



# **Frequently asked questions about SSSC registration**

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The Care Inspectorate and the Scottish Social Services Council (SSSC) answer some common questions about registration. This will be useful for employers, providers and social service workers.

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## A. The legislation about registration and the six month rule

### 1. Why do workers need to be registered?

Certain groups of workers must register with the SSSC. The social services provider (the employer) may be committing an offence if they employ workers who are **not** registered.

### 2. What is the 'six month rule'?

Most groups of workers cannot register **unless** they are working in the role. So, the law allows them to work for six months without being registered. But, they must apply as soon as reasonably possible from the date they started working in the role. Some information about the law is in this box.

#### **The Registration of Social Workers and Social Service Workers in Care Services (Scotland) Regulations 2013**

##### 3. Requirements on providers and offences

- (1) A provider of a care service may only employ a social worker in a care service who complies with regulation 4.
- (2) A provider of a care service may only employ a social service worker in a care service who complies with regulation 5 or 6.
- (3) In the inspection of a care service, SCSWIS may only employ
  - (a) a social worker who complies with regulation 4; and
  - (b) a social service worker who complies with regulation 5, or who in terms of regulation 7 is exempt from the requirements of regulation 5.
- (4) It is an offence to fail to comply with the requirements of this regulation without reasonable excuse.

Regulations 4 and 5 set out that social workers and social service workers must be registered. They also create a 'grace period' of six months for workers who are new into the role. The effect of this is that **no offence** is committed in the first six months so long as the application is made as soon as reasonably possible after starting work.

Regulation 6 has a partial exemption for seasonal day care of children workers.

The Regulations also set out when the Register for each part opens and when registration is mandatory for existing workers. For those new into the sector once that Register part opens – they must register within six months.

### **Some relevant dates:**

- Supervisors in a care at home service: became mandatory on 30 June 2017.
- Supervisors in a housing support service: became mandatory on 30 June 2017.
- The Register will open for applications from workers in a housing support service and workers in a care at home service on 2 October 2017 and will become mandatory on 30 September 2020.

The SSSC will set earlier deadlines for receipt of applications to make sure workers are registered by the required date.

### **3. Why might a worker not be registered within six months?**

These are some reasons why a worker might not be registered within six months of starting a new role.

- The worker applies near the end of or after the six month grace period.
- The worker's application is not fully completed.
- Payment is delayed.
- Endorsement (signed) by the employer is delayed.
- The SSSC's Fitness to Practise Department need to investigate information on the application or information it already holds.
- The worker may have been removed for failing to renew their registration or to pay fees and they may not have submitted a new application.

### **4. Is it always an offence to employ a worker who is not registered after they have been working for six months?**

No. The regulations say it is an offence to employ an unregistered worker beyond the mandatory registration date **unless** the provider has a reasonable excuse. 'Reasonable excuse' is not defined because it is a decision for the courts and will depend on the circumstances.

### **5. Who decides what action to take after the six months?**

The provider must make the decision about what action to take about a worker who is still not registered after six months of starting in the role.

The caseholding inspector can give advice about the process but cannot make the decision.

These are some actions a provider may wish to consider if they find that a worker has not gained registration within six months.

- a. Carry out a risk assessment which may consider the following.
  - The individual circumstances and why the worker is not registered to determine if there is a reasonable excuse (see below).
  - Experience and qualifications of the worker.
  - The risks to people experiencing care or using services if the person continues to work directly with them and what measures can be put in place to minimise these.
- b. Consider the available options which may include:
  - creating an action plan for the worker to achieve registration (this may include setting out a timescale, discussing in supervision or helping with any IT needs)
  - ending the worker's contract of employment
  - suspending the worker's contract of employment until they are registered
  - redeploying the worker to a role that does not need registration.

### **Reasonable excuse**

The Care Inspectorate and the SSSC cannot give legal advice about what a reasonable excuse for employing a worker after the six month grace period might be. However, the following are some reasons that might be a 'reasonable excuse' under the regulations.

