

**Memorandum of Understanding**  
between  
**The Care Inspectorate**  
and  
**The Scottish Social Services Council**

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## 1. **Introduction**

This Memorandum of Understanding (**MoU**) sets out how the Care Inspectorate (**CI**) and the Scottish Social Services Council (**SSSC**) will share information relating to their respective responsibilities for regulating social care services and the social service workforce. It also covers the CI's duty to scrutinise and improve social care and social work services. This MoU is complementary to the Partnership Agreement adopted by both bodies in 2012 and revised in 2021 and 2024 that sets out their respective and aligned responsibilities and how they will work together in meeting them.

The CI and the SSSC share information in order to fulfil their delegated functions in terms of the Regulation of Care (Scotland) Act 2001 and the Public Services Reform (Scotland) Act 2010 (the **2010 Act**), and in relation to their roles as providers of Official Statistics in terms of the Statistics and Registration Services Act 2007 and the 2010 Act. This exchange will be governed by a separate arrangement between the CI and the SSSC.

## 2. **Scope of the MoU**

This MoU does not affect existing statutory functions or amend any other policies or agreements relating to the activities of the CI and the SSSC. It does not imply any transfer of responsibility from one to the other, nor any sharing of statutory responsibilities. It does not restrict the exercise of each body's respective statutory responsibilities.

This MoU is not enforceable by law. However, the CI and the SSSC agree to adhere to its principles and to show proper regard for each other's activities.

## 3. **Responsibilities of each body**

The CI is the independent scrutiny and improvement body for social work and social care services. The SSSC is the regulator for social workers, social services workers and social work students in Scotland. The detailed responsibilities and functions of each body are set out in Appendix 1.

## 4. **Information Exchange**

### 4.1 General

The CI and SSSC will share information as set out in the Operational Guidance for Data Sharing (Appendix 2).

The CI and SSSC will review this MoU every 3 years or earlier if required and will annually review the Operational Guidance each January. Both organisations will meet as required throughout the year to discuss or review issues as they

arise.

Responsibility for conducting the annual review and agreeing proposed changes for approval of any changes rests with the relevant CI Director and the Director of Regulation with the SSSC as above.

#### 4.2 Purpose

The purpose of exchanging information is to support each body in the exercise of its statutory duties.

#### 4.3 Data Protection, Freedom of Information and Human Rights considerations

- a. This MoU shall be construed and applied in accordance with the UK General Data Protection Regulation (EU) 2016/679, the Data Protection Act 2018 (**DPA**), the Human Rights Act 1998 and the Freedom of Information (Scotland) Act 2002 (**FOISA**).
- b. Where either body receives information from the other under this MoU and holds or uses that data for its own purpose, the body receiving the data becomes the "data controller" for the purposes of the DPA.
- c. Where either body receives information from the other under this MoU that relates to an identifiable individual, in order that the receiving body can then process that information on behalf of the disclosing body, the receiving body will become the "data processor" for the purposes of the DPA and will:
  - i. only use the data for the purposes set out in this agreement subject to any requirement that the data processor has to provide the information to third parties,
  - ii. ensure that all proper organisational measures are in place to protect the data from unauthorised or unlawful use, or accidental loss, destruction or damage, and
  - iii. ensure that all employees who may have access to the data are aware of their duties under the DPA and this MoU.
- d. In all cases, the minimum personal information necessary for fulfilment of the purposes set out in this MoU should be exchanged and care should be taken to redact the information of third parties whose identity is not relevant.
- e. If either body considers the information to be particularly sensitive for any reason the information exchange should be authorised by the person

with strategic responsibility for information exchange set out in Appendix 2 below.

- f. The CI and SSSC are subject to the terms of the FOISA and may be obliged to disclose information provided in terms of this MoU. They agree to consult each other in the event that disclosure of information in terms of a FOISA request would be likely to affect the other's interests.
- g. Parties can agree to share information not set out within this MoU or for purposes outwith the scope of the MoU. Where this type of sharing occurs both parties must record what was shared and the purpose(s) of sharing that information.

