



General
Social Care
Council

Raising standards
Social work conduct in England
2003-08

Foreword by the Chair and Director of Regulation

This is the first report from the General Social Care Council (GSCC) into the work it has done to uphold standards in social care and protect people who use services and the wider public by:

- ensuring only suitable people enter the workforce;
- investigating concerns about the conduct of a Registered Social Worker or social work student;
- taking action against those found to have committed misconduct in relation to the Code of Practice for Social Care Workers.

As this report shows, the number of social workers and students who come into contact with the GSCC following allegations about their conduct is relatively few, representing just over one per cent of the 93,000 social workers and students on the Social Care Register. The vast majority of Registered Social Workers and students carry out their work with honesty, integrity and professionalism, delivering high quality care to people who use services. For the small numbers who fail to comply with the code of practice, it is vital that we take action in order to protect people who use services from harm or abuse and to promote confidence in the profession.

This report shows that our work on investigations into misconduct has increased over the past two years, in line with the rise in numbers of social workers on our register following the introduction of protection of title in 2005 (meaning that anyone wanting to work as a social worker must first be registered with GSCC). Conversely, our work on assessing people's suitability before they join the register has levelled off, following the high numbers applying in the run up to protection of title for social workers.

The effective regulation of the social care workforce involves working in partnership with a range of stakeholders, not least people who use services. The valuable contribution that people who use social care services, their carers and representatives make in bringing concerns to our attention and in giving their time and effort cannot be overstated. Without this, our work in addressing and investigating complaints and putting on public hearings would be extremely difficult.

We are encouraged by the findings that a high proportion of complaints come from people who use services and members of the public, showing a level of awareness of who we are and what we do. However, more can be done to get the message across and we intend to work on reviewing publicity to these groups over the next year and developing our partnership work with voluntary organisations and employers. As part of our increased communication, we will be making it clear to people who use services and others what sorts of allegations we deal with and the sort of information we need to take issues forward. We also intend to increase our work with WITNESS, a charity that provides support and advocacy for vulnerable witnesses.

Foreword

The GSCC has held 36 hearings up to 31 March 2008, with the first one taking place in April 2006. Inappropriate relationships between social workers and people who use services has been a consistent theme in allegations we have received, and accounts for over a third of the hearings. Social workers must always be aware of the boundaries that should be in place in terms of their relationships with people who use services. Interaction with service users must operate in a professional context and with openness. With social workers and others losing their jobs and professional status as a consequence of ‘inappropriate behaviour’, we will be developing a project to provide additional guidance on this issue. We will be working closely with people who use services, social workers, employers and organisations like WITNESS in order to achieve this.

Regulation has enabled us to shine a light on poor practice amongst social workers, and take action where necessary. Poor practice is one of the other recurring themes in the allegations that come to us. Inaccurate record keeping, failing to follow child protection proceedings and confidentiality breaches are just some of the examples of poor practice that have been brought before our Conduct Committee. We are reliant on working in partnership with employers and we are pleased that many of the complaint referrals we receive come from employers. By referring poor practice to the GSCC, employers are working with us to address issues and, if necessary, remove unsuitable individuals from the workforce. But this needs to go hand in hand with wider work undertaken by employers to support and develop the workforce. Supervision, opportunities for training and development, risk assessment frameworks and clear policies – these are all vital if we are to stamp out bad practice and promote high standards in social care. Employers need to ensure they have the frameworks in place to support their staff in all of these areas, as outlined in the GSCC’s Code of Practice for Employers of Social Care Workers.

We are committed to carrying out our investigations into the suitability of social workers and their conduct with openness and transparency. Decisions to refuse registration, progress an investigation to a hearing or to suspend or remove someone from the register are taken by committees independent of the GSCC. This report gives an analysis of the decisions taken by those committees and how we intend to respond to some of the issues these have raised. We intend to report annually on our conduct work and this report provides a firm foundation for further analysis and development in the future.

The intention is for the entire social care workforce to be registered over time. The next group to join the register will be home care workers and managers, a workforce of over 200,000. This will have a dramatic increase in our work on assessing suitability and addressing misconduct and we look forward to the challenges this will bring.



A handwritten signature in black ink that reads 'Rodney Brooke'.

Sir Rodney Brooke
Chair of the Council



A handwritten signature in black ink that reads 'Heather Wing'.

Heather Wing
Director of Regulation

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Section 1

Overview

The GSCC was set up in October 2001 under the Care Standards Act 2000, charged with ensuring that social work education and training are of a high standard and that only people who are trained, meet the criteria for registration, and committed to high standards are able to work in social care in England. Similar bodies exist in Scotland, Wales and Northern Ireland.

There are currently 93,000 social workers and social work students on the Social Care Register, a publicly available list of anyone who is legally allowed to work as a social worker. The Government intends, over time, to regulate the entire social care workforce and the next group to register with the GSCC will be home care workers and managers; a workforce of over 200,000.

The GSCC carefully assesses all registration applications received to ensure that each individual is fully competent, of good character and conduct and physically and mentally able to perform the role of social worker. Once an individual has satisfied us that they meet all these areas, they must agree to abide by the Code of Practice for Social Care Workers before they join the register. This sets out the standards required of them both in and outside of their work. It also makes it clear to people who use services and their families, members of the public, employers and colleagues what they can

expect from a Registered Social Worker. Social workers are required to renew their registration every three years, and by doing so they renew their commitment to the code of practice.

The register opened on 1 April 2003 but most people did not register until April 2005 when registration became compulsory. This report looks at data gathered from the opening of the register to 31 March 2008. The intention is to produce a yearly report on conduct activity from next year.

As this is the GSCC's first report it provides sections of historic statistical data, covering the period from the opening of the register in April 2003 to 31 March 2007. This report then sets out statistical data specific to the last financial year, 1 April 2007 to 31 March 2008, which provides a more meaningful picture of activity. In the earlier period the GSCC was registering the bulk of the social work population and raising the profile of the Conduct Group with external stakeholders to ensure an awareness of the complaint referral route. This report will provide comparative, baseline information to underpin future reports.

Further information on the rules which govern the GSCC's conduct proceedings and the independent committees that take decisions at various stages of the process can be found in the appendices at the back of this document.

Section 2

Executive summary

This is the first report from the GSCC about its conduct activity, providing an overview from 1 April 2003 when the Social Care Register was launched, to 31 March 2007 with more detailed analysis of the past financial year (1 April 2007 to 31 March 2008). The intention is to produce a yearly report from next year.

