

Health and Care Professions Council – 18 September 2012

Memorandum of Understanding

Executive summary and recommendations

Introduction

As part of the project to transfer the register of social workers from the GSCC to the HCPC, we have agreed a Memorandum of Understanding (MoU) with the other UK social care regulators.

The MoU is an agreement between the HCPC, Care Council Wales, the Northern Ireland Social Care Council and the Scottish Social Services Council. As part of the agreement, social workers who would like to practice in England and are already registered with their respective regulators in Wales, Northern Ireland and Scotland are eligible to apply for registration with the HCPC. Those who would like to practice on a regular basis in more than one country, for instance in both Wales and England, will need to register in both countries.

The MoU also sets out that HCPC will recognise education programmes approved by the other UK social care regulators, while the other UK regulators will recognise education programmes approved by the HCPC. In addition, it sets out the framework in which information in relation to Fitness to Practise will be shared amongst the Four Councils.

Decision

The Council is asked to note the document; no decision is required.

Background information

Paper considered by the Education and Training Committee in November 2011 and Council in December 2011 entitled "Social workers – recognition and reciprocity of training and registration in the UK."

Resource implications

None

Financial implications

None

Background papers

None

Appendices

Memorandum of Understanding

Date of paper

5 September 2012

Memorandum of Understanding between the Care Council for Wales, the Health and Care Professions Council, the Northern Ireland Social Care Council and the Scottish Social Services Council

Introduction

1. The purpose of this Memorandum of Understanding (MoU) is to set out a framework for the working relationship between the Care Council for Wales (the Care Council), the Health and Care Professions Council (HCPC), the Northern Ireland Social Care Council (NISCC) and the Scottish Social Services Council (SSSC) (collectively the Four Councils) in relation to the regulation of social workers and the approval of social work education across the UK.
2. The Care Council is the regulator for social workers, social care workers and social work students in Wales; the HCPC is the regulator for social workers in England and 15 other professions across the UK; the NISCC is the regulator for social workers, social care workers and social work students in Northern Ireland; and the SSSC is the regulator of social workers, social care workers and social work students in Scotland.
3. This MoU does not affect the existing statutory functions of each of the Four Councils or amend any other policies or agreements relating to their activities. It does not imply any transfer of responsibility from one to the other, nor does it imply the sharing of statutory responsibilities.
4. This MoU does not override the statutory responsibilities and functions of any of the Four Councils and it is not enforceable in law. However, the Four Councils are committed to working in ways that are consistent with the content of this MoU.

Principles of Co-operation

5. The Four Councils intend that their working relationship will be characterised by the following principles:
 - 5.1 The need to enhance public protection;
 - 5.2 The need to make decisions which promote high quality care;
 - 5.3 The need to maintain public confidence in the social work profession (or in the case of Care Council, NISCC and SSSC social care managers, social care workers), the Four Councils and the regulatory process;
 - 5.4 So far as possible, to align standards for social work across the UK;
 - 5.5 Openness and transparency between the Four Councils as to when cooperation is and is not considered necessary or appropriate;
 - 5.6 Respect for the Four Council's independent status;

5.7 The need to use resources effectively and efficiently.

6. The Four Councils are also committed to being transparent, accountable, proportionate, consistent and targeted.

Social work education

7. In order to facilitate and confer eligibility for admission to a Register in each country, the Four Councils recognise:-
- that an honours degree in social work or its equivalent is the contemporary level of threshold qualification required for entry to a Register across the UK for social workers qualified in the UK; and
 - social work training programmes which are approved by each of the other Councils in its respective country.

This recognition allows social workers who have trained in any country in the UK to seek reciprocal entry to a Register in a different UK country to that in which they received their training.

8. The standards used by the Care Council, NISCC and SSSC to approve qualifications which lead to registration as a social worker are part of their frameworks for the social work degree and are set out in the following documents:
- Raising standards: The qualification framework for the Degree in Social Work in Wales (2003);
 - Northern Ireland Framework Specification for the Degree in Social Work (2003);
 - The framework for social work education in Scotland (2003).

The standards used by the HCPC to approve qualifications which confer eligibility to seek registration are the standards of proficiency for social workers in England and the related standards of Education and Training.

9. It is acknowledged that all of these standards are comparable and therefore, at the date of this MoU, the same level of standards is being applied across the UK.
10. The Four Councils acknowledge that social work training across the UK may differ in the future. If this does occur, the Four Councils will work with each other to try to ensure continuing recognition and reciprocity.

