

Memorandum of Understanding between Mental Welfare Commission for Scotland and the Scottish Social Services Council

December 2025

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Memorandum of Understanding between the Mental Welfare Commission for Scotland and the Scottish Social Services Council

Introduction

1. The purpose of this Memorandum of Understanding (**MoU**) is to set out a framework to support the working relationship between the Mental Welfare Commission for Scotland (the **Commission**) and the Scottish Social Service Council (**SSSC**).
2. The working relationship between the Commission and the SSSC is part of the maintenance of an assurance system for social work, social care and health in Scotland which promotes the protection of people accessing health and social care services and support.
3. The Commission is an independent statutory body that protects the welfare of individuals with mental illness, learning disability, dementia and related conditions. The SSSC has a duty to protect and enhance the safety and welfare of all who use care services. The SSSC's principal functions are to regulate the social service workforce through registration and codes of practice and to promote the education and training of social service workers.
4. The responsibilities and functions of the Commission and the SSSC are set out in Annex A: Responsibilities and Functions.
5. This MoU is a statement of intent. It does not give rise to legally binding obligations on the part of either the Commission or the SSSC, and it does not override the statutory responsibilities and functions of either party. The parties have determined that they do not exchange sufficient quantities of personal data to warrant entering into a separate data sharing agreement, but this will be kept under review.

Principles of cooperation

6. The Commission and the SSSC intend that their working relationship will be characterised by the following principles:
 - a) The need to make decisions which promotes protection of people and high-quality social work and social care.
 - b) Respect for each organisation's independent status.
 - c) The need to maintain public confidence in the two organisations and the regulatory process.
 - d) Openness and transparency between the two organisations as to when cooperation is and is not considered necessary or appropriate.
 - e) The need to use resources effectively and efficiently.

Both the SSSC and the Commission are committed to exploring ways to develop more effective and efficient partnership working to promote quality and safety within their respective regulatory remits.

Areas of cooperation

7. The working relationship between the Commission and the SSSC involves cooperation in the following areas:
 - Routine information sharing
 - Cross referral of concerns
 - Strategic collaboration
8. A named contact with responsibility for each area is identified in **Annex B: Lead Contacts**.

Routine information sharing

9. Subject to any legal or procedural restrictions on the disclosure of information (and at their discretion), the Commission and the SSSC will each make available routine information arising from their processes that may assist the other in its remit.

Cross-referral of concerns

10. Where the Commission or the SSSC encounters a concern that either determine may fall within the remit of the other, they will at the earliest opportunity convey the concern and supporting information to a named individual with relevant responsibility at the other organisation. In the interests of public protection, the referring organisation will not wait until its own review or investigation has concluded, and will share information as early as appropriate, where it is in the public interest to do so.
11. Concerns for the SSSC may include relevant information about social service workers whose practice, conduct or character falls short in their opinion of the standard expected of a person registered with the SSSC, having particular regard to the Codes of Practice for Social Service Workers and for Employers of Social Service Workers published by the SSSC under section 53 of the Regulation of Care (Scotland) Act 2001 (the **2001 Act**), and which may call into question that person's suitability for registration or fitness to practise.
12. For the Commission this may include relevant information about social work and social care practice which may call into question the robustness of systems, governance, or compliance, in the context of, but not limited to the following legal frameworks:
 - a. Mental Health (Care and Treatment) (Scotland) Act 2003
 - b. Adults with Incapacity (Scotland) Act 2000
 - c. Mental Health (Scotland) Act 2015
 - d. Adults Support and Protection (Scotland) Act 2007

This may also include concerns about leadership, delivery and quality of governance, and identifying and responding to concerns.

13. Where the Commission or the SSSC encounters a concern that they consider may fall within the remit of the other, the concern should be referred to the other party using the Alerting Form (AF1) as set out in **Annex D**.

14. If a concern relates to the other organisation's remit, but there is uncertainty whether the concern is sufficiently serious to engage their processes, this should be discussed with one of the key escalation contacts identified in Annex B: Lead Contacts.