### **SSSC investigations about an applicant resulting in a delayed decision**

If the SSSC holds information about the applicant or if certain criminal/disciplinary matters have been declared the case will be investigated by the Fitness to Practise Department. It is not possible to say how long these processes may take to complete. The SSSC may decide to grant registration or offer registration with a condition. If an offer of conditional registration is not accepted or officers consider the application should be refused, the case will be heard by a Fitness to Practise Panel at an Application Hearing. Decisions about cases in this category will take longer.

Fitness to practise investigations may mean that a decision about registration is not made within the six months a worker has to get registered. In these cases the provider may have a reasonable excuse taking into account if:

the worker has submitted a complete application as soon as reasonably practical/possible after starting in the role  
the provider has not delayed in providing the SSSC with information about the worker.

### **Secondments and acting-up periods**

Where a secondment is for a fixed term and overruns the six month period, it may be unrealistic for the seconded worker to move to another part of the SSSC Register or achieve initial registration for their temporary post for a very short period of time.

A provider may temporarily promote a worker to cover sickness or absence of another employee but may not know at that time whether the period will extend beyond six months. The provider may not be able to determine when the absent employee will return to work which means they may have to extend the temporary arrangement.

The inspector can take into account the fact there is no fee to register on additional parts. They should also consider if a provider is routinely extending secondments to avoid the need for to employ a more senior member of staff.

### **Workers registered with another regulatory body and moving to the SSSC**

If a worker is currently registered with another regulatory body but wishes to end that registration and apply to register with the SSSC, there will be a period of time when they are not registered while the application is being processed. In these circumstances, the provider/inspector should advise the worker that they must apply for registration as soon as reasonably practical/possible after their registration with the previous regulator has ended.

### **Workers who hold a non-UK Qualification**

A worker who holds a non-UK Qualification can have this assessed against the qualification criteria. This process can take some time due to the complex work involved and could mean that the worker's application is still being processed beyond the six months of them being in post.

### **Who enforces the regulations?**

The Care Inspectorate enforces the regulations for registered providers. It may decide to report a provider to the Procurator Fiscal if it thinks an offence has been committed. The Care Inspectorate may also decide to take enforcement action against the provider regarding a failure to comply with the SSSC regulations and the Code of Practice for Employers of Social Service Workers.

If the Care Inspectorate becomes aware a provider is employing a member of staff out with their six month grace period then it may take action. This could include making a requirement (and if this is not met taking enforcement action), downgrading or reporting the offence to the Procurator Fiscal.

Inspectors will make a professional judgment about whether to take action. They will take into account the circumstances of each case which may include the following.

- How long the relevant part of the Register has been open.
- How long the worker delayed in applying for registration.
- If the provider took reasonable action to make sure the worker completed an application.
- The number of staff that are working outwith their six month grace period.
- Any history of the worker not complying with SSSC registration with this service or the provider.
- Any reasonable excuse.

If the SSSC sees a pattern of late applications or isolated cases where an application is very late it will pass this information to the Care Inspectorate.

The SSSC's Fitness to Practise Department may investigate workers who have failed to register. It will always investigate late applications from social workers and managers.

## **B. Who should be registered?**

### **6. Which groups of workers need to register?**

Staff must register if they are carrying out one of the roles described by the SSSC. The list of definitions for all the Register parts is on the SSSC website. The SSSC cannot give specific advice because it does not know the details of the service and the roles being carried out. Providers may wish to discuss any queries with their inspector who will also refer to the SSSC descriptions of the role.

If there is a question about whether a lead practitioner in a day care of children or other type of service should register as a manager or practitioner, the employer should look at the job description and roles and assess which role it best fits into.

### **7. Why are not all people who work in social services registered with the SSSC?**

A number of groups such as social work assistants, offender accommodation staff and childminders cannot register with the SSSC. The current program for registration will be complete when the Register opens to workers in housing support and care at home services in October 2017. The Scottish Government will decide whether to register any more groups.

