



Department
for Education



Department
of Health

Social Work Regulatory Reform

Update to Policy Statement

November 2016

Introduction

This policy statement has been tabled in support of government amendments to Part 2 of the Children and Social Work Bill. It updates the policy statement and withdraws the indicative regulations published in June this year. It sets out the government's revised plans to establish a new, bespoke professional regulator for social workers that will be known as Social Work England.

Social workers play a critical role in our society. They deliver a range of vital services from safeguarding the most vulnerable to supporting those with complex needs to live life to the full and promote better life chances. Without them, children and adults would be left at risk of abuse or neglect, and those who struggle with the activities of daily life we all take for granted, would be left to fend for themselves. Supporting people in such situations is not an easy task. Every day social workers deal with complex and fraught situations that require a great depth of skill, knowledge, understanding and empathy.

The consequences for people when social workers are not able to fulfil their role competently can be catastrophic. It is in order to protect the public from these risks that social workers have to meet standards defining acceptable conduct and competence, overseen by a regulator – currently the Health and Care Professions Council. Recent (2014) independent reviews by Sir Martin Narey and Professor David Croisdale-Appleby point to the fact that there are improvements that could be made in the current regulatory system for the social work profession. Government therefore wants to establish a new specialist regulator for social work that is focused on protecting the health and wellbeing of those vulnerable children, families and adults who need social work support. It will have a sole focus on the unique needs and role of this profession and will bring a positive emphasis to social work.

Our initial plan was to set up a new regulator as part of government - an Executive Agency of the Department for Education - but with joint governance between that Department and the Department of Health. Concerns have been raised about this approach in the House of Lords and in our conversations with a wider range of stakeholders. We have considered these concerns and have accepted that while the intention of setting up a bespoke regulator is the right one, our plan of having the regulator as part of government was not the best way to deliver this aim.

What we have heard and how we are responding

There is significant support for our ambition to improve the practice of social work and to raise the status of the profession. Everyone we have spoken to recognises the pivotal role that social workers play and agrees that more needs to be done to acknowledge this. However, we have also heard concerns about the proposed approach to deliver this. The chief concern has been that the proposals placed the regulation of social workers too close to government, rather than providing independent oversight of the profession. There were mixed views about whether the regulator should also have an improvement role, but on balance, there was a sense that separation between regulation and improvement was preferable and in line with practice elsewhere in the health and care professions. We have also been asked to review the framework nature of the Bill as those we spoke to wanted greater detail about the new body set out on the face of the Bill. In response we have tabled a number of amendments. This update to the policy statement sets out the changes that we are making and why.

Scope

The scope of Part 2 of the Bill has now been refined in light of the feedback we have heard. The role of the new body will be clearly focused on professional regulation and this will be reflected in its objectives. The new body will be known as Social Work England and it will have a clear remit around maintaining a register of social workers, running fitness to practise hearings and setting standards for initial education and training and professional standards, including standards of proficiency and continuous professional development. We intend that, over time, Social Work England will work to raise the minimum standards across all these aspects. Government is keen to promote the development of post-qualification specialist practice and believes that Social Work England can play a positive role in this. In the first instance, it will take on regulation of Best Interest Assessors and Approved Mental Health Professionals, and over time may have a role in supporting efforts to develop post-qualifying specialisms for accredited child and family practitioners.

Independence and Oversight

We recognise the importance of maintaining the appropriate distance between Social Work England and government. It has never been our intention that ministers be involved in the day to day running of the regulator or to give the government the power to make decisions about individual social workers or training courses and agree this should not be the case. To make this clearer, the government is laying amendments to establish Social Work England on the face of the Bill. It will be a separate legal entity in the form of a Non-Departmental Public Body (NDPB), in line with the approach in the Devolved Administrations. The Bill now states that there will be a new body and that it will be known as Social Work England; that there will be a Chair and a Board appointed by the Secretary of State; that the Secretary of State may appoint the first Chief Executive; and that going forward this will be the responsibility of the Board with Ministers merely approving the appointment. It is our intention that the Board will, in line with principles of good modern governance, provide strong and capable leadership. It will consist of a majority of non-executive members and will be able to act on behalf of the public in securing public protection. Social Work England will be able to employ the staff it needs, and have a clear set of responsibilities which it will be accountable for delivering. The amendments also remove the option of using delegated powers to appoint another regulator in the future.