15. In particular, if the Commission considers appropriate to do so, it will refer to the SSSC information about:

- a) Any concerns and relevant information about registered social workers or social service workers which may call into question their fitness to practise when their employer has not informed SSSC within a reasonable timeframe since the concerns were raised or when there is an imminent risk for the individuals.
- b) Any concerns and relevant information about a healthcare organisation which employs any SSSC registered staff, and which may call into question compliance with the Codes of Practice for Social Service workers and for Employers of Social Service Workers published by the SSSC under section 53 of the 2001 Act.
- c) Any investigations into or follow ups of identified risks, in which concerns about individual registered social workers' or social service workers' practice have been identified when their employer has not informed SSSC within a reasonable timeframe since the concerns were raised or when there is an imminent risk for the individuals.
- d) Any thematic issues about social workers or social service workers that could be addressed through setting professional standards.
- e) Any concerns which are of particular relevance where a supported person is identified as being subjected to neglect, ill-treatment and/or a deficiency in care and registered social workers or social service workers are identified as a potential causal factor.

Strategic collaboration

16. The Commission and the SSSC will have regard to circumstances in which their objectives may be best served by collaboration. Each party will seek to give consideration to the other when planning their work programmes and identify any possibilities for joint working.

Media/publications relations to Scottish medical education or healthcare providers and evidence to committees and interactions with the Scottish Government or Parliament

17. The Commission and the SSSC will seek to give each other adequate warning (at least 48 hours) and sufficient information about any planned press releases and announcements that may concern the other organisation.
18. The Commission and the SSSC will, when appropriate, share with each other awareness of relevant evidence to committees or interactions with the Scottish Government or Parliament.
19. The Commission and the SSSC will respect the confidentiality of any documents shared 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.
20. The Commission and the SSSC will work to ensure that the recommendations arising from investigations and reviews are communicated widely and are understood.

Information sharing

21. The Commission and SSSC shall exchange personal data only in accordance with the UK General Data Protection Regulation (**UK GDPR**) and Data Protection Act 2018 (**DPA 2018**) and as outlined in **Annex C**.
22. All arrangements for collaboration and exchange of information set out in this MoU, will take account of and comply with all relevant legislation and any Commission and SSSC codes of practice, frameworks or other policies relating to confidential personal information.
23. Both the Commission and the SSSC are subject to the Freedom of Information (Scotland) Act 2002 and data protection legislation, including UK GDPR. If one organisation receives a request for information that was originally received from the other, the receiving organisation will discuss the request with the other before responding. Whilst the views of the other organisation on disclosure of the information will be reasonably considered by the receiving organisation, any decision to disclose or withhold information in response to such a request shall be in the sole discretion of the body who received the request.
24. As a designated body, the Commission will agree to exchange such information as is necessary to fulfil their statutory functions and to ensure the safety and well-being of people who use health services.

Resolution of disagreement

25. Any disagreement between the Commission and the SSSC 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 Executive of the Commission and the Chief Executive of the SSSC who will then be jointly responsible for ensuring a mutually satisfactory resolution.

Working arrangements

Regular contact

26. Contact between the Commission and the SSSC will be at an appropriate level within each organisation depending on the matter under discussion.

27. These meetings will be the forum for consideration of:

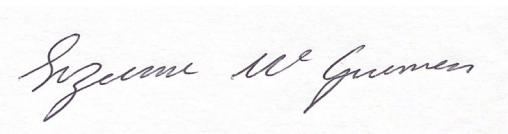
- The Memorandum of Understanding
- Social work fitness to practise.
- Mutual areas of business
- Media and Publications
- Strategic Collaboration
- Any updates to information sharing activities.

28. The Commission and the SSSC will also be available to provide each others operational contact and Chief Executives with ad hoc advice and guidance as and when required.

Duration and review of this MoU

29. This MoU will be reviewed periodically but at a minimum every three years.
30. Both organisations have identified a person responsible for the management of this MoU, contact details are provided **in Annex B: Lead Contacts**. 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.
31. The named contacts with responsibility for each area of cooperation identified in Annex B: Lead contacts will liaise as required to carry out day-to-day business.
32. Both the Commission and the SSSC are committed to exploring ways to develop more effective and efficient partnership working to promote quality and safety within their respective regulatory remits.

Signatures

Suzanne McGuinness Executive Director (Social Work) Mental Welfare Commission for Scotland 	Hannah Colemen Director of Regulation SSSC 
Date: 29 December 2025	Date: 29 January 2026

Annex A: Responsibilities and functions

Mental Welfare Commission for Scotland (the Commission) and the Scottish Social Services Council (SSSC) acknowledge the responsibilities and functions of each other and will take account of these when working together.

