



Online response to SSSC fitness to practice proposed changes

1. Your name (optional)

Diane Anderson

Your name (optional)

2. Are you responding on behalf of an organisation?

- Are you responding on behalf of an organisation? Yes
- No

If yes, please tell us the name of your

organisation: UNISON

3. Do you believe that a fitness to practise model is a reasonable way to approach health issues?

- Do you believe that a fitness to practise model is a reasonable way to approach health issues?
- No

4. Do you believe that a fitness to practise model is a reasonable way to approach competence/deficient professional performance issues?

- Do you believe that a fitness to practise model is a reasonable way to approach competence/deficient professional performance issues?
- No

5. Do you believe that a fitness to practise model focusing on current and future fitness to practise is a more reasonable approach than the current model?

- Do you believe that a fitness to practise model focusing on current and future fitness to practise is a more reasonable approach than the current model? Yes
- No

6. Do you have concerns about public protection under a fitness to practise model?

- Do you have concerns about public protection under a fitness to practise model? Yes
- No

7. Do you have any comments?



1. The "fitness to practise" criteria is very vague and it is not clear to us what objective standards the SSSC would be measuring against. At present they look at conduct within the context of whether the Codes of Practice have been breached. Whilst there is still a level of interpretation involved, at least practitioners can see what standards they are being measured against and can mount a defence on this basis.
2. Secondly it is the employer's responsibility at present, through their clearly laid down and negotiated employment policies and procedures, to deal with concerns about a social service worker's practice and to address any health concerns affecting a worker's practice. We do not see how these new powers for the SSSC would fit with that. We do not think it acceptable for the SSSC to say that the public may be exposed to risk if they can take no action. This is to assume that the employer is not competent to deal appropriately with matters relating to an employee's health or competence short of a breach of the codes of practice.
3. The proposed new model could cause confusion between the responsibilities of an employer and the SSSC.
4. We believe that the SSSC should restrict their involvement to breaches of the codes of practice, as at present. These are clearly laid down and all social service workers are clear about the expectations of their practice and the potential consequences of breaching the codes. They can also argue a clear defence, if they have one, based on the codes. Employers and practitioners can see how action by the employers on breaches of the codes sit with action by the SSSC and whilst there are still some problems managing this interface, at least it has the codes of practice underpinning it.
5. We believe that challenging fitness to practise on medical grounds could lead to a massive increase in referrals, leading to huge delays in progressing cases which in turn could impact on the stress of a registrant.
6. Whilst having sympathy with the desire to bring the SSSC regulations into line with those of the other regulatory bodies, far more clarity would be required on the implications and workability of the

proposed new model before UNISON could consider supporting a change in model.

7. Some of our members, particularly working in adult care, have expressed concerns that performance will be based on throughput, rather than on relationship and the meaningfulness of client engagement. They are also concerned that for registration purposes, performance will be based on the performance of the individual worker only and not measured against agency and systems performance, taking into account workload management issues.

We would ask, therefore, that professional supervision by a suitably qualified supervisor, be given increased emphasis.

8. Similarly, whilst social service workers can be criticised for breaches of their code of conduct, we would wish breaches of the employers code of conduct to be equally determined.

Identifying the likely impact of these proposals on different groups?

We recognise that the principles of equality, diversity and fairness must be embedded in the procedures which govern our model of regulation. Therefore, we are keen to receive views in response to this consultation paper on the likely impact of these proposals.

What the law says we must do

Under the Regulation of Care (Scotland) Act 2001, the SSSC is obliged to act in a manner which encourages equal opportunities. The SSSC must also observe the requirements set out in all relevant and applicable equalities legislation. The Equality Act 2010 (the Act) came into force in October 2010 and replaces previous equalities legislation.

Public Sector Equality Duty

Section 149 of the Act came into force on 5 April 2011 and created the Public Sector Equality Duty. This replaces the previous race, disability and gender equality duties set out in earlier legislation.

The purpose of the public sector equality duty is to ensure that public authorities consider how they can positively contribute to a fairer and more equal society through advancing equality in all their policies, the services they provide and in their day-to-day business.

The general duty requires us, in all that we do, to consider the need to:

- **eliminate discrimination, harassment, victimisation** and any other conduct that is prohibited by or under the Equality Act 2010
- **advance equality of opportunity** between persons who share a relevant protected characteristic and persons who do not share it
- **foster good relations** between persons who share a relevant protected characteristic and persons who do not share it.

Protected characteristics

The term protected characteristics in the Equality Act 2010 means characteristics that people may share that are protected by provisions in the Act.

The nine protected characteristics are:

- age
- disability
- race
- religion or belief
- sex
- sexual orientation
- gender reassignment
- pregnancy and maternity
- marriage and civil partnership.

The protected characteristic of marriage and civil partnership is only covered in relation to the general duty to eliminate discrimination.

8. Do you believe that the proposals set out in the consultation document will have an adverse impact on any group of people in terms of the protected characteristics?

- Do you believe that the proposals set out in the consultation document will have an adverse impact on any group of people in terms of the protected characteristics? Yes
- No

9. Do you believe that the proposals will have an adverse impact on equality of opportunity or good relations?

- Do you believe that the proposals will have an adverse impact on equality of opportunity or good relations? Yes
- No