards of professional conduct and practice expected of social workers and social care workers and their employers which they must meet. People using social care services are entitled to be helped by staff with suitable training and qualifications. Registration with NISCC means that the public can be confident that social care staff and their employers will meet agreed standards of conduct, practice, education and training. Those who do not meet registration standards will be accountable to the Council.

It is our duty to investigate complaints about the failure of workers to maintain the standards expected under the Codes and provide a means for dealing with these complaints. Being able to take action against those who commit serious misconduct or fall short of the standards expected is an important mechanism to build the public's confidence in social care.

## **What do we mean by Conduct?**

When we talk about Conduct, we mean the actions or behaviour of a registered social worker or social care worker. All registrants must act in accordance with the Codes of Practice for Social Care workers. In registering with the Northern Ireland Social Care Council, you have agreed to comply with the Codes. The Codes of Practice are available from the Registration Team - Email **registration@nisocialcarecouncil.org.uk** Telephone 028 9041 7633, or they can be downloaded from our website [www.niscc.info](http://www.niscc.info).

## **Conduct Rules**

The HPSS Act (NI) 2001 provides the legal framework that allowed us to establish a set of Conduct Rules which we use to guide us through the process of dealing with misconduct. By misconduct we mean "conduct which calls into question the suitability of a registrant to remain on the register". The Conduct Rules are available from the Registration Team - Email **registration@nisocialcarecouncil.org.uk** Telephone 028 9041 7633, or they can be downloaded from our website [www.niscc.info](http://www.niscc.info).

## **Who can make a complaint?**

Anyone can make a complaint about a registered social worker or social care worker - carers, service users, employers or the general public.

A complaint will be investigated if, for example;-

- You have taken advantage of or abused a service user
- Your work has fallen well below the standard that is expected with serious or repeated mistakes
- You have behaved in a way (inside or outside of work) that calls into question your suitability to work in social care.

## **We can only take action if:-**

- we have received a written, signed complaint about a worker on our register
- the complaint is about specific behaviour by that worker which does not meet standards
- the behaviour is serious enough to affect registration
- we get evidence to support the complaint.

## **Employer Referrals.**

Employers also have a Code of Practice which sets out their responsibilities for the regulation of social workers and social care workers. Under this Code, employers have a responsibility to inform us about any matters that might call into question your suitability to be registered, such as :-

- If you are dismissed
- If you resign during a disciplinary investigation
- If you are suspended pending the outcome of a disciplinary investigation
- If your employer becomes aware of a criminal charge or conviction against you
- If your employer feels that any matter has a bearing on your registration.

While your employer must decide whether you are suitable to continue working in a particular job, NISCC has a broader responsibility to determine whether you should be allowed to remain on the register and thereby possibly pose a risk to service users.

Because the outcome of any employer's disciplinary process could form part of the evidence placed before a NISCC Committee, it is important that they provide us with full and accurate records of disciplinary proceedings, including any evidence used and the reasons for decisions taken. We are only able to make decisions on the basis of evidence and we will form our own view on the evidence supplied.

## **Self referrals**

You also have a responsibility to tell us if you have any important new information about your conduct or health. In particular you must let us know straightaway if you are:-

- convicted of a criminal offence, receive a police caution or are the subject of any criminal investigation
- suspended or disciplined by your employer
- diagnosed with a condition which seriously affects your ability to practice.

## **What happens when a complaint is made?**

If we receive information about you, we must first consider whether it is "capable of amounting to a complaint."

We consider that information is capable of amounting to a complaint if:-

- a) It relates to someone on our register, **and**
- b) Makes a specific allegation or allegations of misconduct against that registrant; **or**
- c) A registrant is convicted of a criminal offence in the UK or convicted of a criminal offence elsewhere which would also be considered an offence in the UK.

## **Preliminary Enquiries**

In order to determine whether an allegation is grounds for misconduct, we undertake any preliminary enquiries that we feel necessary to establish the facts. Our enquiries depend very much on the nature of concerns raised with us. We might ask for further documents from an employer or confirm the circumstances of a conviction with the PSNI. If you have more than one employer we may contact the others for information.

