



# **SSSC Registration - the six-month rule and exceptional circumstances**

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## The purpose of this document

The purpose of this document is to share information about who should register with the SSSC and when. It also provides guidance relating to circumstances where a worker is not registered appropriately, and some of the scenarios that may be considered a reasonable excuse.

This guidance is aimed at both new workers, and existing workers who may have been on the Register but were removed because they failed to maintain their registration.

## Who needs to register?

Social service workers must register if they are carrying out one of the roles described by the SSSC. The list of definitions for all Register parts is on our website <https://www.sssc.uk.com/search/?q=job+role+information>

We cannot give specific advice about roles because we do not know the details of the service and the roles being carried out within different services. Employers should look at the job description and roles and assess which role it fits best.

## Temporary COVID-19 legislation changes

Temporary legislation came into effect on 27 March 2020 in response to the COVID-19 pandemic, giving workers up to 12 months to gain registration. While these rules are in force, reference to six months in this document can be taken as 12 months. All other information remains the same.

## Not everyone who works in social services is registered with the SSSC

Some groups, such as social work assistants, offender accommodation staff and childminders, cannot register with the SSSC.

Service providers should assess how much direct involvement in care and support there is in a role and the potential impact on people experiencing care. Here are some examples of different roles that may involve regular, direct involvement in the care and support of people using services.

<b>Examples of roles that do not require registration</b>	
<b>Lunchtime assistants</b>	<p>If they are only serving food, there is no need to register.</p> <p>If they are carrying out a direct support or caring function they do need to register, no matter how many hours they work.</p>
<b>School support staff</b>	<p>School support staff do not need to be registered.</p> <p>If a worker can be asked to work in daycare of children services (nurseries, out of school clubs) as part of their role, they must be registered.</p>

**Workers registered with the Nursing and Midwifery Council (NMC) or another regulatory body**

If a worker needs to be registered by another workforce regulator they do not need to register with the SSSC. If the worker decides, for example, to leave their employment as a nurse and come off the NMC register then take a different role that requires SSSC registration they have six months to register.

<b>Roles that require registration</b>	
<b>Modern apprentices</b>	Modern apprentices should apply for registration with the SSSC 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.
<b>Agency workers</b>	If they are carrying out a role that requires registration, agency staff must register with the SSSC. 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. Agency workers should be registered on each part of the Register they are or will be carrying out a role in.
<b>Care at home and housing support services supporting adults and/or children</b>	The SSSC will register 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 their employees have the relevant knowledge, skills and experience for the people they are working with, whatever their age and needs.
<b>Acting up</b>	If a support worker occasionally or regularly acts up as a supervisor to cover rotas the worker should be registered on both parts of the Register.

## **Timescales for gaining registration (the six-month rule)**

Most workers cannot apply to register **unless** they are working in the role, so the law allows them to work unregistered for up to six months, giving them time to apply and gain registration.

As all roles that the SSSC registers are now mandatory, workers **must** be registered with the SSSC within six months of starting the role. Workers should be encouraged to apply for registration as soon as they can. You can find more information about which parts are mandatory on our website at <https://www.sssc.uk.com/registration/help-with-register-parts-fees-and-qualifications/>

## **Impact of workers not being registered when they should be**

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.

## Common reasons workers don't get registered in time

Here are some reasons why a worker may 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 (signing) 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 for failing to pay fees.

## What should employers do?

The employer must decide what action to take if a worker is not registered appropriately or is removed from the Register due to not paying their fee or failing to renew their registration.

Employers can seek advice from the Care Inspector for their service, but inspectors cannot make the decision.

Here are some actions an employer may want to consider if they find a worker has not gained registration within six months.

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 impact on the service as the worker cannot continue to work
- 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.

Consider the available options which may include the following.

- 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.

You can discuss these options with your Care Inspector regarding the worker's specific circumstances/reasons for not being registered.

## Reasonable excuse

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

- **SSSC investigations result in a delayed decision**
- If the SSSC holds information about the applicant or if certain criminal/disciplinary matters have been declared, the SSSC Fitness to Practise Department will investigate if the information is likely to impair the applicant's fitness to practise. It is not possible to say how long this may take to complete as investigations often depend on relying on information from third parties.
- Fitness to practise investigations may mean that a decision about registration is not made within the six months. In these cases, the provider may have a reasonable excuse if:
  - the worker submits 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
  - a secondment or acting up period is for a fixed term and overruns the six-month period. It may be unrealistic for the seconded worker to achieve registration for their temporary post for a very short period.
- A provider may temporarily promote a worker to cover sickness or absence of another employee but may not know 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 consider the fact there is no fee to register on additional parts of the Register. They should also consider if a provider is routinely extending secondments to avoid the need to employ a more senior member of staff.
- **Workers registered with another regulatory body moving to the SSSC**
- If a worker wants to end their current registration with another regulatory body and apply for SSSC registration there will be a period of time when they are not registered while we are processing their application. This is because the other regulatory registration must end before the worker can register with the SSSC. In these circumstances, worker has six months to gain registration.
- **Workers with a non-UK qualification**
- If a worker holds a non-UK qualification the SSSC can assess the qualification when they apply for registration. This process can take some time due to the complex work involved and could mean the worker's application is still being processed beyond six months of them being in post.

## Enforcement of regulations

The Care Inspectorate enforces the regulations for registered service providers and 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 for 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 outwith the six-month grace period 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 consider the circumstances of each case which may include:

- how long the relevant part of the Register has been open
- how long the worker delayed in applying/reapplying for registration
- if the provider took reasonable action to make sure the worker completed an application/maintained their registration once registered
- 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 consider an investigation into late applications from social workers and managers but it will depend on the specific circumstances of each case.