As an NDPB, there will be clear separation between the regulator and ministers and a clear role for government in holding the new regulator to account for overall delivery of its functions. This will be done jointly between the Department for Education and the Department for Health through regular accountability meetings monitoring delivery against the regulator's strategic objectives as set out in its remit letter and business plan.

Alongside this, we are proposing that the Professional Standards Authority (PSA) take a formal oversight role of the regulator. It will include carrying out an annual review of how the new regulator discharges its functions and will have a power to refer fitness to practice cases to the High Court where it feels that the action of Social Work England is not sufficient for the protection of the public. This will provide important independent oversight of its work. In essence, this maintains the PSA's role in oversight of the professional regulation of social workers. This makes sure that the new regulator is in line with other professional regulators in the health and care sector by providing an

independent assessment of whether Social Work England is meeting its core function of the protection of the public.

Objectives

The Bill now sets out the objectives of the regulator on the face of the Bill which is to ensure the protection of the public through its regulatory functions, further ensuring consistency with other health and care regulators. Following the Law Commission report¹, all current health and social care regulators have a similar objective focused on protection of the public. The proposed amendments to the Bill therefore reflect this. It states:

The overarching objective of the regulator in exercising its functions is the protection of the public.

The pursuit by the regulator of its overarching object involves the pursuit of the following objectives:

- a) To protect, promote and maintain the health, safety and wellbeing of the public;*
- b) To promote and maintain public confidence in social workers in England;*
- c) To promote and maintain proper professional standards and conduct for Social Workers in England.*

Standards

The robust setting of standards is critical. Our ambition is to move towards higher standards at every level – from initial education and training, to professional standards and on to post-qualification. We want to ensure that every social worker has the right skills and experience to start their career, that they maintain those skills, and have a range of options for career progression. By doing this, we hope to support better social

¹ Law Commission (2014). Regulation of Health Care Professionals, Regulation of Social Care Professionals in England. Available at http://www.lawcom.gov.uk/wp-content/uploads/2015/03/lc345_regulation_of_healthcare_professionals.pdf

workers to stay in the profession and to encourage the continuous development of their skills and knowledge.

In light of the concerns we have heard about the need for the new regulator to be independent, and in particular, for standards to be set objectively and with input from the sector, we are proposing to amend the Bill to reflect this. Amendments set out that the new regulator will set professional and education and training standards, in consultation with the sector, and that Ministers will be responsible for approving them. It will be for Social Work England to ensure that these standards are adhered to.

Engagement

We have listened to concerns that there has not been enough engagement in developing proposals for the regulation of social workers. Over the summer we have undertaken further engagement with representatives from across the sector and Peers to understand better the range of concerns and to develop the changes we are now putting forward.

We are also establishing an Advisory Group to help us as we work through the detail. The Group will include key sector representatives and will ensure we capture expertise on both regulation and social work. As we move forward, we also intend to consult on Regulations and will ensure that the new body is required to consult the profession and other interested bodies before setting standards.

Costs

Government is making substantial investment in social work reform. As part of that investment we are committed to supporting the establishment of Social Work England and will ensure that any set-up costs will not fall on social workers themselves. There will be a one off cost to move to the new arrangements and ongoing costs will be met through a combination of fees (as the current system does) and Government funding. We estimate that one off costs to set up the body will be £10m and this will be met by the Government. Government will also contribute funding to the running costs of Social Work England over the rest of this Parliament of up to £16m. We have no plans at this time to require the body to be self-financing and as with the current system Social Work England will be required to consult on any proposal to raise fees. The costs of

establishing and running the new body will be set out in full in an impact assessment that will be published alongside the secondary legislation.

Implementation

We have an ambitious timetable to deliver the new body by September 2018. We believe that this is challenging, but achievable. In order to support delivery, we anticipate that the body will phase in new standards over a period of time. This will ensure that it has the space to properly establish its core functions of holding the register and running fitness to practice hearings and ensure that it is able to fully consult the sector on changes. We are still developing the detail of this timetable, but expect that changes will begin with initial education and training standards as the new body starts, moving to professional standards and continuous professional development in due course.

The changes that have been tabled to the Bill strengthen the original proposals, provide the basis for implementation in collaboration with the sector and set out a robust way forward. We believe this will provide a positive foundation for the future regulation of social work that will help raise minimum standards and ensure a strong and respected workforce for the future.



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