### **8. What is 'regular, direct involvement in the care and support of people using services'?**

The provider should assess how much direct involvement in care and support there is in a role and the potential impact on people experiencing care. Some examples of different roles are below.

#### **Bus escorts**

If their only role is being responsible for children while on the bus they do not require SSSC registration. They should be PVG checked, but SSSC registration, with its expectations regarding qualifications and ongoing professional development would not be proportionate for this group of staff. However, if their role involves aspects of care such as personal care, they would need to register on the appropriate part.

#### **Lunchtime assistants**

If they are only serving food there is no need to register. If they are carrying out a caring function then they do need to register no matter how many hours are worked.

#### **Support school staff**

Some may be involved in restraint or debriefing of young people following an incident. If so, they are involved in depriving someone of their liberty and intervening directly in their care and should therefore be registered.



**9. If a support worker acts up at times as a supervisor to cover rotas should they be registered on both parts of the Register or would the supervisor part cover them for both roles?**

If the arrangement is regular the worker should be registered on both parts of the Register.

**10. Are people registered by the SSSC to work in a care at home or housing support service, able to work with children as well as adults?**

Yes. The SSSC will be registering people working in care at home and housing support services as being able to work with adults or children. It is the provider's responsibility to make sure the workers they employ have the relevant knowledge, skills and experience for the people they are working with, whatever their age and needs.

Please note services that cater for young people through to adulthood in a continuing care setting can remain registered on parts of the Register for children.

**11. Does a nurse registered with the Nursing and Midwifery Council (NMC) and also working as a social care worker (for example as a worker in a care home service for adults) need to register with the SSSC?**

No. If a worker needs to be registered by a different workforce regulator they do not need to register with the SSSC. If the worker decides to leave their employment as a nurse and come off the NMC register they have six months to register with the SSSC.

**12. Should agency staff apply for registration?**

Yes, if they are carrying out a role that requires registration. This includes agency staff who are supplied by an employment agency whether or not it is registered with the Care Inspectorate as a childcare or nurse agency.

**13. Should Modern Apprentices apply for registration?**

Yes, if they are carrying out a role that requires registration. If Modern Apprentices have a role involved in providing care and support, they should apply to be registered for the relevant part of the register. For example, some Modern Apprentices will be working as a practitioner rather than as a support worker.

**14. Can an applicant without any training or qualifications be registered as a manager?**

Yes. They would be registered with a condition that they gain the qualification within five years. People ask about managers of day care of children services and if they need a practice qualification before they apply to register. They do not, but a practice qualification is needed before they can start the BA in Childhood Practice.

**15. Do provider organisations need to be registered?**

No, but they must comply with the SSSC Code of Practice for Employers of Social Service Workers. However, if the provider is an individual who is carrying out a role that needs registration they must register. An example of this would be an owner/manager of a day care of children service.

If an inspector becomes aware of a provider being directly involved in a caring role, then they will advise the provider to register.

**16. Can the Care Inspectorate check information about how many members of staff in a service are registered?**

Yes. Inspectors now have access to the MySSSC database. This means they can check if a registered service is compliant with SSSC registration requirements for its staff and the SSSC Code of Practice for Employers. Inspectors should check MySSSC as part of an inspection and follow up any compliance issues with the provider.

Providers are also asked about staff who have registered with the SSSC in the annual return to the Care Inspectorate.

## **C. Coming on and off the Register**

### **17. Is being 'lapsed' different from a registrant being 'removed'?**

The SSSC now uses the term removal for all situations where a worker comes off the Register. This applies whatever the reason.

The word 'lapsed' was previously used to describe workers coming off the Register for reasons like failing to renew, failing to meet qualification conditions or not paying fees. Removal was previously only used for fitness to practise removals.