People who use services and the public are now better protected as a result of regulation. The GSCC assesses all registration applications to ensure only suitable people enter the workforce.

- 214 people have been refused registration by the independent committee process since the register first opened in 2003.
- 60 had to meet certain requirements as a condition of their registration.
- A further 582 applications were refused on the basis of qualifications; 371 from internationally qualified social workers and 211 from applicants from the UK.

The number of applicants to the register who are refused entry to it and the number of social workers who receive a sanction from a Conduct Committee represent a small proportion of those who apply to join the register or are currently registered. However although the number is small the potential to have an adverse effect on the lives of people who use services is considerable.

Since 2003, thousands of social workers have made declarations when registering about some aspect of their health, character, conduct or competence, all of which needed looking into in order to assess suitability. Most of these declarations were deemed to have no implications on the person's suitability to be a Registered Social Worker. Those that required further investigation related mainly to health conditions or criminal convictions.

Since registration became compulsory in April 2005, there has been a steady increase in the numbers of social workers referred to the GSCC once they had been registered, where someone was questioning the suitability of the social worker to remain on the register.

Executive summary

The 2007-08 financial year has seen the average number of complaint referrals received level off to 42 a month. Other key findings include:

- Most complaint referrals are closed at the early stages without the need for further investigation.
- There has been a steady increase in the number of complaint referrals received from people who use services and employers, showing a growing awareness of the role of the GSCC in promoting high standards of practice.
- A low proportion of complaint referrals from people who use services or members of the public are currently progressed to the later conduct stages. A more detailed analysis is required and will be carried out in 2008/2009.

The number of cases which have progressed to a conduct hearing rose from 10 in the period to 31 March 2007 to 26 in the 2007-08 financial year. In all concluded hearings, misconduct was proved and a sanction imposed. Fourteen social workers were removed from the Social Care Register, three suspended and 16 admonished (a cautionary note put next to their name on the register). A further three cases were adjourned to be concluded in the next financial year.

As well as protecting people who use services by removing and suspending workers found to have committed misconduct, such findings also give out a powerful message to people who use services and the profession that social workers will be held accountable for their conduct.

A number of key themes have been identified from conduct hearings, including:

- Over a third of all cases related to the crossing of professional boundaries and inappropriate relationships with people who use services.

- No conduct hearing has yet found only a single area of the Code of Practice for Social Care Workers to have been breached. Rather the pattern is for multiple and related transgressions.
- The areas of the code that have been most commonly breached have related to trust and confidence of people who use services and the public as specified in sections two and five of the code of practice.

In response to issues raised by conduct proceedings over the past five years, the GSCC intends to undertake the following development work:

- Continue to push for removal of the requirement for applicants to declare health issues on registration.
- Increase communication to people who use services to inform them about the GSCC and how to raise concerns about social workers or social work students.
- Increased scrutiny of decisions to close investigations with the introduction of a screening panel.
- Continue to call for the Code of Practice for the Employers of Social Care Workers to be put on a statutory footing, to reinforce the responsibilities of employers to provide adequate support and training opportunities to staff.
- Develop a project with a view to providing additional guidance to social care workers on the issue of professional boundaries.
- Evaluate the codes of practice, with particular involvement from people who use services.
- Consider whether the list of sanctions available to committees is sufficient.
- Work with the Council for Healthcare Regulatory Excellence (CHRE) on developing a common dataset on fitness to practice decisions.

Section 3

Assessing suitability for registration

Social workers are required to declare matters relating to their health, character or conduct when registering with GSCC.

Nearly 20 per cent of all applicants to the GSCC have made declarations. Although most of these applicants were registered unconditionally the GSCC has been duty bound to carry out robust assessments on all of these cases. The assessment process involves the gathering and analysis of information from the applicant and a range of third parties and at times referral to the independent Registration Committee.

Of the total declarations, only three per cent were referred to the Registration Committee for refusal or conditional registration, demonstrating the principle of proportionality in the GSCC's suitability assessment process. The GSCC recognises that for the 97 per

cent of applicants who required to undergo an assessment of suitability, the process to become registered seems drawn out and lengthy. However, this is necessary to ensure that those applicants who do not meet the criteria are not missed because of a lack of thoroughness. Each case is considered on its merits and this takes time, thought and judgement. The GSCC takes a methodical approach and applies a risk assessment framework and internal guidance on each case.

Registration 1 April 2003 to 31 March 2007

Between 1 April 2003 and 31 March 2007, the GSCC received over 100,000 applications and 18,578 of these had declarations; 92 per cent of cases concerned social workers, with eight per cent relating to social work students. The smaller number of declarations for students can be partly explained by the fact that students did not start registering until September 2005.

Table 1: Total number of applications to register received each year, 2003-2008

Year	UK	International	Students	Total
2003	387	–	–	387
2004	23,307	573	–	23,880
2005	42,888	4,500	8,653	56,041
2006	5,005	1,425	8,055	14,485
2007	4,650	1,043	4,196	9,889
2008	1,532	518	2,609	4,659
Total	77,769	8,059	23,513	109,341

Assessing suitability for registration

The number of applications with declarations increased in 2005, in line with the rise in applications brought about through the introduction of compulsory registration.

Table 2: Total declarations assessed, 1 April 2003 to 31 March 2007, by category

Category	Total
Criminal conviction	13,186
Health condition	4,382
Disciplinary	480
Other	299
Declarations in more than one category	231
Total	18,578

As illustrated above, the most common declaration was a criminal offence (71 per cent) followed by a health condition (24 per cent). Criminal convictions include low level offences such as those relating to motoring.

Following assessment, 89 per cent of declarations were deemed to have no implications for the person's suitability to be a social worker and they were accepted on to the register. Eleven per cent of declarations raised concerns of a more serious nature, requiring further investigation.

A small minority of applications have resulted in refusal to register, a decision that is taken by the independent Registration Committee (further information on the committees is available in the appendices). Between 2003 and 2007, 226 applicants were referred to the Registration Committee. Of these, the committee granted registration to 26 social workers, 46 were registered with conditions; and 154 were refused registration. A further 454 applications were refused on the basis of qualifications; 294 from internationally qualified social workers and 160 from applicants from the UK. These decisions are taken by GSCC officers, as opposed to those concerning declarations which are taken by an independent committee. The refusal rate equates to one per cent of the total registered social worker population.