Standards - Codes

11. The Code of Practice for Social Care Workers and the Code of Practice for Social Care Employers set out the standards expected of social workers, social care workers and social work students in Northern Ireland, Scotland and Wales. The Standards of Conduct, Performance and Ethics and Standards of Proficiency set

out the standards expected of social workers in England. The Code for Social Care Workers and the Standards are similar in content and purpose.

12. The Four Councils acknowledge that the Codes of Practice and standards across the UK may differ in the future. If this does occur, the Four Councils will work with each other to try to ensure continuing recognition and reciprocity.

Registration

13. The Four Councils recognise that registration with any of them confers eligibility to apply for registration with another Council. This includes a registrant registered as a social worker by one or more Council following an international assessment process.

Cross-referral of concerns

14. Where one of the Four Councils becomes aware of matters that appear to fall within the remit of another Council, it will, at the earliest opportunity, convey the concerns and relevant supporting information to the relevant point of contact at that Council. In the interests of the safety of the public, the referring Council will not wait until its own investigation has concluded before conveying the concerns.
15. In particular, where one of the Four Councils becomes aware of matters that appear to fall within the remit of another Council, it will refer to another Council any concerns and relevant information about any registered social worker (or in the case of the Care Council, NISCC and SSSC social work student, social care manager, or social care worker), who is also registered with the other Council, which may call into question their fitness to practise or their suitability to remain on a Council's Register.
16. In particular, the Care Council, NISCC and SSSC will refer to the HCPC any concerns and relevant information which may call into question the suitability of any social work students in England to remain on a programme approved by the HCPC.
17. The Care Council, NISCC, HCPC and SSSC will refer to each other any concerns and relevant information which may call into question the suitability for social work students of a learning environment associated with an approved qualification.

Investigations and inquiries

18. Where a registered social worker, (or in the case of Care Council, NISCC, SSSC, social care manager, social care worker or social work student) is registered with more than one Council and is the subject of a complaint, unless otherwise agreed, the Council in the country where the alleged misconduct or impaired fitness to practise took place will lead on the investigation and hearing process and will keep any other relevant Council informed of developments, including sharing relevant information.

19. When sharing information each Council will retain distinct legal responsibility for the handling of information that it acquires for the purpose of its own functions. It is not the intention of any of the Four Councils that they will act as joint data controllers or data controllers in common (as defined in the Data Protection Act 1998) of any shared data.

Exchange of information and collaboration

20. The Four Councils agree to exchange such information as is necessary for the purpose of their respective statutory functions.
21. In sharing information under this MoU and the Supplementary Agreement (annex 2), the Four Councils will at all times comply with their respective statutory obligations, in particular those arising under the Data Protection Act 1998 and the Human Rights Act 1998, and will act in accordance with relevant statutory and non-statutory Codes of Practice as well as any codes of practice or policies relating to the handling of confidential personal information of their own.
22. The Four Councils will share information about trends, data and organisational initiatives where it is agreed that they will impact on, or complement, the work of any or all of the other four Councils.
23. If one of the four Councils receives a request for information under the Freedom of Information Act (FOIA) or Freedom of Information (Scotland) Act (FOI(S)A) that has been supplied to it by one of the other Councils or which may be relevant to any investigation being conducted by any or all of the four Councils, the Council that has received the request will discuss the request with the other Council before making a response. All Four Councils will respond promptly to any consultation request received from any of the other Four Councils in connection with a FOIA/FOI(S)A request.
24. When sharing information under this MoU, the Four Councils will at all times act in accordance with the principles set out in the statutory Code of Practice on Data Sharing published by the Information Commissioner's Office and the Scottish Information Commissioner.

Provision of information and documentation

25. If any of the Four Councils makes a referral under the provisions of this MoU they will provide the receiving Council/s with the necessary information and documentation on which the referral is based. The referring Council will provide ongoing assistance by providing any additional relevant information and documentation that may reasonably be requested by the receiving Council.
26. In responding to requests for information and documentation:
 - 26.1 the referring Council will be guided by the receiving Council's assessment as to the information that it reasonably requires in order to investigate

allegations of impairment of fitness to practise in accordance with its Rules that govern its fitness to practise procedures; and

- 26.2 the referring Council will be guided by the receiving Council's assessment as to the information that it reasonably requires in order to investigate allegations of misconduct in accordance with its Rules that govern its misconduct procedures.
27. The Four Councils will circulate information to each other on a weekly basis regarding sanctions imposed in the previous week and any conditions which have been met or suspensions which have been lifted. This will also include interim orders placed on a registrant's registration whilst an investigation is underway.
28. The Four Councils will seek to share with each other on a regular basis information regarding assessment decisions on the comparability of non - UK qualifications or training to the respective standards of the Councils.
29. The Four Councils will circulate information to each other on an ad-hoc basis regarding decisions made about approved social work training programmes. This will include decisions about approval, non-approval, withdrawal of approval and programme closure.
30. The HCPC will circulate information to the Care Council, NISCC and SSSC as appropriate regarding determinations prohibiting social work students from participating in an approved programme in England.
31. The Four Councils will share information as necessary in relation to pass lists relating to approved education programmes within their respective countries.

