



Department
for Education

Changes to the regulatory framework for Social Work England

Government consultation response

August 2022

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Introduction

The Children and Social Work Act 2017 sets out the broad legal framework for Social Work England and the detail of the legal framework is set out in the Social Workers Regulations 2018.

Earlier this year, the Department for Education sought views on proposed changes to the Social Workers Regulations 2018 which are primarily technical in nature and do not reflect a change in policy direction for the regulator. The aim of the changes is to support Social Work England to improve its existing flexible model of professional regulation to secure public protection, foster professionalism, and ensure standards of practise. The consultation set out draft regulations which would:

- give greater clarity to the regulator's processes;
- remove operational inefficiencies identified by the regulator and/or the Department for Education; and
- correct unintended anomalies in the original drafting.

The public were asked to submit responses on the proposals between 23 March and 11 May 2022. This consultation response sets out how we intend to proceed with changes to Social Work England's regulatory framework, having given due consideration to the views submitted in response to the public consultation.

Summary of responses received and the government's response

We received 48 responses to the consultation from a wide variety of interested stakeholders including: social workers, unions, local authorities, regulatory bodies and service users. The Government wants to thank all those who took the time and effort to respond to the consultation and for the contributions received.

The responses were broadly supportive of the proposed changes with approval ranging from 68% to 94%. Both the Department and Social Work England are pleased by the positive support for the proposed changes to the Social Worker Regulations 2018 and welcome the helpful input from respondents.

Following careful consideration of responses to this consultation, the department intends to proceed with legislation to introduce all the proposed changes to Social Work England's regulatory framework. The Social Workers (Amendment and Transitional Provision) Regulations 2022 will be taken forward as soon as parliamentary time allows and we have set out further details on anticipated timings in the 'Next Steps' section at the end of this document.

Some of the respondents who commented on the proposed regulatory changes also provided wider comments on the way in which Social Work England operate as a regulator. While these comments fall outside the scope of this consultation, we will continue to work with Social Work England to explore these, specifically opportunities for further improvement.

Main findings from the consultation

A total of 48 responses have been analysed and given full consideration in preparing this response. In addition to the 48 responses analysed, 3 respondents did not consent to having their data held in accordance with UK GDPR and were not included in the analysis.

Responses came from a variety of stakeholders including social workers, local authorities, unions, service users, and other regulators. Almost half the responses came from individual social workers. Organisations that responded included Professional Standards Authority (PSA), Ofsted, Scottish Social Care Council, Unison and the British Association of Social Workers (BASW). Approximately half of the 'Other' category self-described as 'parent'.

Respondents by organisation type	Total (48)	Percent
Social Worker	22	46%
Other	14	29%
Other organisation or individual interested in social work	7	15%
Social work employer	3	6%
Other professional regulator	1	2%
Provider of social work services	1	2%

Question analysis

We have grouped the analysis of consultation feedback in the same way as the sections appeared in the consultation document.

As not all questions received specific feedback, the government response will come at the end of this section rather than responding to each question in turn.

Government is grateful for the responses to the specific consultation questions, as well as other comments provided. A breakdown of the responses can be found below.

Duty to co-operate

It is vital that Social Work England co-operates not only with other regulators, but also with other bodies which work with and alongside it for public protection.

Question 1

Do you agree or disagree with the proposed changes to Regulation 7, the social work regulator's duty to co-operate?

Regulation	What we are changing	Why we think the change is needed
7(3)	This is a new provision. It makes clear the regulator has the power to disclose information relating to any individual, including those: applying to the register; or currently on the register; or formally registered to those bodies specified under Regulation 7(1), where the regulator considers it to be in the public interest.	Social Work England already has a duty to cooperate (Reg 7) and powers to request information (Reg 25) but does not currently have any express authority in the Regulations to disclose information. This new regulation will ensure the regulator is able to confidently disclose relevant information to those who need it to aid the regulator's overarching objective of public protection. Section 52 of the Children and Social Work Act 2017 already gives the regulator a discretionary power to publish or disclose information about any matter relating to its functions or give advice about any matter relating to its functions. This change complements the power granted to the regulator in Section 52 of the 2017 Act.
7(1)	Amending to enable the regulator to:	This amendment widens the ability of the regulator to cooperate with relevant

Regulation	What we are changing	Why we think the change is needed
	cooperate with employers outside England; cooperate with education bodies outside England; and cooperate with bodies involved in the regulation of social work outside England.	bodies outside of England and, alongside the disclosure power, improves and clarifies the regulator's powers to share information with other bodies when it considers it to be necessary.

