

NORTH LANARKSHIRE COUNCIL

REPORT

TO: Social Work Committee	Subject: PROCEDURE FOR FORMAL AND LEGAL ACTION WHERE REGISTERED ESTABLISHMENTS FAIL TO MEET STANDARDS
FROM: Jim Dickie Director of Social Work	
DATE OF COMMITTEE: 25 November 1997	
REPORT AUTHOR: Dennis O'Donnell	
REF: DOD/EH	

1. INTRODUCTION

The purpose of this Report is to recommend to Committee a procedure for formal action where registered residential or day care establishments fail to meet standards required or where informal measure fail to improve standards, or achieve a satisfactory outcome.

2. PROCESSES FOR THE IMPOSITION OF CONDITIONS OR CANCELLATION OF REGISTRATION

- 2.1** Appendix 1 charts the formal and informal processes it is proposed that Council should adopt in enforcing standards.

3. LEGISLATION

- 3.1** The principal legislation governing registration is the Social Work (Scotland) Act 1968 Sections 61 - 68, as amended by the Registered Establishments (Scotland) Act 1987 and the National Health Service and Community Care Act 1990.

4. GROUNDS FOR ENFORCEMENT, IMPOSITION OF CONDITIONS OR CANCELLATION OF REGISTRATION

- 4.1** The local authority may, at any time, cancel registration on any ground which would entitle it to refuse an application, or on any ground which would entitle it to refuse an application in the first place. These include:
- (a) that the applicant, or anyone employed in the management of an establishment, is deemed not to be a fit person;
 - (b) that the situation, construction, state of repair, staffing and equipment are not sufficient for the particular purpose of the establishment;
 - (c) that the manner in which the establishment is conducted is not such as to provide facilities and services reasonably required by persons resorting to this;
 - (d) if the applicant or manager has been convicted of any offence under Section 62 of the Act, or any regulation under this part of the Act, relating to the conduct of the establishment. Other grounds for cancellation include failure to comply with conditions, to disclose convictions, or to inform of management changes.

5. STAGES OF COMPLIANCE

- 5.1 **Stage 1** Informal and enabling: Explanation provided of what is required, confirmed in writing and follow up action agreed.
- 5.2 **Stage 2** Where informal action fails, the enforcement process sets out formally the requirements of the Department and sets timescales for compliance.
- 5.3 **Stage 3** Where enforcement fails the legal processes are instituted. A report is prepared for the Director of Social Work indicating action needed to meet standards. The Department of Social Work can impose conditions which indicate actions required to achieve standards within a specified timescale.
- 5.4 **Stage 4** Cancellation of registration on the grounds outlined at 4.1.
- 5.5 In most serious circumstances, the early stages of the enforcement processes may be circumvented and application of conditions or cancellation of registration implemented.

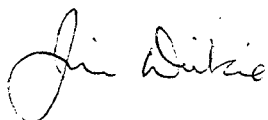
6. APPEALS PROCESSES

- 6.1 Section 64 of the Social Work (Scotland) Act 1968 details the processes available to appeal against conditions imposed, cancellation of registration or refusal to register. There are two appeal stages, the first, a Hearing by a Sub Committee of the Council, the second a Tribunal set up by the Secretary of State.

7. RECOMMENDATIONS:

- 7.1 Committee is asked to:

Note and approve the procedure outlined in Appendix One.



Jim Dickie
Director of Social Work
1997

For further information on this report please contact . Principal Officer (Dennis O'Donnell) (TEL: 01698 332058)

**Framework for the Processes of
Imposition of Conditions or
Cancellation of Registration**

Establish Concern(s)

Determine Course of Action

Enable Informally	Enforcement Procedures Formal	Impose Conditions (Legal)	Cancel Registration (Legal)
	If Enforcement Process unsuccessful consult with Head of Social Work Development to discuss formal legal process		
	Consult with Legal Services regarding options	<ol style="list-style-type: none"> 1. Determine conditions including timescales (SWD in consultation with Legal Services) 2. Report recommending imposition of conditions prepared for consideration by Director of Social Work, signed by Principal Officer 3. Director of Social Work, after consultation with the Convenor and Vice Convenor of the Social Work Committee, makes decision regarding imposition of conditions (after any other investigation he considers appropriate) 4. Director of Social Work briefs Chief Executive 5. If imposition of conditions approved by Director of Social Work, Department of Administration send notice of intention to impose conditions to proprietors by recorded delivery 6. Director of Social Work reports decision to Social Work Committee 7. Proprietors have 14 days (from notice sent at stage 5) to inform the authority in writing of their desire to show cause why conditions should not be imposed. Alternatively, they can take no action or accept the grounds for the imposition of conditions 	<ol style="list-style-type: none"> 1. Determine intention to cancel Registration including timescales (SWD in consultation with Legal Services) 2. Report recommending intention to cancel Registration prepared for consideration by Director of Social Work, signed by Principal Officer 3. Director of Social Work, after consultation with the Convenor and Vice Convenor of the Social Work Committee, makes decision regarding cancellation of Registration (after any other investigation he considers appropriate) 4. Director of Social Work briefs Chief Executive 5. If cancellation of registration approved by Director of Social Work, Department of Administration send notice of intention to cancel registration to proprietors by recorded delivery 6. Director of Social Work reports decision to Social Work Committee 7. Proprietors have 14 days (from notice sent at stage 5) to inform the authority in writing of their desire to show cause why cancellation of Registration should not be imposed. Alternatively, they can take no action and accept the grounds for the cancellation of Registration

8 a) If the proprietors have asked to be heard they will be heard by Social Work (Registration) Sub Committee arranged for this purpose

Or

b) Where the proprietors take no action, ie do not ask to be heard, Social Work Committee will be informed and asked to approve the decision set out by the Director of Social Work

9. Proprietors given notice by Director of Administration of decision. Proprietors have 21 days (from date of Hearing at stage 8) to indicate to the Secretary of State that they wish to appeal against the decision to impose conditions. Alternatively, they can take no action or accept the conditions as stated

10. Decision of Sub Committee reported to Social Work Committee in form of abbreviated minute

11. Conditions cannot be considered to be imposed until the expiry of the time in which an appeal may be brought, or if an appeal is brought, before the determination of such an appeal

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10. Decision of Sub Committee reported to Social Work Committee in form of abbreviated minute

11. Cancellation cannot be considered to be imposed until the expiry of the time in which an appeal may be brought, or if an appeal is brought, before the determination of such an appeal