Historically, assessment of health declarations has been a significant activity. In the light of experience and case precedent, investigative activity is now more focused on the relevance of a health condition to the social work role and how safely it is managed. This is now more appropriate as disability discrimination legislation requires employers to make reasonable adjustments to enable effective management of a health condition. Taking into account all of these issues and experience to date, the GSCC has recommended to Government that the health requirement should be removed from primary legislation.

Table 3: Appeals to the Care Standards Tribunal (CST) relating to GSCC registration decisions, 1 April 2003 to 31 March, 2007

	Dismissed/ struck out	Found in favour of social worker	Yet to be determined
Non standard qualification	10	3	0
International qualification	14	3	0
Physical/mental fitness	0	3	0
Character	5	1	0
Total	29	10	0

NB: A case is 'struck out' prior to a final hearing as a result of a procedural problem. A case is 'dismissed' if it has been the subject of a final hearing and determined in the GSCC's favour.

Appeals against GSCC decisions on registration (2003-2007)

Between April 2003 and March 2007, 39 cases were appealed to the Care Standards Tribunal (CST). Most of these appeals were following decisions to refuse registration on the basis that the applicant did not have a suitable qualification.

Twenty-nine of the appeals lodged were opposed by the GSCC and were dismissed and the GSCC's committee decisions were upheld. Eight appeals were not opposed by the GSCC. The most common reason that the GSCC did not oppose an appeal was due to further information being provided that was not previously available to the Registration Committee. Two appeals which were allowed were opposed by the GSCC.

Registration 1 April 2007 to 31 March 2008

During the last financial year, the GSCC received 11,052 applications for registration from social workers or social work students. The number of renewal applications received was 27,459. A total of 1,241 declarations were assessed. There was a 30 per cent reduction in criminal declarations and an increase of 12 per cent in health declarations compared with previous years.

As illustrated below, the most common declaration was a health condition (39 per cent) followed by a criminal conviction (36 per cent). The remaining 25 per cent were either the result of multiple declarations or issues at the renewals stage.

Table 4: Total declarations assessed, 1 April 2007 to 31 March 2008, by category

Category	Total
Health condition	480
Criminal conviction	442
Other	176
Disciplinary	75
Declarations in more than one category	68
Total	1,241

Of the 1,241 declarations assessed during this period, 83 applicants were considered by the GSCC to be unsuitable to practice and referred to the Registration Committee. Of these, 60 applications were refused by the committee. Nine applicants were registered unconditionally and 14 were registered with conditions. A further 128 people were refused on the grounds of qualifications.

Assessing suitability for registration

Between 1 April 2007 and 31 March 2008, the GSCC received 777 requests from social workers or students who wanted to be removed from the register. Two hundred and fifty-four voluntary removals were agreed by the Registration Committee, the most common reasons for requesting removal related to retirement or moving out of the social work sector. The remaining 523 are still being considered.

Appeals against GSCC decisions on registration (2007-2008)

From 1 April 2007 to 31 March 2008, 17 appeals to the CST were lodged in relation to registration decisions.

The highest number of CST appeals in this period were in relation to registration refusals on the basis that the applicant did not demonstrate good character.

Table 5: Appeals to the CST relating to GSCC registration decisions, 1 April 2007 to 31 March 2008

	Dismissed/ struck out*	Found in favour of social worker	Yet to be determined
International qualification	4	1	1
Character	3	3	4
Physical/mental fitness	0	0	1
Total	7	4	6

* A case is 'struck out' prior to a final hearing as a result of a procedural problem. A case is dismissed if it has been the subject of a final hearing and determined in the GSCC's favour.

Section 4

Complaints against registered workers

Just over one per cent of people on the register have been referred to the GSCC, reflecting that the majority of social workers go about their work with professionalism, upholding high standards and quality of care.

Most referrals will be closed at the early stages with only approximately 15 per cent of those social workers referred to the GSCC facing the possibility of having conduct matters heard at a hearing. This amounts to under 0.2 per cent of those on the register.

Referrals are usually closed at this point because the issue has been satisfactorily addressed by the employer or the allegation was not serious enough to bring into question someone's suitability to remain on the register.

1 April 2003 to 31 March 2007

Nine hundred and sixteen complaint referrals about Registered Social Workers or students were received in this period. The slow initial build up of the Social Care Register meant that complaints about the conduct of registrants were not made in any significant volumes until the middle of 2005.

1 April 2007 to 31 March 2008

Of the 503 complaint referrals received between 1 April 2007 and 31 March 2008, 321 (64 per cent) were closed after preliminary investigations. Almost two thirds of these were not taken forward as they did not call into question the registrant's suitability to remain on the register.

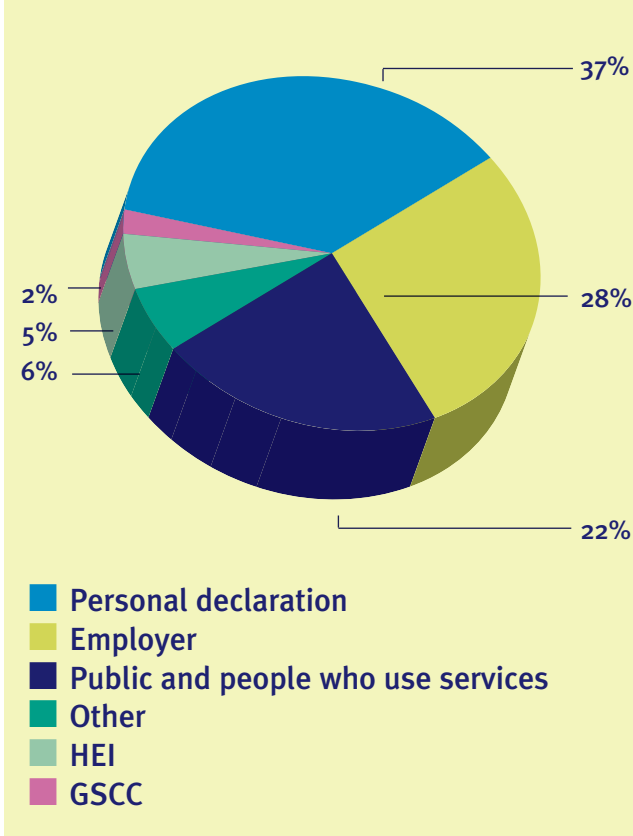
Thirty-five per cent of cases were closed where there was not a complainant willing to take the complaint forward. Generally the GSCC is not able to progress anonymous complaint referrals in the interests of openness and ensuring a fair hearing. However, in cases where there are public protection concerns, the GSCC will take on the role of complainant. The GSCC has taken on this role on 10 occasions where the referrer has not wished to act as the complainant.