#### 4.4 Information that will not be shared

Neither the CI nor the SSSC will disclose the content of Disclosure Scotland or Protection of Vulnerable Groups checks to the other body without the express consent of the person to whom the checks relate.

#### 4.5 Data quality

Information provided by the SSSC and the CI is collected from a wide range of sources. Information is subject to checks and every effort will be made to ensure the accuracy of the information. Where there is any doubt as to the accuracy of the information being provided, this will be made clear.

Where the recipient body becomes aware that information provided is not accurate they shall inform the providing body. The providing body shall either note the inaccuracy or where the error relates to statistical matters take all reasonable steps to correct the inaccuracy and inform the other body that this has been done. The providing body will take steps to ensure that the data is corrected with 14 days of notification and if this is not possible will keep the recipient body informed as to progress.

#### 4.6 Security arrangements and retention

Unless otherwise agreed between the CI and SSSC, once exchanged information will be handled in terms of the receiving body's relevant data protection, data security and retention policies and procedures.

## 5. **Authorised Officers**

The Regulation of Care (Social Service Workers) (Scotland) Order 2024 provides that an employee of the CI who is an "authorised person" (as defined in section 56 of the 2010 Act) is a social service worker for the purposes of section 44(1)(b) of the Regulation of Care (Scotland) Act 2001.

Authorised persons must be registered with the SSSC (or another professional regulator) to carry out their role and are included on the "SCSWIS Authorised Officer" part of the SSSC's register.

From 3 June 2024, there shall be two levels of "authorised officer" within the SCSWIS Authorised Officer registration category – Primary Authorised Officer and Secondary Authorised Officer.

In relation to these roles, it is agreed that:

- a. **Primary Authorised Officers** (e.g. inspectors) are authorised officers who lead on regulatory scrutiny activity on behalf of the CI. Their core role purpose is to exercise the CI's inspection powers (as set out within Part 5 of the 2010 Act) through a broad range of regulatory and scrutiny activities in relation to care services as defined by section 47 (and Schedule 12) of the 2010 Act.
- b. **Secondary Authorised Officers** (e.g. team managers and strategic inspectors) are authorised officers who undertake all other roles of an authorised person which are ancillary to the role of Primary Authorised Officer. Secondary Authorised Officers support or carry out regulatory or strategic scrutiny activity, but the role purpose is broader than simply exercising the CI's inspection powers.

Any changes to the levels of Primary Authorised Officer and Secondary Authorised Officer must be agreed by both the SSSC Council and the CI's Strategic Management Group.

## 6. **Disagreements**

The CI and SSSC aim to resolve queries from each other within 10 working days.

Where a disagreement cannot be resolved, the person with strategic responsibility for information exchange from each body are jointly responsible for securing a solution acceptable to both organisations and where necessary referring matters to the Chief Executives of both organisations for resolution.

7. **Signatures**

**Jackie Irvine**

Chief Executive of the Care Inspectorate

Signed

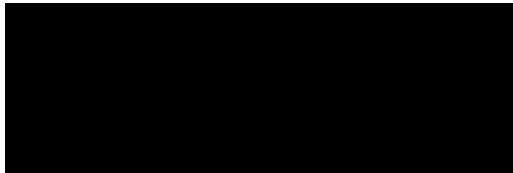


Date 10 May 2024

**Maree Allison**

Chief Executive of the Scottish Social Services Council

Signed



Date 3 May 2024

## **Appendix 1: Responsibilities of the Care Inspectorate and the Scottish Social Services Council**

### Care Inspectorate

The Care Inspectorate (**CI**) is the everyday name for Social Care and Social Work Improvement Scotland. It is the body that regulates and inspects care services and carries out multi-agency, social work and child protection inspections.