	Total (48)	Percent
Strongly Agree	13	27%
Agree	24	50%
Not sure	5	10%
Disagree	2	4%
Strongly Disagree	4	8%

77% of respondents supported the proposed changes to strengthen this provision to give the regulator confidence to share information where necessary to perform its functions and where it is in the public interest.

Those agreeing indicated that the change would improve accountability for social workers and that being able to cooperate with bodies outside of England would be beneficial.

Those disagreeing were concerned about the regulator collecting more information on social workers.

Registration of social workers

Establishing and maintaining a transparent and accurate register of social workers is fundamental to effective regulation and public protection. Registration functions include keeping and maintaining the register, the assessment and determination of registration applications, annotation of the register, renewal, and restoration following removal.

Question 2

Do you agree or disagree with the proposed changes to Regulations 9 and 14, the social work regulator's registration of social workers?

Regulation	What we are changing	Why we think the change is needed
9(4)	<p>This amends the existing regulation so that only final orders made by the adjudicators may not be recorded until:</p> <p>the expiry of the period within which an appeal against the order could be made; or</p> <p>where an appeal against the order has been made before the appeal is withdrawn or otherwise finally disposed of.</p>	<p>One of the purposes of the register is to inform the public of orders in effect against social workers.</p> <p>This change removes a delay in publishing orders and reviews of orders which support the regulator's core function of public protection.</p> <p>While we recognise this change will have a resulting impact on the registrant, we consider this provision is necessary to ensure public safety and maintain public confidence in the regulator.</p>
14	<p>This is a new provision. It allows for voluntary removal from the register while the social worker has an ongoing fitness to practise process.</p> <p>In line with its overarching objective of public protection, the regulator will have discretion to agree to a registrant's request for voluntary removal from the register where there are fitness to practise concerns.</p> <p>The regulator will be required to publish voluntary removals on the register.</p>	<p>This change will give the regulator comparable powers to other health and social care regulators who already have provision in their regulations to allow voluntary removal of registrants with outstanding fitness to practise concerns.</p> <p>Protection of the public from registrants whose fitness to practise could be impaired will be the regulator's primary consideration when deciding whether or not voluntary removal is appropriate.</p> <p>The regulator will be required to publish the fact of voluntary removal and may publish further details it deems necessary for the protection of the public.</p> <p>We have included provision to limit the scope of what details may not be published to protect registrants' rights.</p> <p>The regulator will set out its approach for dealing with voluntary removal requests from the register during a fitness to practise investigation in its Rules and guidance.</p> <p>Decisions will be open to challenge by judicial review.</p>

	Total (48)	Percent
Strongly Agree	14	29%
Agree	19	40%
Not sure	6	13%
Disagree	4	8%
Strongly Disagree	5	10%

69% of respondents supported the proposed change to remove delay in the process of publishing details to the register in support of the regulator’s core function of public protection and the proposed introduction of voluntary removal.

Of those that disagreed or strongly disagreed, concerns focused on changes to Regulations 9 unfairly impacting on the social worker with fewer concerns raised about introducing voluntary removal.

Discipline and fitness to practise proceedings

An effective fitness to practise system is vitally important both in terms of public protection and public confidence in regulated professions. The proposed changes support Social Work England’s fitness to practise system to be transparent, accountable and consistent.

Question 3

Do you agree or disagree with the proposed changes to Regulation 25 and 26, the social work regulator’s discipline and fitness to practise?