Complaints against registered workers

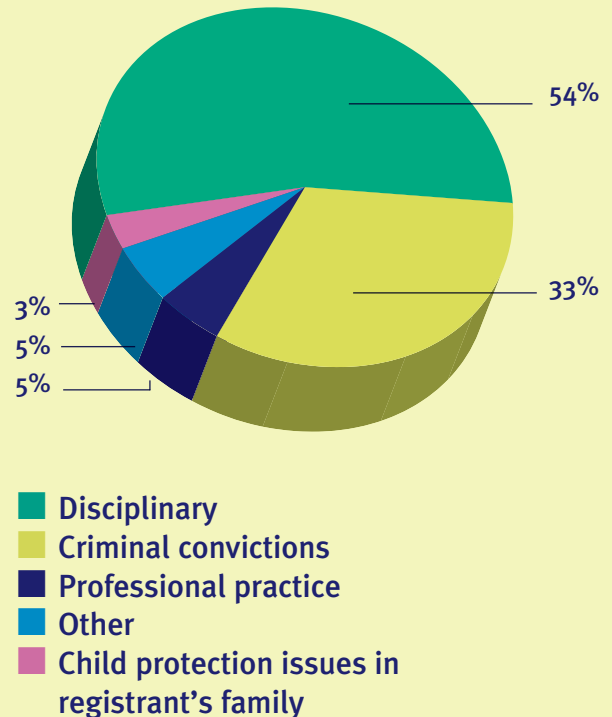
The GSCC receives complaint referrals from the following sources:

- People who use services and other members of the public.
- Employers.
- Registered Social Workers or students*.
- Other (e.g. referrals identified by the GSCC through reports in the media or other sources).
- Higher Education Institutions (HEIs).
- The GSCC.

**Graph 1: Sources of complaint referrals
1 April 2007 to 31 March 2008**



**Graph 2: Personal declaration by category
1 April 2007 to 31 March 2008**



The majority of personal declarations (see above) relate to registrants wanting to inform the GSCC about disciplinary matters. This is followed closely by criminal convictions, mostly relating to motoring offences. Most of these are low level character and conduct matters. In these circumstances social workers often provided the GSCC with sufficient mitigation and explanation, which meant that these declarations were closed without any further action.

*The Code of Practice for Social Care Workers requires social workers to declare any new issues that might affect their continuing suitability, including criminal convictions and disciplinary issues. These are also classed as complaint referrals and categorised as 'personal declarations'.

Employer referrals

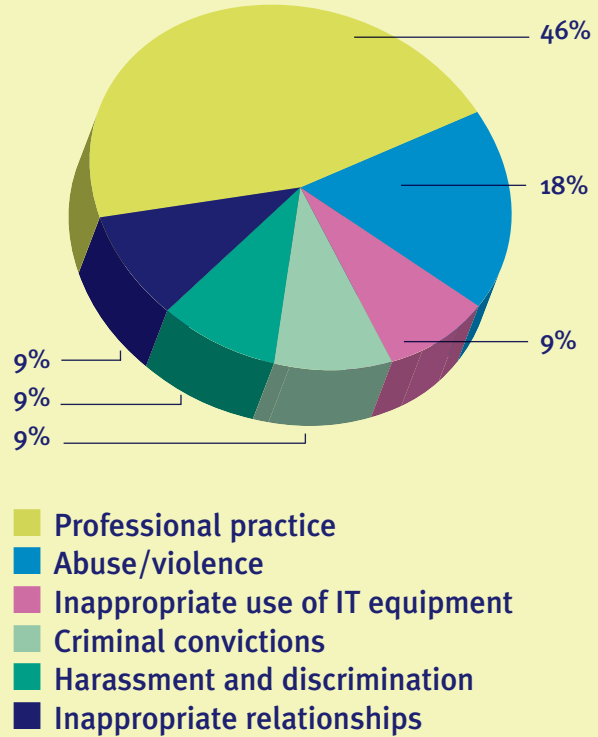
Under the GSCC Code of Practice for Employers of Social Care Workers, employers have a duty to inform the GSCC about any misconduct by Registered Social Workers that might call into question their suitability to remain in social work.

Employers generate about a quarter of all referrals and nearly half of their referrals relate to issues of professional practice. The GSCC is reliant on working in partnership with employers and the fact that employers are referring cases and supporting the conduct process is evidence of their commitment to registration.

A proportion of referrals are not followed up by employers or referrers after the initial contact with the GSCC; often this is because they have resolved their initial issue through local procedures. Occasionally the GSCC does not agree with the outcome of employers' disciplinary procedures and will act as a complainant if it considers there to be a matter of public protection. This demonstrates the GSCC's role as an independent regulator.

Allegations of inappropriate relationships between social workers and people who use services have been a consistent theme in complaint referrals. The GSCC is very concerned about the rate of referral and types of inappropriate relationships that are being reported and further developmental work is underway.

Graph 3: The nature of information presented to the GSCC by employers 1 April 2007 to 31 March 2008



There is a clear message that social workers and students need to be transparent about all their relationships with people who use services and that the GSCC will face these issues head on by treating them as matters of public protection. The GSCC has already provided training on professional boundaries for staff and independent committee members. The GSCC also intends to develop guidance in consultation with stakeholders on the maintenance of professional boundaries so that all social workers and students are clear about the expectations of their relationships with people who use services.

Complaint referrals made by the public and people who use services

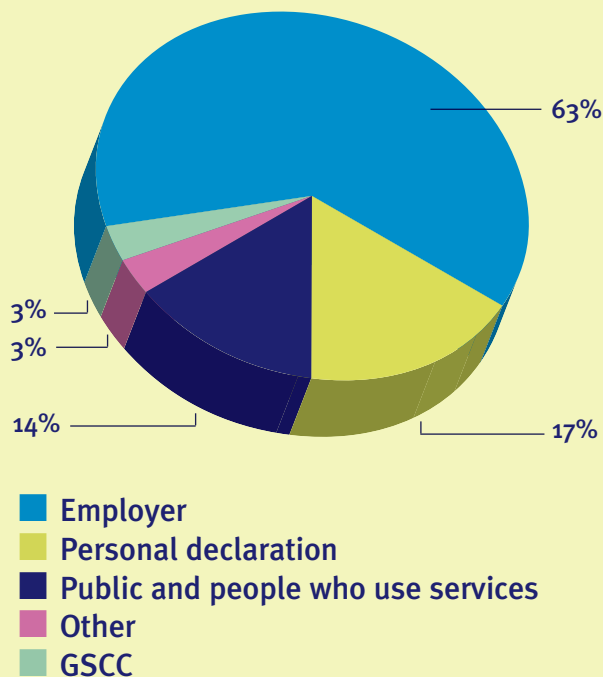
The types of referrals made by people who use services and the public do not typically relate to the same categories as employers or self declarations. The overwhelming majority of complaint referrals from this source relate to poor professional practice of a social worker or the perceived crossing of professional boundaries.