### **18. What is the process when a worker renews registration or reapplies after a period off the Register?**

The worker must complete a new application. The renewal is a shorter type of application and asks for an update on the information previously provided. If the SSSC has previously investigated an offence or disciplinary matter this will not be reconsidered unless there is new information and it shows a pattern of behaviour. The SSSC will look at any new information. If a worker is off the register for a period of time they need to go through the full application process again which can take up to 60 working days from the date of receipt of the application. If the application is referred to Fitness to Practise for further investigation it may take longer than 60 days.

## **D. Qualifications**

### **19. What qualifications are needed for each role?**

The SSSC lists all accepted qualifications on its website.

### **20. Does previous registration with the NMC meet the SSSC's qualification requirements for managers?**

No, not in every case. If a worker was previously registered with another regulatory body and wants to apply to register with the SSSC, it is possible the worker's previous qualification will already meet the practice element for registration. However, managers and supervisors will also need a management or supervisory qualification.

### **21. What percentage of staff working in a care service should be qualified?**

All registered staff working in a care service should either hold a relevant qualification which meets the SSSC's registration requirements or should be working towards achieving one. A list of all acceptable qualifications is available on the SSSC's website.

### **22. When must managers and supervisors complete their qualification?**

Since March 2016 the standard period of registration is five years (except for students who are registered for seven years). Any worker registered without the required qualification(s) must gain it within that time.

However, the SSSC may require a qualification to be completed within a shorter time in some situations.

Please note that previously some groups of workers were only registered for a period of three years.

### **23. What happens if a worker has not completed a qualification condition by the time they are due to renew their registration?**

If a qualification condition has not been met the SSSC may not grant the renewal application and may remove the worker's registration.

If there are particular circumstances that have prevented a worker from achieving a qualification the SSSC may still grant the renewal. This may

include illness or maternity leave. The SSSC does not grant further renewals automatically because it considers workers having the correct qualifications for their role to be an important part of public protection.

The worker would need to give evidence to the SSSC to demonstrate their commitment to achieving the qualification. Ideally the worker should have already started working towards it. If the SSSC does grant a worker additional time to achieve a qualification this will be for a specific period of time that may be less than the usual five years.

If a worker thinks they are likely to experience difficulty in achieving a qualification they should contact the SSSC. Inspectors will not assess if staff are on course towards achieving their qualification. This is for the provider to manage.

## E. Miscellaneous

### 24. How long does it take to become registered?

Most applications are processed within 60 working days. There are a number of situations where registration can be delayed.

- The application is not fully completed, for example, if dates or fine amounts for convictions are missing.
- There is information on the application or information the SSSC already holds which needs to be investigated by the Fitness to Practise Department. The SSSC cannot estimate when an investigation will be completed because this depends on the complexity of the investigation and information being provided by third parties. The Fitness to Practise Department will keep the worker updated of progress.

### 25. How much does it cost to register?

Registration fees vary depending on the part of the Register applied for. Registered workers will pay an application fee followed by an annual fee to maintain registration.

Registered workers will be asked to renew their registration after five years (previously some parts were only registered for three years eg social workers, residential child care workers and certain managers).

The fees will increase from 1 September 2017. If a worker applies for registration and pays their fee before 1 September they will pay the existing fee. If they apply on or after 1 September they will pay the higher application fee. The SSSC will send workers an invoice at least one month before their annual fee or renewal fee is due. If the annual fee or renewal fee is due after 1 September the new fees will apply.

<b>Register part</b>	<b>Current fee</b>	<b>New fees from 1 September 2017</b>	<b>Increase</b>
Social work student	£10	<b>£15</b>	£5
Support worker	£15	<b>£25</b>	£10
Supervisor/practitioner	£20	<b>£35</b>	£15
Residential child care supervisor/worker	£30	<b>£35</b>	£5
School care accommodation officer	£30	<b>£35</b>	£5

Manager/social worker	£30	<b>£80</b>	£50
Care Inspectorate Authorised Officer	£30	<b>£80</b>	£50

## **26. What happens if a worker registers on the wrong part?**

The SSSC will arrange removal from the current Register part and ask the individual to apply online for the correct Register part. If the worker has been registered for more than six months they may need to pay an application fee. This means the worker will be unregistered until the new application is granted. The provider would need to consider if it is appropriate to continue to have the worker performing their role until registration on the correct part is granted. Inspectors should consider the advice at question 1 in terms of enforcement.