Regulation	What we are changing	Why we think the change is needed
25A	This is a new provision. It makes clear the regulator has the power to disclose information relating to a registered social worker’s fitness to practise where the regulator considers it is in the public interest to do so.	This new regulation will ensure the regulator is able to confidently disclose relevant information to those who need it to aid the regulator’s overarching objective of public protection. Social Work England already has a duty to cooperate (Reg 7) and powers to request information (Reg 25) but does not currently have any express authority in the Regulations to disclose information. Section 52 of the Children and Social Work Act 2017 gives the regulator a

Regulation	What we are changing	Why we think the change is needed
		discretionary power to publish or disclose information about any matter relating to its functions or give advice about any matter relating to its functions. This change complements the power already granted to the regulator in Section 52 of the 2017 Act.
26(5) and (7)	This amends the existing regulation. It provides for automatic removal to take effect immediately following the removal decision, notwithstanding the appeal period.	The regulator currently has to seek an interim order where necessary for public protection during the appeal period of someone who has been convicted of an offence listed in Schedule 3 of the Regulations. This change removes the need to use an interim order to fill a gap in public protection by ensuring that automatic removal takes immediate effect notwithstanding an appeal. Automatic removal is only used when a social worker has been found guilty of one of the serious offences in Schedule 3 of the Regulations.

	Total (48)	Percent
Strongly Agree	19	40%
Agree	19	40%
Not sure	6	13%
Disagree	2	4%
Strongly Disagree	2	4%

80% of respondents supported the proposals to introduce Regulation 25A regarding the regulator's ability to disclose information where it is in the public interest and changes to Regulation 26 to give immediate effect in automatic removal cases involving Schedule 3 offences.

Of the 8% who either disagreed or strongly disagreed, respondents commented on the lack of discretion in Regulation 26 and that it would be better if the regulator considered each case on merit.

Question 4

Do you agree or disagree with the proposed changes to Schedule 2, Part 2 Investigation, part of the social work regulator’s fitness to practise proceedings?

Regulation	What we are changing	Why we think the change is needed
Schedule 2 Paras 5(1), (3) and (4)	This amends the existing provision. It provides the regulator with the power to require disclosure of information which appears relevant to fitness to practise concerns.	<p>This change will allow the regulator to require disclosure of information where it appears relevant in fitness to practise cases.</p> <p>This power is currently limited to the investigators at present rather than extending to the regulator more generally. The amendment means that regulator can require information at any stage rather than limiting it to the investigation stage.</p> <p>This will bring the regulator’s powers in line with other health and care regulators who already have existing powers to require disclosure.</p> <p>By gaining further relevant information early in the process, the regulator will be able to determine whether a concern has been addressed and no longer poses a risk without the need to progress the matter to case examiners.</p>
Schedule 2 Para 5(4)	This amends the existing provision. It provides the regulator with the power to initiate an interim order application.	<p>Currently only case examiners can initiate interim orders. This creates a delay in the process as the regulator must refer the matter to case examiners first. This change moves the power to initiate interim orders to the regulator, removing that delay.</p> <p>The change will improve public protection by removing delay in the process, allowing the regulator to initiate the interim order process at the point it identifies a risk to public protection.</p> <p>This will bring the regulator in line with other health and care regulators who already have the power to initiate interim orders.</p>
Schedule 2 Para 8(1) and (1A)	This amends the existing provision. It provides that following the changes to 5(4) case examiners will be able to recommend that	This change ensures case examiners can continue to recommend interim orders by informing the regulator where