It is encouraging that people who use services are actively using the conduct process to make complaints. However, although 28 per cent of all complaint referrals received are from people who use services, only half of these (14 per cent) are taken forward. The GSCC has identified a number of possible reasons for this. Firstly, employers are, at times, referring on behalf of people who use services. Initial complaints from service users are often made to the employer in the first instance rather than GSCC. Referrals from people who use services are also often made immediately after the conclusion of

a statutory intervention by a social worker such as child protection proceedings or action under the Mental Health Act. The GSCC contacts the court or the agency responsible for the action to establish whether there were any concerns or issues around the procedures followed. In the majority of cases, the GSCC finds that there is no evidence that the social worker acted ‘dishonestly’ which is one of the most common allegations.

However, the GSCC wants to ensure that its complaints system is as easily accessible as possible and intends to do further work to identify any potential barriers to complaint referrals from people who use services being taken forward. It has introduced a Screening Panel (more information in the appendices) which will review all complaint referrals closed by the GSCC as an extra check on the decisions that have been taken. The GSCC will also be developing its communications strategy to ensure that the right level of information and publicity is targeted at these groups.

Graph 4: Sources of complaint referrals taken forward 1 April 2007 to 31 March 2008



Graph 5: Completed conduct investigations by category 1 April 2007 to 31 March 2008



Section 5

Action taken against Registered Social Workers

The majority of social workers carry out their work with honesty, integrity and professionalism. This is reflected in the very small number of cases that end up in front of a committee at a public hearing.

1 April 2003 to 31 March 2007

Interim Suspension Orders (ISO)

The GSCC can apply to an independent committee to suspend someone temporarily – by imposing an Interim Suspension Order (ISO) – whilst investigations are ongoing if it is felt that it would be in the interests of public safety to do so or in the interests of the individual concerned. This bars the person from working as a social worker and is noted next to their name on the register. The ISO lasts for a period of up to six months, but can be renewed, subject to periodic reviews, with a maximum limit of two years. Sixteen people received an ISO between 2003 and 2007.

Conduct hearings

Up until 31 March 2007, 10 cases were heard by the Conduct Committee and 384 had been closed with the remainder at different stages in the conduct process. In all the cases heard by the Conduct Committee, the committee found misconduct resulting in two removals, one suspension and seven admonishments.

Care Standards Tribunal (CST)

In this period there were six appeals against ISOs:

- Four were opposed by the GSCC and were dismissed or struck out.
- One was not opposed by the GSCC and was therefore allowed.
- One was opposed by the GSCC but was allowed.

There was only one appeal on a conduct finding heard by the CST. The appeal was made against the decision to suspend from the register. The CST upheld the GSCC's decision.

1 April 2007 to 31 March 2008

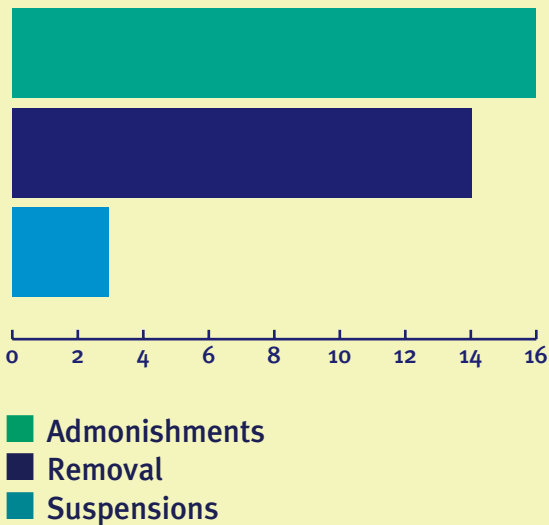
Interim Suspension Orders (ISO)

There have been 23 ISOs imposed in the past financial year.

Conduct hearings

Misconduct has been found in all the concluded cases that have been taken to Conduct Committee hearings up to 31 March 2008, and a sanction has been applied. During this financial year, 26 Conduct Committee hearings took place, resulting in 12 people being removed from the register, two suspended and nine people receiving admonishments. Three hearings were adjourned. A full listing of cases heard by the Conduct Committee can be found at www.gsc.org.uk.

**Graph 6: Conduct Committee outcomes
5 April 2006 to 31 March 2008**



There has been an almost even split between the use of admonishment and removal, with limited use of the power of suspension. All those registrants who have been removed from the register had seriously transgressed the code of practice without credible or compelling mitigation and cannot be trusted to work safely in social care. Removal sends a clear message to social workers that serious misconduct cannot be tolerated, preserves public confidence and protects service users from harm. Admonishments serve to raise the

standards of care that service users receive, giving a clear message that social workers have to maintain the conduct and standards outlined in the code of practice.

Care Standards Tribunal

There were five appeals of conduct committee decisions to the Care Standards Tribunal (CST) in the last financial year. One person appealed an admonishment but the CST found in favour of the GSCC. Four people appealed against their removal from the register. The CST found in favour of the GSCC in one case and the other three await a decision. There were no appeals against a decision to impose an ISO in 2007-2008.

The codes of practice

No Conduct Committee hearing has yet found only a single area of the code to have been breached. The areas of the codes that have been most commonly breached related to trust and confidence of people who use services and the public as specified in sections two and five of the code of practice. Section two deals with honesty, trust, reliability, adhering to policy and procedures and declarations of issues. Section five deals with abuse, exploitation, boundaries, and placing at risk people who use services. In eight of the 23 cases where code 5.8 was found to have been breached, code 5.4, relating to inappropriate relationships, was also found to have been breached.

Table 6: Most common breaches of the code of practice to date

Code number	Code wording	Number of times breached
5.8	‘Behave in a way, in work or outside work, which would call into question your suitability to work in social care services’	23
2.1	‘Being honest and trustworthy’	22
2.2	‘Communicating in an appropriate, open, accurate and straightforward way’	22
5.7	‘Put yourself or other people at unnecessary risk’	16

NB: A list of all parts of the codes of practice found to have been breached at Conduct Committee hearings to date is available on the GSCC website.