In some cases it will be clear from the start that it is not appropriate for us to become involved, this could be because the complaint is really about a service provided by an employer or a decision made by another body, e.g. the Courts, rather than the misconduct of an individual worker. In these circumstances we will direct the complainant to the relevant employer or service provider. In some circumstances the office of the NI Ombudsman would be the most appropriate body to deal with the complaint .

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

This will depend on the complexity and seriousness of the concerns. We will complete our enquiries as quickly and efficiently as we can.

If we believe that the allegations made amount to a complaint, we will refer the matter to our **Preliminary Proceedings Committee**. While our Conduct Rules do not require us to tell you at this stage that you are to be referred to the Preliminary Proceedings Committee, we think it only fair that both you and the complainant are informed. You are not required to provide any information at this point and you will not be able to attend the meeting.

We will let you, the complainant and the employer know what the Committee decides.

## **Who sits on a Committee?**

Our committees are made up of three lay people and two registered social workers or social care workers. A lay member is someone who does not work in the social care field. One of the lay members will act as Chair of the committee. All committees have access to specialist legal advice when they are considering a case and medical advice where necessary.

## **Preliminary Proceedings Committees**

The first Preliminary Proceedings Committee (PPC1) has to decide whether the complaint calls into question your suitability to remain on the Register. If the PPC1 decides that the complaint does meet this criterion, they will then refer the matter for a second consideration of the Committee (PPC2). We may need to make further enquiries at this stage, including getting formal statements from anyone who has relevant information. This is usually undertaken by a solicitor.

At least 28 days before the PPC2 is due to meet, you will receive an official letter which is called a Notice of Referral. You will also be sent a copy of the actual complaint, copies of any supporting documentation and a copy of the Conduct Rules. This will allow you to prepare a written response and to submit any critical documentation that you feel is relevant to your case and which will help the Committee reach a decision on whether further action is necessary. This Committee also meets in private although you may request to attend the meeting.

At this second meeting the Committee must decide whether there is sufficient evidence to support the allegation made against you and whether, if proved, the allegation is serious enough to affect your registration.

If the members of the PPC2 are satisfied that the case passes this test, they will then refer it on to a **Conduct Committee**.

## **Interim Suspension Order**

If we believe that the allegation against you is so serious that you need to be prevented from working in social work or social care, we will ask the PPC2 to consider imposing an Interim Suspension Order. This means that you will be suspended from the Register on a temporary basis while the complaint is being investigated. It also means that you will not be able to work as a social worker or social care worker until the Order is removed.

## **Conduct Hearings**

The Conduct Committee will decide whether or not misconduct has been committed and it has the power to affect your ability to work in social care. A Notice of Hearing will be sent to you advising of the date the Committee is to meet. You will also be sent a copy of the Conduct Rules which govern the Committee's actions. Make sure you read these very carefully or ask someone to explain them to you if you need help understanding them.

You will be allowed to attend this hearing and you have the right to be represented by someone if you wish, a solicitor, Trade Union official or a representative from your Professional Body for example. You can call witnesses to provide evidence to support your case and give evidence yourself if you want.

**The Council strongly recommends that you seek advice and secure representation before appearing before a Conduct Committee.**

Conduct hearings are quite formal and they are held in public. This means that anyone can attend, including members of the public and the press. If representatives of the press or media are present, it is possible that an article could appear in local newspapers or news bulletins.

The Conduct Committee will make their decision in private but will announce it in front of you, your representative and anyone else present. Any action they take is intended to protect the public. They will always consider the individual circumstances of a case and will take account of what has been said by everyone at the hearing before deciding what to do. The Committee will base its decision on the “balance of probabilities”, i.e. that it is more likely than not that the misconduct occurred.

**What might the Conduct Committee decide?**

The Conduct Committee might decide that there is no case to answer and if so, will dismiss the case with no further action.

If they decide however that misconduct has been committed, there are three possible courses of action that they might take:

1. Admonishment – this is a caution and lasts for a period of five years
2. Suspension - you will be removed from the Register for a period of up to two years
3. Removal from the Register – this is a permanent sanction and means that you will no longer be able to work in social care.