Media, Publications and evidence to the UK Government, Northern Ireland Assembly, Scottish Parliament and Welsh Government

32. All Four Councils will seek to give each other adequate warning (at least 48 hours) and sufficient information about any planned press releases, announcements to the public and disclosure of information in response to any FOIA or FOI(S)A request that is relevant to or likely to affect the work of the any or all of the Four Councils.
33. The Four Councils will seek to share their proposals for publications, including any drafts, as early as possible where these will have a direct impact on another Council.
34. The Four Councils will, when appropriate, share with each other details of relevant evidence to the UK Government, Northern Ireland Assembly, Scottish Parliament or Welsh Government in relation to the exercise of their functions in respect of the regulation of social workers.

35. Subject to their respective obligations under FOIA/FOI(S)A, the Four Councils will respect the confidentiality of any documents disclosed by another Council in advance of publication and will not act in any way that would cause the content of those documents to be made public ahead of the planned publication date.

Resolution of Disagreement

36. Any disagreement between any or all of the Four Councils will normally be resolved at working level. If this is not possible, it may be referred through those responsible for the management of this MoU, up to and including the Chief Executives who will then be responsible for ensuring a mutually satisfactory resolution.

Review of this MoU

37. This MoU will be reviewed six months after it comes into effect by the Chief Executives of the Four Councils, and every twelve months thereafter.
38. The Four Councils have identified people responsible for the management of this MoU (see Annexe1). They will liaise, as required, to ensure this MoU is kept up to date, identify any emerging issues and resolve any questions that arise as to the interpretation of this MoU.
39. The named contacts with responsibility for each area of co-operation identified at annex 1 will liaise as required to carry out day to day business.
40. In order to ensure that this MoU is effective, the Chief Executives of the four Councils, or their designated deputies, will meet on a regular basis and at least once a year.

Signatures

 Rhian Huws Williams Chief Executive, Care Council for Wales	 Marc Seale Chief Executive and Registrar, HCPC
Date: 31 July 2012	Date: 31 July 2012
 Brendan Johnston Chief Executive, NISCC	 Anna Fowlie Chief Executive, SSSC
Date: 31 July 2012	Date: 31 July 2012

Lead Contacts:-

There will be specific points of contact between the four Councils as follows:

Care Council for Wales	Health and Care Professions Council	Northern Ireland Social Care Council	Scottish Social Services Council
<p>Main Office South Gate House Wood Street Cardiff CF10 1EW 029 2022 6257</p> <p>North Wales Office Unit 19 St Asaph Business Park Glascoed Road St Asaph LL17 0LJ 01745 586 850</p>	<p>Park House 184 Kennington Park Road London SE11 4BU (0)845 3004472</p>	<p>7th Floor, Millennium House Great Victoria street Belfast BT2 7AQ 028 90 417600</p>	<p>Compass House 11 Riverside Drive Dundee DD1 4NY 01382 207251</p>
Chief Executives			
<p>Rhian Huws Williams Chief Executive rhian.williams@ccwales.org.uk</p>	<p>Marc Seale Chief Executive and Registrar marc.seale@hcpc-uk.org</p>	<p>Brendan Johnston Chief Executive Brendan.johnston@niscc.hscni.net</p>	<p>Anna Fowlie Chief Executive anna.fowlie@sssc.uk.com</p>

Care Council for Wales	Health and Care Professions Council	Northern Ireland Social Care Council	Scottish Social Services Council
MoU development and implementation			
Sian Edwards Policy Officer sian.edwards@ccwales.org.uk 029 2078 0631	Louise Hart Secretary to Council louise.hart@hcpc-uk.org 020 7840 9711	Patricia Higgins Director of Registration patricia.higgins@nisc.hscni.net	Maree Allison Legal Services Manager maree.allison@sssc.uk.com 01382 207183
Lead officer			
Gerry Evans Director of Regulation and Professional Standards gerry.evans@ccwales.org.uk 029 2078 0674	Louise Hart Secretary to Council louise.hart@hcpc-uk.org 020 7840 9711	Patricia Higgins Director of Registration patricia.higgins@nisc.hscni.net	Valerie Murray Director of Fitness to Practise valerie.murray@sssc.uk.com 01382 207210
Investigations			
Dawn Rees Investigations Manager dawn.rees@ccwales.org.uk 029 2078 0644	Zoe Maguire Head of Investigations zoe.maguire@hcpc-uk.org 020 7840 9761	Colleen Stirling Conduct Manager colleen.stirling@nisc.hscni.net	Ann Moffat Conduct Case Manager ann.moffat@sssc.uk.com 01382 207219