- a. The CI regulates and inspects care and support services to ensure that people experience high quality, safe and compassionate care.
- b. The CI protects and promotes the rights of people using care services and their carers, including those whose rights are restricted under Adults with Incapacity legislation, in its role as corporate parents or with those who have limited communication abilities.
- c. The CI expects all providers to continuously improve, and it takes action to demand improvement where quality of care is poor, targeting its finite resources on poorly performing services.
- d. The CI signposts good practice and innovation by offering a range of resources to support improvement through its dedicated online portal 'The Hub' and in its regulatory, inspection and improvement activities.
- e. The CI reports publicly on its findings to provide assurance and protection on the quality of care and to help people make confident and informed decisions.
- f. The CI makes independent and fair judgements based on risk using the rigour of its intelligence, evidence and professional expertise.
- g. The CI undertakes joint inspections of services for children and adults across community planning partnerships and holds chief officers responsible for working together effectively to promote the rights and meet the needs and choices of people living in local communities.
- h. The CI collaborates and co-operates with other scrutiny and delivery partners to deliver public value in its scrutiny and improvement activities.
- i. The CI registers care services that meet the standards set out in legislation, current best practice, and its own requirements to deliver high quality, safe and compassionate care.
- j. The CI investigates complaints about care providers and the Care Inspectorate.
- k. The CI works with people who use services and their carers and the

public to listen and ensure that their views and experiences inform all of its scrutiny and improvement activities.

- l. The CI uses its equality outcomes and action plan to ensure it eliminates discrimination and values everyone equally.
- m. The CI advises Scottish Ministers and informs national policy, based on evidence from its scrutiny and improvement activities.
- n. The CI exercises its legal powers (and will continue to work with policy makers to ensure it has the necessary effective powers) to take action where acceptable standards are not met and acts quickly to provide protection and assurance for people using services and their carers.
- o. When making any decisions under Part 5, Chapters 1, 2 or 3 of the 2010 Act, the CI has a duty in terms of section 50(4) of the 2010 Act to take into account the Code of Practice for Employers published by the SSSC under section 53 of the Regulation of Care (Scotland) Act 2001.

### SSSC

- a. The principal functions of the Scottish Social Services Council (**SSSC**) are to regulate the social service workforce through registration and Codes of Practice and also to promote the education and training of social service workers.
- b. The SSSC has the general duty of promoting high standards of conduct and practice among social service workers; and in their education and training.
- c. The SSSC has a statutory responsibility to maintain a register of social service workers. Registration is mandatory for social workers and many categories of social service worker.
- d. In order to be registered, social service workers must meet a number of requirements for entry on to the register, including requirements relating to good character, conduct and competence.
- e. The SSSC has published a Code of Practice for Social Service Workers (the **Code**) that sets standards of care for registered workers. Once registered, workers must abide by the standards set in the Code and continue to meet the requirements for registration.
- f. The Council has a duty to investigate concerns about the fitness to practise of applicants for registration or registered social service workers.

- g. The SSSC will take account of the Code in considering issues of misconduct and decisions as to whether a registered worker should remain on the register.
- h. The SSSC has published a Code of Practice for Employers of Social Service Workers. The employer of a registered worker is required to take the Code of Practice for Employers of Social Service Workers into account in making any decision related to the conduct of that worker.
- i. The SSSC has a duty to produce workforce data reports in the exercise of its powers, including delegated powers, under the Regulation of Care (Scotland) Act 2001 and in particular, those powers delegated under section 58 of that Act as amended from time to time and also for the communication and development work of the Council.

**Appendix 2**

**Operational Guidance for Data Sharing**

between

**The Care Inspectorate (CI)**

and

**The Scottish Social Services Council (SSSC)**

**Roles responsible for information exchange**

<b>Body</b>	<b>Strategic Responsibility</b>	<b>Operational Responsibility</b>
SSSC	Director of Regulation	Head of Fitness to Practise
	Director of Strategy & Performance	Head of Registration
CI	Executive Director of IT and Digital Transformation	Information Governance Lead
	Executive Director of Scrutiny and Assurance (Children's Services and Strategic Inspection)	Chief Inspector (relevant specialist area)
	Executive Director of Strategy & Improvement (Adult Services)	