Scottish Social Services Council

The SSSC was established under the Regulation of Care (Scotland) Act 2001 and has a duty to promote high standards in the conduct and practice of social service workers and in their education and training. The SSSC's principal functions are:

- to maintain a register of social service workers,
- to set standards for their practice, conduct, training and education, and
- where their conduct or practice falls below the standards, to investigate and take action

In exercising these functions, the SSSC is required to operate under the general principle that it shall, among other things, protect and enhance the safety and welfare of all persons who use care services.

Mental Welfare Commission for Scotland

The Mental Welfare Commission for Scotland (the Commission) is an independent organisation set up by Parliament with a range of duties prescribed under mental health and incapacity law, namely the Mental Health (Care and Treatment) (Scotland) Act 2003 and the Adults with Incapacity (Scotland) Act 2000 and the Mental Health (Scotland) Act 2015. It acts to promote the welfare of individuals with mental illness, learning disability or related conditions. Its functions include:

- to monitor the operation of the Act and promote best practice.
- to report on the operation of the Act.
- to bring general matters to the attention of Scottish Ministers and others.
- to give advice.
- to raise service concerns with certain bodies.

Annex B: Lead contacts

There will be specific points of contact between MWC and the SSSC as follows:

Mental Welfare Commission for Scotland	Scottish Social Services Council
Chief Executives (internal escalating policies should be followed before referral to CEs)	
Julie Paterson Chief Executive	Maree Allison Chief Executive
Operations Contacts	
Suzanne McGuinness	Iain Martin
Data Protection and Confidentiality	
Paloma Alvarez Information Governance Manager (and Data Protection Officer)	Anne Stewart Head of Legal and Corporate Governance (and Data Protection Officer)

Annex C: Data Controller Declaration

Purpose

1. The purpose of this Annex C is to explain the respective roles that the Commission and SSSC will play in managing the processing of personal data associated with the effective operation of this Memorandum of Understanding. The Commission and the SSSC are considered independent controllers of the data collected, as both parties separately determine the means and purpose of processing personal data as part of the functions defined in the broader Memorandum of Understanding.

Data Protection

2. Both parties have functions prescribed by law and written in statute which provide a lawful basis for sharing personal, special category data where sharing is necessary for the exercise of those functions, proportionate, and carried out in accordance with the rights of the data subjects.
3. The Commission and the SSSC will comply with all relevant provisions of the DPA 2018 and the UK GDPR. The Commission and the SSSC will act as independent data controllers, in respect of any personal data pursuant to this memorandum of understanding; they will only process such personal data to the extent defined in the relevant regulatory framework.
4. All information will be supplied in line with the relevant standards for information quality and security.
5. Neither the Commission nor the SSSC will transfer any personal data it is processing outside of the European Economic Area, unless appropriate legal safeguards are in place, such as an adequacy decision or Model Contract Clauses.
6. The Commission and the SSSC will ensure that they have appropriate technical and organisational procedures in place to protect any personal data they are processing. This includes any unauthorised or unlawful processing, and against any accidental disclosure, loss, destruction, or damage. Both parties will also take reasonable steps to ensure the suitability of their staff having access to such personal data.

Individual Rights

7. The UK GDPR specifies new rights for individuals over the processing of their data. These rights, and the process an individual should follow when making a request, are listed in both the Commission and the SSSC's privacy notices. Both parties should ensure they consult and comply fully with their respective privacy policies in the event of a Data Subject exercising any of their rights under data protection legislation.

8. In response to any subject access request, the Commission and the SSSC will undertake a proportionate and reasonable search and respond within one month of the original request.

Data breach

9. Both parties are responsible for reporting any breach occurring within their authority to their Data Protection Officer and ICO (where appropriate). They will also inform the other party of the breach if there is any direct impact on their staff or wider interest.
10. Any personal data breach as defined by UK GDPR Article 4(12) that meets the relevant threshold criteria will be reported to the relevant Information Commissioners' Office (ICO) within 72 hours of notification. This will include informing the affected data subject should the circumstances warrant it. The appropriate Data Protection Officer (see above) will be responsible for making the report, following consultation their Chief Executive Officer (CEO).

Data retention

11. The Commission and the SSSC will retain personal data associated with the effective operation of this memorandum of understanding in accordance with their respective organisational disposal policies. Each party is responsible for ensuring appropriate technical and procedural functions are in place to ensure the secure and timely destruction of personal data.

Legal basis for the processing

12. Without detriment of any other legal basis that may be applicable (e.g. criminal investigation, etc.) the following are the core legal basis for each of the parties to process the data in this agreement.