By comparison there have been very few breaches of section one which deals with the promotion of the interests and rights of people who use services and section three which deals with the promotion of service user independence. Section four which deals with the assessment of risk and ensuring service users do not harm themselves and others and section six which deals with social workers taking responsibility for the improvement of their skills and knowledge have also been seldom breached.

The lowest number of areas of the code that have been found to have been breached at a single hearing is three and the highest number is 20. This demonstrates the seriousness of the conduct matters the GSCC is considering. Many cases have considered multiple allegations that amount cumulatively to misconduct and so relate to a range of the areas of the code of practice. Some matters, such as being trustworthy, will also lead to issues of being open and accurate. Similarly, placing someone unnecessarily at risk may have resulted from personal difficulties that have affected a registrant's ability to do their job competently and safely.

The GSCC will ensure that the information gathered from the application of the code of practice is considered under the formal review of the codes which is scheduled to take place during the 2008-09 financial year. This review will provide the GSCC with the views of stakeholders in the development of guidance and messages that it may need to produce in the future.

The code is used to benchmark the misconduct against the facts that have been proved at the hearing. The publication of decisions allows the sector to examine the findings of committees

and reflect on what this means for practice standards either individually or collectively. It also ensures that the public can see that the GSCC takes allegations of misconduct seriously and takes action. The GSCC plans to make additional information available on the website following hearings, including the full reasons for the decisions. It will also explore some of the issues raised from the hearings in a newsletter that goes to all social workers and students.

Sanctions

It is interesting to note that suspension from the register has only been used in a handful of cases whilst there has been an almost even split between removal and admonishment. Clear reasons why suspension has not been used so often are yet to be established. However, it is noted that after the period of suspension is up there is no opportunity to see if they have gained insight into their action, sought further training or developed in other ways. The GSCC is considering whether the list of sanctions available to the committees is sufficient to address all possibilities.

The GSCC has also recently developed the Indicative Sanctions guidance which outlines for committee members the decision-making process and factors to be considered when deciding on what sanction to impose. It aims to promote consistency, quality and transparency in the decisions taken by the committee. The guidance will be reviewed annually and updated in the light of experience and any relevant case law.

Section 6

Appeals to the Care Standards Tribunal

Qualifications

The majority of registration appeals by applicants to the CST have been challenging the qualifications which are listed in schedule one of the GSCC (Registration) Rules. This list was drawn up following an extensive consultation led by the GSCC.

Primarily such challenges have come from individuals who possess particular childcare and probation officer qualifications obtained before a certain date.

During an appeal by one applicant, who challenged both the concept of having such a list and the exclusive nature of this, it was established that the CST has no remit to alter the GSCC's Rules. The CST will therefore no longer hear any further appeals against schedule one of the GSCC (Registration) Rules.

Clearly the CST would reserve the right to hear cases if there was genuine doubt as to whether the applicant held a schedule one qualification. However, any specific challenges against schedule one would now need to be through representation to the GSCC as a policy issue.

This matter was subsequently tested in the High Court by an individual whose application for registration had been refused on the basis that she did not have a qualification specified in schedule one to the GSCC (Registration) Rules 2005 even though she had many years of experience in various forms of social work. She sought to challenge the GSCC's decision by making an application for judicial review. The applicant sought a declaration that the Registration Rules were incompatible with Article 14 and Protocol 1 Article 2 of the European Convention on Human Rights. She claimed schedule one was discriminatory because the rules permit persons from outside the UK to present evidence of their training and experience to demonstrate that they meet the qualification criteria but do not allow persons from the UK to do the same.

The appeal and application were dismissed. The court held that properly construed, the Rules contained a comprehensive list of university qualifications and training courses in the UK satisfying the requirements set out in section 58 (2)(a)(iii) of the Care Standards Act 2000. The court further held that the non-registration of the applicant as a social worker did not come within Protocol 1 Article 2. If it had, the difference in treatment would have been justified in the circumstances.

Character

In those cases that have been found in favour of the applicant, the GSCC has carefully considered what view the CST has taken and the impact it may have on the GSCC's processes. It is often the case that the CST has had different evidence before them than was available to the GSCC and has the opportunity to call witnesses, unlike the GSCC Registration Committee. The GSCC is therefore increasing its evidential base before referral to a Registration Committee to ensure that as far as possible it is basing its decisions on the same information available to the CST.

Health

The CST's views in the cases of health that have been appealed to them have highlighted the difficulty in health assessments for registering bodies that are trying to comply with disability legislation and maintain rigour in the assessment process. In 2006, the Disability Rights Commission (DRC) launched a formal investigation into the regulation of professionals' health in nursing, teaching and social work. The GSCC gave written and oral evidence to this inquiry. The inquiry concluded that the health requirement in the regulation

of social workers and social work students was identified as a potential barrier to entering the profession. Recommendations have been made by the DRC to the Department of Health (DH) for the health requirements in various pieces of legislation to be removed. In January 2008, the GSCC wrote to the Health Minister to ask him to remove the requirement for social workers to declare health conditions. In response, the Minister has asked the CHRE to seek the views of other regulatory bodies on this issue.

There is general agreement that there are issues relating to the retention of the health requirement for registration purposes. The fact remains that on occasions when an individual stops managing their health care effectively for a variety of reasons, this can pose risks to both themselves, their colleagues and also to people who use services with whom they interact. In such circumstances, it is not the issue of ill health that would lead to GSCC taking action, but rather the misconduct that would arise through the registrant putting themselves or other people at unnecessary risk as stated in the Code of Practice for Social Care Workers, code 5.7.

Section 7

Changes to GSCC conduct proceedings

On 4 March 2008, new rules came into force which changed the way in which the GSCC discharges its duties in relation to registration and conduct.

These update the 2003 conduct rules and the 2005 registration rules, and will enable the GSCC to progress cases in a more timely manner and to make the most efficient use of resources. Cases which began before 4 March 2008 will continue to progress in accordance with either the 2003 or the 2005 rules as applicable.