## **27. Can a worker be registered on more than one part of the Register?**

Yes. In fact, a worker should be registered on each part of the Register that they are carrying out the role for. The following information should also be noted.

- A worker can be on the student part and any function based (non social worker) part of the Register.
- A worker can be on the social worker part and any function based part even if they are not carrying out a social worker role. This is because unlike other parts they can be on the Register part for social workers while not doing the job.

## **F. Disciplinary and fitness to practise**

### **28. If a worker resigns before a disciplinary finishes should the provider tell the SSSC?**

The Regulation of Care (Scotland) Act 2001 says that an employer must refer a worker to the SSSC if the worker resigns or abandons their post and the worker would have been dismissed on the grounds of misconduct or dismissal would have been likely. The provider should decide if they need to refer the worker to the SSSC using the referral guidance for employers on the SSSC website. The employer must also consider if a referral to Disclosure Scotland is required.

### **29. If a provider finds out about a criminal charge or conviction that may affect a worker's fitness to practise what should they do?**

- Tell the Care Inspectorate using the e-form system.
- Tell the SSSC using the referral form on their website.

It does not matter:

- how the provider found out about the charge or conviction (the worker may tell them or they may find out from a press report, the police or another employer)
- where the incident took place (in or outside work)
- when the incident took place.

If a provider has information about a former employee they can still make a referral as a member of the public. The fact a referral is made does not 'count against' a worker. It is considered independently by the SSSC.

### **30. How often should providers update PVG records?**

The Care Inspectorate expects providers to periodically re-check the suitability of care service staff as a matter of good practice. The Care Inspectorate advises providers to update PVG checks on workers every three years, but will not enforce this practice.

### **31. When will inspectors make a referral to the SSSC?**

Providers have responsibilities under The Regulation of Care (Scotland) Act 2001 and the SSSC Code of Practice for Employers of Social Service Workers to refer workers to the SSSC in certain circumstances. Providers should look at the guidance on the SSSC website which sets out in which circumstances a referral should be made and what triggers a referral.



The Care Inspectorate will refer a worker to the SSSC if they have a concern that the provider will not make a referral or they consider the matter is so serious that it is appropriate to do so. Inspectors can also refer a worker to the SSSC if they witness an incident. The SSSC will then approach the provider for more information.

### **32. What is the process if a worker is not registered?**

The provider should refer the worker to the SSSC at the end of the disciplinary process using the referral form and guidance on the SSSC website. The SSSC will tell the worker it is holding the information and invite them to comment if they wish to do so. The SSSC will not carry out any further investigation but will hold the information and investigate if the person applies for registration in the future.

The Care Inspectorate will not refer the matter to the SSSC unless they have a concern that the provider will not make the referral or they consider the matter is so serious that it is appropriate to do so. The SSSC will simply use this information to check they have a record of the matter but will not take any further information or share information unless there is a legitimate reason for doing so. If the provider has not made a referral the SSSC will take this up with them directly.

### **33. What happens when the SSSC is carrying out an investigation about a worker who is applying to be registered, or is registered?**

The focus of the SSSC process is to make sure workers are fit to practise. At the start of the investigation the SSSC will write to the provider and to the worker to tell them about the allegations and to allow the worker to make comments. They will then investigate the allegations before making a decision. The SSSC may take no further action or may ask the worker if they want to accept a sanction. If the worker does not accept a sanction the case may go to a hearing before a Fitness to Practise Panel. There are factsheets and Q&As about the process on the SSSC website [under the Fitness to Practise tab](#).