Legal basis	Party
UK GDPR 6.1(e) Processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller. This is in respect of its statutory functions under the Regulation of Care (Scotland) Act 2001.	SSSC
UK GDPR Article 9.2(g) Processing is necessary for reasons of substantial public interest, on the basis of domestic law. This requirement is met as outlined under the DPA 2018 Section 8 and Schedule 1, Part 2 Paragraph 6 for the purpose of exercising a function conferred on a person by enactment or rule of law.	SSSC

UK GDPR 6.1(e) Processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller. This is to perform its statutory functions under the Mental Health (Care and Treatment) (Scotland) Act 2003, Adults with Incapacity (Scotland) Act 2000, and the Mental Health (Scotland) Act 2015.	The Mental Welfare Commission
UK GDPR Article 9.2(g) Processing is necessary for reasons of substantial public interest, on the basis of domestic law. This requirement is met as outlined under the DPA 2018 Section 8 and Schedule 1, Part 2 Paragraph 6 for the purpose of exercising a function conferred on a person by enactment or rule of law.	The Mental Welfare Commission

13. Personal and special category information will only be shared under this agreement where there is a statutory power to do so and the conditions for processing as determined in the DPA 2018 can be met. Wherever possible, anonymised information should be shared.
14. Where it is agreed that it is necessary to share personal information it will be shared only on a 'need to know' basis and this will be detailed in the individual information sharing agreements.

Annex D: SSSC/MWC Alerting form (AF1)



This form is Official-Sensitive-Personal when complete

SSSC/MWC Alerting form (AF1)

The form is to be used by both the Mental Welfare Commission and the Scottish Social Service Council workforce to notify our partner organisation of relevant shared information found while undertaking their defined roles. The Scottish Social Service Council and the Mental Welfare Commission for Scotland will generally cooperate with a view to achieving the purpose of protecting the welfare of persons who have a mental disorder. Both organisations are required to observe statutory provisions.

- The SSSC was established under the Regulation of Care (Scotland) Act 2001 and has a duty to promote high standards in the conduct and practice of social service workers and in their education and training. Concerns for the SSSC may include relevant information about social service workers whose practice, conduct or character falls short in their opinion of the standard expected of a person registered with the SSSC, having particular regard to the Codes of Practice for Social Service Workers and for Employers of Social Service Workers published by the SSSC under section 53 of the Regulation of Care (Scotland) Act 2001 (the **2001 Act**), and which may call into question that person's suitability for registration or fitness to practise.
- The Mental Welfare Commission duties include gathering relevant information about social work and social care practice which may call into question the robustness of systems, governance, or compliance, in the context of, but not limited to the following legal frameworks:
 - a. Mental Health (Care and Treatment) (Scotland) Act 2003
 - b. Adults with Incapacity (Scotland) Act 2000
 - c. Mental Health (Scotland) Act 2015
 - d. Adults Support and Protection (Scotland) Act 2007
- The Commission and SSSC shall exchange personal data only in accordance with the UK General Data Protection Regulation (**UK GDPR**) and Data Protection Act 2018 (**DPA 2018**).

All sections of this form should be completed where appropriate. In all cases, the minimum personal information necessary for the referral should be exchanged.

The completed form should then be emailed to:

Mental Welfare Commission Email: mwc.enquiries@nhs.scot

Or

Scottish Social Service Council Email: ftp@sssc.uk.com

PART 1

Who is sharing the information	Please tick
Mental Welfare Commission for Scotland	<input type="checkbox"/>
Scottish Social Services Council	<input type="checkbox"/>

Brief account of the reason for sharing information

PART 2 (Part 2 to be completed by the SSSC)

Identification of the named individual for whom there are concerns

Full Name	
Date of Birth(if known)	
Home address	
Postcode	
Telephone	
Email	
HSCP and Health Board area	

Information on diagnosis and/or treatment:

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Has an Adult Support and Protection (AP1) referral been made for the named individual	Yes / No
If AP1 has been made please provide information in general terms if known	

Indication if any further investigation, enquiry, or review that is being carried out or considered. (ASP/Police/Large Scale Inquiry for example)

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PART 3 (Part 3 to be completed by the MWC)

Identification of the SSSC registrant

SSSC name	
SSSC number	
Address	
Postcode	

PART 4.

Who is completing the form

Referring MWC Officer / SSSC employee full name	
Contact phone number	
Email address	
Date of completion	