The main changes include:

- GSCC officers are now able to remove social workers or students from the register where this is at the request of the registrant (voluntary removal) without referral to an independent committee.
- Where a Registration Committee grants conditional registration to an applicant, the conditions imposed will be published against that person's entry on the register.
- Decisions to progress a referral to a real prospect investigation, and to refer a case to a Conduct Committee, will now be taken by GSCC officers.
- A new screening panel which will provide checks and balances to the decision making of GSCC officers.
- Any referral which is received from a person who uses services will be considered by the screening panel as will any case which has been subject to an extensive investigation but where a decision is made not to refer the complaint to a Conduct Committee hearing.
- A 'fast track' process will send cases to a Conduct Committee hearing where there is a minimal amount of investigation required, for example where an individual has been convicted of a serious criminal offence.

Section 8

Looking ahead

Partnership work

The GSCC works in partnership with a number of different organisations. A key aspect of GSCC work is collaboration with other regulatory bodies to clarify understandings of concerns raised about practitioners. In early 2007, a DH review on the regulation of non-medical healthcare professions recommended a consistent approach to the meaning of ‘good character’.

The Conduct Group worked with the CHRE and other regulators to develop formal advice to relevant Ministers on this matter and will continue to be involved in this work. The GSCC has also been involved in the development of guidance for patients and professionals: Clear sexual boundaries between health care professionals and patients. This publication, produced with the CHRE and other regulatory bodies, explains the responsibilities of healthcare professionals in this area. The CHRE will also be producing, in association with WITNESS, guidance for patients on the standards of conduct they should expect from healthcare professionals, and what to do when they think that sexual boundaries may have been breached. The GSCC would like to see

similar collaboration among organisations in the social care sector to examine how it might develop similar codes on professional boundaries for social care workers. The GSCC is talking to partner bodies about how this might be taken forward.

The Conduct Group has also been working with the CHRE to develop a common dataset on fitness to practice decisions, to allow comparison across regulatory bodies and, potentially, other stakeholders. As the variety of sector organisations working in this field have different procedures and sanctions in this area, analysis of such data will need to be undertaken carefully.

Advocacy and support for vulnerable witnesses

A key part of the investigations team’s work prior to conduct hearings is engaging witnesses. Witnesses are crucial – the GSCC’s conduct committees have heard from over a hundred witnesses in the last few years, many of whom were people who use services. Understandably, people might be reluctant or nervous about the thought of giving evidence particularly if they are to be faced with the social worker in question. However, often their testimony

Looking ahead

provides crucial information to the committee and without it misconduct could go unchecked, potentially putting others at risk.

In developing its expertise in this area, the team has worked closely with 'WITNESS', a charity specialising in supporting witnesses and/or complainants who may have been the victim of abuse by a registrant. WITNESS provides practical help for people to address the abuse they have suffered and may offer an advocate to assist them through the process of the investigation and, as applicable, any subsequent hearing. WITNESS has been a valuable source of assistance to witnesses and complainants during this year.

They have also provided training to conduct committee members and GSCC staff on a number of key issues including the differences between personal and professional relationships and the effects of abuse.

Section 9

Conclusion

The GSCC exists to improve the quality of social care and through our actions we aim to improve the standards of the workforce. By addressing poor practice and taking action where necessary, we provide protection for people who use services and ensure a workforce fit for its purpose.

However, and as this report illustrates, the number of registrants who come into contact with the conduct process is marginal compared to the total number of social workers and students on the register.

Although the overwhelming majority of referrals to date have been assessed as low risk, the screening process is nonetheless vital, revealing serious concerns on some occasions. It enables subsequent case work activity to be focused on the small number of cases that require high level investigation.

There has been a strong level of agreement between the decisions of the Registration Committee and the recommendations of the GSCC regarding those deemed unsuitable to join the workforce. Similarly, the fact that all 23 Conduct hearings taking place in 2007 resulted in a finding of misconduct suggests that the investigations undertaken by GSCC are thorough and well-targeted.

The work the GSCC does on conduct matters has enabled us to offer both the public and people who use services the protection and confidence they should expect from the social work profession. We recognise that effective regulation of the social care workforce involves working with a range of stakeholders to deliver the best possible outcomes. These include colleagues in Government, our sister regulatory bodies, Council members, employers and social care workers themselves.

In particular, we would like to acknowledge the immensely valuable contribution that people who use services, their carers and representatives have made by bringing their concerns to our attention and in giving their time and effort to enable us to address their complaints. We hope this relationship will develop further over the coming months and years, creating a partnership that, through working together, can ensure a quality workforce, providing the very best in social care.

Section 10

Contacts

If you wish to make a complaint referral contact:

Conduct enquiries
Conduct Team
GSCC
Myson House
Railway Terrace
Rugby
CV21 3HT

Email: conduct@gsc.org.uk

Telephone Number: 01788 532405

For media enquiries contact:

The GSCC press office
020 7397 5832 or
07876 440838 (out of office hours).

For any comments and discussion about the report, contact:

Robin Weekes
Head of Conduct
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2 Hay's Lane
London
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Appendices

Appendix 1: Independent committees

The GSCC has four independent committees which have either three or five members, selected from the GSCC's 'pool' of independently appointed people¹. A committee is advised by an independent legal advisor. Where the Conduct Committee is considering a complaint under the health procedure, a health adviser will be present.

The majority of each committee (including the Chair) must be lay people with at least one committee member who is experienced in or has an understanding of the area of social work practiced by the social worker whose case is being considered.

Registration Committee

This committee considers cases referred to it where a question has arisen over suitability to be registered. It decides whether an applicant should be granted registration, registered with conditions, or refused registration. It also considers requests by registrants for their voluntary removal from the register.

Preliminary Proceedings Committee

This committee fulfils a number of functions. It decides whether:

- a complaint if proven, could affect suitability to remain on the register and should be further investigated;
- an ISO should be imposed;
- a case should be transferred to be heard by a Conduct Committee following an extensive investigation of the complaint; and
- the complaint should be considered under the conduct or health procedure at the Conduct Committee.

Conduct Committee

The Conduct Committee, which takes place in public, decides whether the facts outlined in the formal allegation are proven on the balance of probabilities²; whether the facts proved amount to misconduct; and the appropriate sanction to be imposed.

Restoration Committee

The Restoration Committee considers applications from social workers who were previously removed from the register but who wish to regain registration.

¹ Independent committee members are recruited by the Appointments Commission and are neither council members nor employees of the GSCC.

² The burden of proof used by GSCC committees is the balance of probabilities. This means that a fact, if proved, is more likely to be true than not true.

Screening Panel

The GSCC recently introduced a Screening Panel. This will scrutinise decisions of GSCC officers not to proceed with a referral or investigation. It will be chaired by a senior officer of the GSCC and will include two independent committee members. One of the members of the Screening Panel will have experience of working in social care.

