

Northern Ireland Social Care Council Registration and Fitness to Practise Proceedings Continuity Arrangements During the COVID-19 Pandemic

Updated 28 July 2020

Introduction

1. Following Government advice on social distancing and non-essential travel during the Covid-19 pandemic, the Northern Ireland Social Care Council (Social Care Council) office has been closed to staff, registrants and visitors to protect their health and well-being since 23 March 2020. Staff continue to work remotely from home.
2. The safety and well-being of people who use social care services remains our priority. Since the closure of our office in March, we have focused on those cases which were most urgent in terms of admitting applicants onto the Register and focusing on cases where an urgent risk had been identified. However, despite Government relaxation of some restrictions, it would appear that social distancing measures are likely to remain in place for some time to come, and while we are piloting arrangements to enable a phased return to our office, it will remain closed to most staff and all visitors until further notice. As a result, we must now widen our focus and examine how we can proceed with fitness to practise hearings as the final disposal of allegations which have been made against registrants cannot be delayed indefinitely.

Changes to Hearing Arrangements

3. Our normal arrangements in regards to attendance at hearings do not allow us to observe the Government's advice on non-essential travel or social distancing. To bring the Committee Members and the Parties together would result in unnecessary contact, with the potential to spread the virus and put people at risk. To keep everyone involved safe, we are holding hearings remotely by using video conferencing facilities.

Interim Order Hearings

4. Holding hearings remotely brings new and different challenges. Having received legal advice on how we can proceed with hearings remotely whilst also adhering to the requirements of fairness and justice, our default position is that neither Party joins the hearing and that both the Council and the Registrant email their submissions in advance for the Committee to read. This means that Committees make their decisions based only on the papers. We need to make sure that this temporary process is open, transparent and fair for everyone, and to make sure that this happens the Council lodges its written submissions for Interim Order review hearings by email to the Committee Clerk 14 days before the date of the hearing. The Clerk shares these with the Registrant by email, and asks the Registrant to lodge their written submissions no later than 7 days in advance of the hearing. The Committee receives both sets of written submissions along with the case papers. The Clerk is available by telephone or email to provide support to the Registrant through this process.

5. For new Interim Order hearings, registrants are served 14 days in advance rather than the normal minimum of seven days, other than in exceptional circumstances. The Council lodges its written submissions with the Committee Clerk ten days before the date of the hearing. The Clerk provides these to the Registrant by email and supports the Registrant to lodge their written submissions at least three days before the date of the hearing.
6. Registrants (and / or their representatives) may still avail of their right to attend the remote hearing via video or audio link if they wish to do so and, if they wish to do this, should discuss it with the Clerk as soon as possible so that the necessary arrangements can be made. If a registrant attends the remote hearing, the Council will also attend to present its case in the normal way. Neither Party will need to lodge written submissions in advance if both Parties are attending.
7. We will provide registrants with lots of support around these temporary arrangements. Contact details for the Clerk are included in the paper work which is sent to a registrant in advance of their hearing, and we are happy to explain the processes to them and help them to participate as much as they want to in the proceedings.

Impact of Adjourned Court Hearings

8. Depending on the length of time an Interim Order has already been in place pending the outcome of criminal proceedings, some cases may be impacted by Court hearings being adjourned or delayed as a result of the pandemic. In a limited number of cases, it may become necessary for the Council to apply under its *exceptional circumstances* Rule for an Order to be imposed for longer than the normal maximum of two years. Registrants who are affected will have the right to request an early review at any time.

Fitness to Practise Hearings

9. The Northern Ireland Social Care Council Fitness to Practise (Amendment) Rules 2019 ('the Rules') do not preclude us from holding fitness to practise hearings remotely. Our main consideration when deciding whether a case is appropriate for a remote hearing will be to ensure that the registrant is not disadvantaged by a remote hearing and that the process is entirely fair. Each case will be considered individually and on its own merits, and a case will only be listed for a remote hearing after a thorough review of all of the factors. This decision will be documented on the form attached at Appendix 1.
10. The procedure of a remote fitness to practise hearing will be the same as a normal physical hearing as set out in the Rules, and all registrants and their representatives will receive full support to attend if they wish to do so. A remote hearing may take longer to complete than normal as the Committee Clerk, Chair and Legal Adviser will be checking at all stages of the process that the registrant understands all aspects of the hearing as it proceeds.