Care Council for Wales	Health and Care Professions Council	Northern Ireland Social Care Council	Scottish Social Services Council
Conduct Hearings			
Elin Harris Conduct Hearings Manager elin.harris@ccwales.org.uk 029 2078 0643	Alison Abodarham Head of Adjudication Kelly.johnson@hcpc-uk.org Tel: 020 7840 9135	Caroline Cumberland Committee Clerk caroline.cumerland@niscc.hscni.net	Audrey Wallace Committee Services Administrator audrey.wallace@sssc.uk.com 01382 207212
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Registration			
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Care Council for Wales	Health and Care Professions Council	Northern Ireland Social Care Council	Scottish Social Services Council
Information governance – data protection and freedom of information			
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Media			
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Reconciliation of disagreements			
Gerry Evans Director of Regulation and Professional Standards gerry.evans@ccwales.org.uk 029 2078 0674	Louise Hart Secretary to Council louise.hart@hcpc-uk.org 020 7840 9711	Brendan Johnston Chief Executive Brendan.johnston@niscc.hscni.net	Valerie Murray Director of Fitness to Practice valerie.murray@sssc.uk.com 01382 207210

Supplementary Agreement

Introduction

This Supplementary Agreement has been developed in order to provide guidance on the exchange of information and the collaboration between the Care Council for Wales (the Care Council), the Health and Care Professions Council (HCPC), the Northern Ireland Social Care Council (NISCC) and the Scottish Social Services Council (SSSC) (collectively 'the four Councils') in relation to investigations and hearings into the practice of people registered with one or more Council.

When collaborating, the four Councils will act in accordance with the agreed Memorandum of Understanding (MoU) and with the procedures set out in this Agreement.

Principles

1. Where a registered social worker, (or in the case of the Care Council, NISCC, SSSC social care manager, social care worker or social work student) is registered with more than one Council, unless otherwise agreed, the Council in the country where the alleged misconduct or impairment of fitness to practise took place will lead on the investigation and hearing process.
2. The Council will keep the other relevant Council/s informed of developments, including sharing relevant information.
3. Investigations will remain within clearly defined boundaries of responsibilities and remits.
4. When sharing information each Council will at all times comply with their respective obligations under the Data Protection Act 1998, the Human Rights Act 1998, and will act in accordance with the relevant statutory and non-statutory codes of practice and their codes of practice or policies relating to the handling of confidential personal information.
5. When sharing information each Council will retain distinct legal responsibility for handling information it acquires for the purpose of its own functions.

Processes

Information sharing – personal data

6. The four Councils will share information with each other about an individual who is registered with another Council/s, and whose suitability to be on their registers has been called into question.
7. Where appropriate the individual will be informed that their information is being shared.

8. The four Councils will share only the information which is necessary for the required purpose.
9. When sharing confidential information or information relating to any identifiable individual in connection with their suitability to be registered, the four Councils will do so in accordance with the procedures set out below.

Investigations

Individuals registered with one or more Councils

10. On receipt of an allegation or information about an individual registered with another Council, the receiving Council shall notify the named contact in the MoU. For each case, a named individual from each Council will then be identified and will act as the main point of contact between the two Councils for that case.
11. The Council in whose country the alleged misconduct or impairment of fitness to practise took place should follow their appropriate processes including making a decision about whether to investigate the matter. The investigating Council should, however, keep the other Council/s informed of the investigation, including the outcomes of hearings. This will include an initial indication of the likely timescales to be involved in conducting the investigation and the hearings process, followed by regular updates on the progress and any amendments to these timescales.
12. On the conclusion of the investigation and hearing process, the investigating Council will:
 - i. share any witness and expert witness statements where these are applicable to the investigations of the Council/s;
 - ii. share documentation, such as special reports (for example, Local Authority commissioned reports) or case files relating to service users affected by the actions/inactions of the registrant;
 - iii. provide a copy of the hearings bundles;
 - iv. individuals (e.g. witness and expert witnesses) will be notified of the intention to share information.
13. In cases where a Council considers that an interim suspension order is required, they will co-operate with each other to aid the attainment of the order(s) within the relevant timescales.
14. In some cases, it may be appropriate for a Council to advance its own investigation instead of awaiting the outcome of the other's investigation. In all cases, the requirement of a Council to advance its own investigation will have

to be balanced against the advantages of awaiting the outcome of the other's investigations and hearings process.