<b>Ref</b>	<b>From</b>	<b>To</b>	<b>Information</b>	<b>Where held</b>	<b>Responsible Post Holder</b>	<b>Purpose</b>	<b>Frequency</b>
<b>1. Registrants subject to fitness to practise action</b>							
	SSSC	CI	Where a registrant is registered as a Manager and is subject to a temporary order or a sanction, the SSSC will inform the CI of this fact and any additional information necessary to ensure public protection.	Fitness to Practise	Head of Fitness to Practise	To ensure public protection by providing the CI with information which may affect the CI's regulation of a care service.	Notified when the temporary order or sanction is imposed.
<b>2. Information about any person working in a registered care service</b>							
	SSSC	CI	Any information about a person working in a service (whether registered with the SSSC or not) which the SSSC has a reasonable belief that it would be in the public interest to disclose to the CI.	Fitness to Practise	Head of Fitness to Practise	To ensure public protection by providing the CI with information which may affect the CI's regulation of a care service.	In response to each case.

3. Information about a provider of registered care services or social workers							
	SSSC	CI	<p>Information about a service that may come to the attention of the SSSC and in its reasonable opinion be likely to affect the CI's regulation of a service, such as:</p> <ul style="list-style-type: none"> <li>• non-compliance with Required Registration and/or the SSSC's Code of Practice for Employers.</li> <li>• information about practice within a service that has come to the attention of the SSSC.</li> <li>• information identifying service managers who are required to be registered and who are not registered with the SSSC (or have not confirmed their registration with another relevant regulatory body).</li> <li>• information about the number of workers in any particular service who are registered with the SSSC, including the part of the register they are on.</li> </ul>	Registration and Fitness to Practise	Heads of Registration and Fitness to Practise	<p>To ensure public protection by:</p> <ul style="list-style-type: none"> <li>• providing information to enable the CI to enforce provider compliance with the Registration of Social Workers and Social Service Workers in Care Services (Scotland) Regulations 2013</li> <li>• providing the CI with information which may affect the CI's regulation of a service.</li> <li>• enabling the CI to check that managers are registered appropriately and qualified (or seeking to be).</li> </ul>	As required

4. List of registered care services							
	CI	SSSC	<p>A list of:</p> <ul style="list-style-type: none"> <li>• all registered services</li> <li>• those cancelled since the last report</li> </ul>	Intelligence Team	Intelligence and Analysis Manager	<p>To promote high standards of education and training among social workers and social service workers by:</p> <ul style="list-style-type: none"> <li>• enabling the SSSC to maintain an accurate list of care services and thus ensure it is communicating with the full range of service providers and making them aware of their responsibilities in relation to registration and regulation of their staff and registrants on the function-based parts of the Register are appropriately registered.</li> </ul> <p>To contact registrants registered to a care service known by the Care Inspectorate to be a cancelled service and confirm their employment status.</p>	Monthly
5. Fitness to practise of social service workers							
	CI	SSSC	Information about the fitness to practise of a social service worker. The CI will advise their provider of their statutory duty to refer to the SSSC and will also make a referral to the SSSC.		Caseholding inspector  Complaints team	To ensure public protection by providing information to the SSSC to enable them to make a risk assessment about a worker and carry out subsequent actions.	In response to each case

6. Number of staff in each job description in a registered care service							
	CI	SSSC	Data on all staff working in a registered care service, plus data on the service and organisation that is a part of it for the purpose of workforce intelligence, as specified in the Data Sharing Agreement between CI and SSSC.	Intelligence Team	Intelligence and Analysis Manager	To enable the SSSC to produce statistical analysis or to carry out research which is relevant to responsibilities and role of the SSSC in exercise of its powers, including delegated powers, under the Regulation of Care (Scotland) Act 2001 and in particular, those powers delegated under section 58 of that Act as amended from time to time and also for the communication and development work of the SSSC.	Annually
7. Intelligence sharing							
	SSSC	CI	Trend analysis of fitness to practise referrals and outcomes.	Strategic Performance and Engagement	Head of Strategic Performance and Engagement	To inform risk-based assessment methodology	As developed