11. Details of upcoming hearings will be published on our website in the normal way, and hearings will be open to the public unless the hearing is being held in private in accordance with the Rules. Members of the public will only be able to attend by contacting the Committee Clerk in advance, and they will be issued with a Code of Conduct before attending the hearing.

Applications for Registration

12. To support the social work and social care sector during the pandemic, we have made arrangements to enable those who wish to join or return to the sector to be able to register as quickly as possible. It is vital that as many social workers and social care workers as possible are allowed to work, and we are reviewing the small number of non-straightforward application cases which have been referred to our fitness to practise team to see if there are any applicants who can be registered without referral to the Registration Committee.
13. However, there will still be applications which need to be referred for a Registration Committee hearing where a certain type of conviction exists or where an issue has been declared on the application form. These hearings, and cases where registration conditions are due for review, adopt the temporary default position of the non-attendance of both parties, with the Applicant or Registrant maintaining the right to attend if they wish to do so. Written submissions may be provided by the Applicant or Registrant seven days in advance of the hearing whether or not they decide to attend. The Council will not lodge written submissions for the Committee's consideration in either event but, as always, will attend to present the case if the Applicant or Registrant avails of their right to attend.

Notice of Hearings and Decisions

14. With all Social Care Council staff working from home, we are serving registrants with notice of hearing dates by email rather than by the usual Track and Trace (Special Delivery) post. We use the email address which is held on the Register, which is the email address provided by the Registrant to the Council as an address for communications. If there is no email address on our Register, we send the Notice to an email address which the Registrant has used to communicate with us in the past. If there is no email address available, the Clerk will telephone the Registrant to obtain an email address to which the Notice can be sent. We will only visit the office to post documents if a registrant does not have an email address or access to an electronic device.
15. Notices and accompanying case papers sent by email are password protected to ensure complete confidentiality. The password to open the documents may only be obtained by making contact with the appropriate staff member. Full details on how to do this are contained within the email. Security questions will be asked to confirm the identity of the caller before the password will be divulged.

16. A Notice served by email will be treated as having been served on the day after it was emailed. We do not have to show that the Registrant has read or accessed the email, only that we sent it to the correct email address and that we gave enough notice of the hearing in line with our Rules.
17. In the event that a registrant does not engage with the process, send written submissions or make contact with us after receiving notice of the proceedings, the Committee will decide whether or not to proceed with the hearing in the Registrant's absence in the normal way.
18. Decisions are also be sent via email and are password protected to ensure confidentiality.

Publication of Outcomes

19. The publication of hearing outcomes on our website will continue in accordance with our Publication and Disclosure Policy. We will also continue to advise referrers of outcomes as usual.

Review Arrangements

20. These continuity arrangements will be kept under continuous review and amendments made as necessary. They will cease to have effect as soon as it is safe to do so.

Updated on 28 July 2020

Approved by Patricia Higgins, Interim Chief Executive, on 05 August 2020

Remote Fitness to Practise Hearing Approval Form

Registrant:	
SCR:	

Stage 1: to be completed by Fitness to Practise Team Manager

Type of case:	
When were allegations received?	
Is an IO in place? When was it first imposed?	
Number of witnesses:	
Can all documentary evidence be provided to all parties in good time?	
Is there a public protection issue?	
Is it in the public interest to proceed remotely?	
Is this case suitable for a remote hearing? Would a remote hearing cause any unfairness to the registrant? Provide reasons.	

Stage 2: to be completed by Committee Manager

Has the registrant been contacted?	
Is the registrant engaged?	
Is the registrant represented?	
Has the procedure been explained to the registrant?	
Has the registrant agreed to a remote hearing?	

Has the registrant raised a specific objection?	
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Stage 3: Decision

Legal advice:	
Case to be listed for remote hearing?	Yes / No
If yes, provide reasons.	

Approved by: _____

(Interim Director of Regulation & Standards)

Date: _____