15. Where a Council receives information as part of the investigation process they will inform the provider of the information that it may be shared with another Council.
16. Each investigation will need to be taken on a case by case basis. Staff will be required to be flexible and responsive to the individual needs of each case. They will co-operate and collaborate with each other, whilst always bearing in mind the effect of the process on the registered individual and any associated parties.

Individuals registered with one organisation only

17. Where a Council receives an allegation or information about an individual who is not registered with them but where it is known that the individual is registered with another Council, they will notify the named contact in the MoU.

Hearings

18. If necessary, each Council will liaise with the other to co-ordinate dates of hearings in order to avoid hearings being scheduled on the same dates.

Findings of fact of the Care Council, HCPC, NISCC and SSSC

19. Any cases taken to a hearing under the relevant Conduct or Fitness to Practise Rules of the Care Council, HCPC, NISCC and SSSC will allow each Council to take the findings of fact of another Council as prima facie evidence of the facts so found.

Sanctions

20. It is possible that different outcomes or different sanctions could be imposed in a case brought against an individual registered with one or more of the four Councils. This should not inhibit collaboration and cooperation between the Councils in relation to the conduct of investigations of registered social workers, (or in the case of Care Council, NISCC, SSSC, social care manager, social care worker or social work student)

Media

21. A press release issued following the outcome of the final hearing in relation to an individual registered with one or more of the four Councils will be sent to the media contacts of the relevant Council/s identified in the MoU.

Personnel

22. Information regarding registration, investigation and hearings matters will only be provided between the Councils to the contacts named in Annex 1 of the MoU.

Methods of Communication

23. The means of sharing information will be agreed between the Council sending information and the Council receiving it as this may vary from case to case. However, the following principles set out in paragraphs 24-30 will apply.

Telephone

24. No record will be made of non case-specific discussion or the provision of advice, but the SSSC may make records.
25. Electronic records will be made of discussions that relate to a specific applicant or registrant. The records will be retained on the individual's dossier or case file

E-mail

26. Any confidential information must be sent through secure e-mail and retained on an individual's dossier or case file.
27. Emails requesting or providing non-confidential information relating to an applicant or registrant must be retained on an individual's dossier or case file.

Fax

28. Receiving fax machines must be secure.
29. Recipients must confirm receipt of faxes by phone.

Post

30. If any information pertaining to a registrant has to be sent through the post, it must be sent by a postal service in which delivery or receipt is recorded.
31. Information regarding registration, investigation and hearings matters should be directed to the contacts named in Annex 1 of the MoU.

Storage of information

32. The Care Council will store information in electronic and paper files in a secure manner and in accordance with the Care Council's Workforce Regulation Retention Policy.

33. The HCPC will store information in accordance with the Fitness to Practise document retention policy:
<http://www.hcpc-uk.org/publications/policy/index.asp?id=216>.
34. The NISCC will store information about registrants in accordance with its Records Management Policy and Retention and Disposal schedule.
35. The SSSC will store information about registrants in accordance with its Data Protection Policy, which can be found at
http://www.sssc.uk.com/component/option,com_docman/Itemid,486/gid,219/task,doc_details/ and its Retention and Disposal schedule.

Notification to individuals

36. The four Councils will endeavour to inform an individual of information that they have received and are holding about him or her, and for what purpose, as soon as possible.

Exceptions to notifying the registrant of the information held would be made if, by making disclosure, there was:

- a. a risk of intimidation, recrimination or a risk to the safety of a complainant;
- b. a risk to the safety of a registrant;
- c. a risk to any other persons such as colleagues, service users, or family;
- d. a risk that disclosure would impair the Council's investigation;
- e. a risk that disclosure would impair a Police investigation.

Retention of information

37. Information held by the Care Council pertaining to an individual for registration, investigation and committee management purposes will be held according to the Care Council's Workforce Regulation Retention Policy and Schedule.
38. Information held by the HCPC pertaining to an individual for registration, investigation and committee management purposes will be held in accordance with the Fitness to Practise document retention policy:
<http://www.hcpc-uk.org/publications/policy/index.asp?id=216>.
39. Information held by the NISCC pertaining to an individual for registration, investigation and committee management purposes will be stored in accordance with its Records Management Policy and Retention and Disposal schedule.

40. Information held by the SSSC pertaining to an individual for registration, investigation and committee management purposes will be held in accordance with its Data Protection Policy, which can be found at: http://www.sssc.uk.com/component/option,com_docman/Itemid,486/gid,219/task,doc_details/ and its Retention and Disposal schedule.