In all cases the Committee will take into account the seriousness of the misconduct, the need to protect the public and the public interest in maintaining confidence in social care services. They will also consider any mitigating factors put forward on your behalf.

You will be notified of the Conduct Committee’s decision within seven days of the conclusion of the proceedings.

**Appeals**

You have the right of appeal to the Care Tribunal against any decision made by a Committee. The Care Tribunal was established under the provisions of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 to hear appeals against decisions made by a number of organisations concerned with the provision of care or education, including decisions concerning the registration of social workers and social care workers.

The Tribunal can either agree or disagree with the outcome that is being questioned or the sanction given and overturn it. The Tribunal also has the power to change the original decision.

### **Time limit for appeals**

An appeal must be lodged with the Care Tribunal within 28 days of receiving the Notice of Decision from the Committee using the NISCC Appeal Form.

### **If you have been referred to a Committee – what should you do next?**

#### **Notification of a PPC1**

If you are informed that a complaint has been made and is to be referred for initial consideration by the Preliminary Proceedings Committee (PPC1), you are not required to do anything. We will let you know the outcome of the meeting.

#### **Referral to a PPC2**

If you receive a Notice of Referral telling you that the complaint is scheduled for a second Preliminary Proceedings Committee meeting (PPC2), we advise you to take this very seriously. The Notice of Referral is the official notification telling you that the matter is to be referred to a Committee. It will tell you what the actual complaint is and asks for your views on the matter.

- Read the Notice of Referral very carefully, also any accompanying papers and documentation.
- Write back to us regarding the matter within the specified time if asked. Your representative, if any, may respond on your behalf.
- If you think there is no case to answer and that there are other factors to be taken into consideration by the Committee, you should include this information in your response.

#### **Referral to a Conduct Committee**

You will receive a Notice of Transfer if the PPC2 decides to transfer your case to a Conduct Committee. You will also be invited to attend a pre-hearing review in preparation for the Hearing.

- We recommend that you prepare for a conduct case very carefully, using people who have professional expertise or experience in such cases. You have the right to be represented by a solicitor, a representative from your Trade Union or Professional Body or someone else acting on your behalf.
- If you are a member of a Trade Union or Professional Association such as BASW, you are advised to contact them to discuss the matter and to seek representation. If you are not a member of any such organisation, you may wish to consider taking professional advice from a legal source, from a solicitor, barrister or the Citizen's Advice Bureau, before responding to a Notice of Referral/Notice of Hearing in writing.

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- The NI Lawyers Pro Bono Group is a charity established to provide free legal advice and representation in deserving cases where Legal Aid is not available or the applicant cannot afford legal assistance. Applications can be made for assistance and must be on an official form. The process involves an assessment of the merits of the application.
- If you feel that the complaint causes you undue stress or worry, you might find it helpful to talk to your doctor. If your employer has a welfare officer or occupational health department, you can ask for an appointment with them.
- If you need clarification on the Hearing procedure or what you need to do, please contact the Council's Committee Clerk. The Clerk will not, however, be able to discuss details of your case.
- Please remember that all correspondence regarding the Hearing should be marked Private and Confidential and sent to the Committee Clerk.
- It is advisable that you attend a Conduct Committee hearing as it will provide you with the opportunity to put your case forward in person. NISCC will do its best to facilitate any special requirements that you may have.
- We recommend that you read our other available information leaflets about conduct in order to understand how the process works.
- We also recommend that you review the Codes of Practice and the Conduct Rules.

### **Useful Contacts.**

Committee Clerk, NISCC	Telephone No: 028 90 417600
Conduct Section, NISCC	Telephone No: 028 90 417600
BASW (NI)	Telephone No: 028 90648873
NIPSA	Telephone No: 028 90 661 831
UNISON	Telephone No: 028 90 270150
Citizens Advice Bureau	Telephone No: 028 90 231120
Care Tribunal	Telephone No: 028 90 528332
NI Lawyers Pro Bono Group	Telephone No: 028 90 562385

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