Appendix 2: Legislative framework and GSCC Rules

The Care Standards Act 2000, (the Act), provides the legislative framework within which the GSCC carries out its regulatory functions. Established in England in 2001, the GSCC's overarching purpose is improving the quality of social care services.

The Act charged the GSCC with establishing a register of social care workers, publishing codes of practice for them and their employers and regulating the quality of social work education and training.³ The GSCC undertakes these responsibilities in England, in partnership with sister organisations which regulate the social care workforce in Northern Ireland, Scotland and Wales.

The Act also established the right of appeal through the Care Standards Tribunal for applicants and registrants who have been through the suitability assessment or conduct process and disagree with the decision. The CST was established under the Protection of Children Act 1999. It is independent of the GSCC and hears appeals in relation to the decisions of several bodies including the Commission for Social Care Inspection (CSCI) and Office for Standards and Training in Education (OFSTED), as well as the GSCC. The Tribunal hears appeals against GSCC decisions and determines whether or not those decisions should stand.

Under powers in the Act, the GSCC made specific rules governing the suitability of people applying to join the SCR (The GSCC (Registration) Rules 2005) and the steps the GSCC can take when someone on the register is alleged to have committed misconduct (The GSCC (Conduct) Rules 2003). These rules are agreed by the Secretary of State for Health. They set out the framework within which the GSCC, through the operation of its independent committees, decides whether applicants are suitable to join the SCR, along with the way in which allegations of misconduct against registered social care workers are investigated.

The GSCC is committed to the Better Regulation Executive's principles of good regulation. The GSCC aim to ensure that any action it takes is:

- **Proportionate – to the risk;**
- **Accountable – justifiable to its stakeholders;**
- **Consistent – predictable, so that people know where they stand;**
- **Transparent – open, simple and user-friendly;**
- **Targeted – focused on the problem and minimise side effects.**

The GSCC (Registration) Rules 2005

The GSCC (Registration) Rules 2005 set out the procedure for registration and the criteria which needed to be met, for the GSCC to be satisfied with an application to join the SCR. (See paragraphs 165 to 168). New registration rules were introduced in 2008. Anyone who applies to join the SCR must satisfy the GSCC that they are suitable to work in social care by providing evidence that they:

- **have the necessary qualifications**
- **are physically and mentally fit⁴**
- **are of good character and conduct**
- **agree to comply with the Code of Practice for Social Care Workers.**

³ A separate GSCC report entitled 'Social Work Education in England: delivering quality, recognising success', published in December 2007, provides comprehensive information on social work education and training.

⁴ The GSCC has put to Government its view that the health requirement should be removed from registration criteria set out in the Care Standards Act.

It is the applicant's responsibility to prove their suitability. If there are doubts about the applicant's suitability to be a Registered Social Worker, the GSCC undertakes an evidence based risk assessment and obtains additional evidence if required.

If the GSCC takes the view that the application should be refused or conditions imposed, it refers the case to an independent Committee. The Registration Committee decides whether to grant the application, impose conditions or refuse registration. The decision is taken in the public interest, and informed by the Registration Rules and Code of Practice for Social Care Workers.

The GSCC (Registration) Rules 2005 require the GSCC to refer requests for voluntary removal from the SCR to the Registration Committee for consideration. GSCC officers carry out checks prior to referral to the committee to ensure there are no unresolved conduct issues.

The GSCC (Conduct) Rules 2003

These rules set out the process the GSCC follows on receipt of an allegation of misconduct against a social worker and the roles of the independent committees, the Preliminary Proceedings Committee (PPC) and Conduct Committee. New conduct rules were introduced in March 2008.

When a complaint referral is received, the GSCC makes preliminary enquires to determine if the referral meets the criteria to be placed before a PPC. The referral has to be a specific allegation of misconduct against someone on the Social Care Register, or that the registrant has been convicted of a criminal offence.

The committee then decides whether the complaint, if proved, would call into question the suitability of the individual to practice as a Registered Social Worker.

If they decide that suitability to remain on the register is called into question, the matter is deferred for further consideration by the PPC after the GSCC has completed an extensive investigation. A second meeting of the PPC considers the evidence gathered during this investigation. If the PPC decide that there is a real prospect of proving misconduct then the case is referred to a Conduct Committee.

Before the Conduct Committee, the registrant and their representative will be invited to a pre-hearing meeting chaired by an independent legal advisor. This addresses various practical and evidential issues in advance of the hearing.

The Conduct Committee hears the available evidence (including any provided by the registrant) and decides whether the allegation of misconduct is proven. If misconduct is found proven the Conduct Committee decides which sanction should be imposed. The sanctions are:

- Removal from the register.
- Suspension from the register for up to two years.
- Admonishment (a public record on the register) for up to five years.
- The committee can also decide to take no further action.

During the Conduct process, the PPC can temporarily suspend a registrant from the register by imposing an Interim Suspension Order (ISO) where it is felt necessary:

- for the protection of members of the public;
- otherwise in the public interest; or
- in the interests of the registrant concerned.

The GSCC will request that a PPC impose an ISO as soon as possible after identifying the need for such an order. ISOs are time limited and can be renewed, subject to periodic reviews, with a maximum time limit of two years pending the outcome of the investigation and hearing.

Glossary

Council for Healthcare Regulatory Excellence (CHRE)

The CHRE is the health professions' watchdog and is an independent statutory body covering all of the United Kingdom. It was established by parliament in 2003 to ensure consistency and good practice in healthcare regulation. It does not have any legal jurisdiction over the GSCC although we work very closely with it.

Care Standards Tribunal (CST)

The CST considers appeals from people who have received a decision issued by organisations concerned with children and vulnerable adults, and those which regulate the provision of social, personal and health care.

Allowed/Dismissed/Struck out (in relation to CST decisions)

If a case is dismissed, the CST upheld the GSCC's original decision. If a case is allowed, the CST has found in favour of the appellant. A case is 'struck out' prior to a final hearing as a result of a procedural problem.

GSCC Rules for registration and conduct

Under powers in the Care Standards Act, the GSCC can make specific rules governing the suitability of people apply to join the Social Care Register (the GSCC Registration Rules) and the steps the GSCC can take when someone on the register is alleged to have committed misconduct (the GSCC Conduct Rules). These rules are agreed by the Secretary of State for Health.

WITNESS

WITNESS is the professional boundaries charity which aims to promote safe boundaries between professionals and the public in order to prevent abuse. They do this by providing support, education and research services and by working for change.

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