Regulation	What we are changing	Why we think the change is needed
	the regulator initiates an interim order application where they see fit.	they consider an interim order to be necessary. This will bring the regulator in line with other health and care regulators who already have the power to initiate interim orders.
Schedule 2 Para 8(3) and (3A)	This amends the existing provision. It makes clear it is the responsibility of the regulator to inform the social worker that an interim order may be made by the adjudicators.	The adjudicators are not involved in scheduling or case management. This change makes clear the administrative functions relating to the interim order process rest with the regulator; it does not move the power away from adjudicators to make the interim order.
Schedule 2 Para 8(4)	This amends the existing provision. It makes clear it is the responsibility of the regulator to inform the social worker and others listed under 8(4) of an order imposed by the adjudicator.	The adjudicators are not involved in scheduling or case management. This change makes clear the administrative functions relating to the interim order process rest with the regulator; it does not move the power away from adjudicators to make the interim order.
Schedule 2 Para 8(5A)	This is a new provision. It makes clear that interim orders come into effect immediately, even when the social worker appeals the interim order.	Interim orders are only put in place where it is necessary for the protection of the public or in the best interests of the social worker. This change ensures the public are still protected while an appeal is ongoing.
Schedule 2 Para 8(6)	This amends the existing provision. It makes clear that the interim order will only cease to exist if one of the circumstances in (6)(a) to (d) occurs on the same case on which the interim order was made.	This change supports the regulator's public protection objective to address an unintended risk where there are two or more unrelated concerns against a registrant. Currently, an interim order will cease to have effect when a no-impairment decision or a final order is made in respect of a specific social worker rather than in respect of a specific case. This change means that the interim order will only cease to exist in relation to the specific case against that social worker where there has been a no impairment decision, or a final order made. However, the order will remain in place if there are other unrelated open cases against the registrant where an

Regulation	What we are changing	Why we think the change is needed
		order has been deemed necessary for public protection.
Schedule 2, Para 9	This is a new provision. It makes clear that a decision by the case examiners will take effect even if the decision is reviewed (either under Paragraph 9A or 15(2)).	This clarifies what will happen if a case examiner's decision is reviewed, providing the social worker with certainty.
Schedule 2 Para 9A	This is a new provision. It provides a power of review by the regulator of a case examiner decision.	<p>This change addresses an existing gap in the regulations and will provide the regulator with powers similar to the General Medical Council and General Dental Council.</p> <p>The power of review will enable the regulator to correct procedural errors with decisions or achieve fairer outcomes in cases where new information materially changes a decision.</p> <p>The regulator will be able to set out the details of the review process in its Rules including:</p> <ul style="list-style-type: none"> which outcomes could be subject to review what actions will be taken as a result of the review any time limits in which the review can take place.

	Total (48)	Percent
Strongly Agree	14	29%
Agree	22	46%
Not sure	5	10%
Disagree	4	8%
Strongly Disagree	3	6%

75% of respondents supported the changes to the regulator's fitness to practise processes and procedures in Part 2. Several respondents who agreed with the changes noted that other health and care regulators have similar powers.

Respondents raised concerns about changes to Paragraph 5 and Paragraph 8(6) in particular. There were concerns that the changes to Paragraph 5 could create burdens on employers and other professionals to supply information. For Paragraph 8(6), there were concerns that where a social worker had two separate interim orders should one case be closed or concluded without sanction, the outstanding matter should automatically be listed for an interim order review.

Question 5

Do you agree or disagree with the proposed changes to Schedule 2, Part 3 Fitness to practise hearings, part of the social work regulator’s fitness to practise proceedings?

Regulation	What we are changing	Why we think the change is needed
Schedule 2 Para 10(4)	This amends the existing provision. It makes clear it is the responsibility of the regulator to inform the social worker of the fitness to practise hearing and matters relating to it.	The adjudicators are not involved in scheduling or case management. This change makes clear the administrative functions relating to the fitness to practise hearing rest with the regulator.
Schedule 2 Para 11(2)	This amends the existing provision. It makes clear it is the responsibility of the regulator to inform the social worker that an interim order may be made, but that the adjudicators do not need to propose a specific order before the hearing.	The adjudicators are not involved in scheduling or case management. This change makes clear the administrative functions relating to the interim order process rest with the regulator. It also removes delay in the system by preventing the adjudicators having to propose an order before the hearing. It does not move the power away from adjudicators to make the interim order.
Schedule 2 Para 11(2A)	This is a new provision. It makes clear that an interim order comes into force immediately, even if the order is appealed.	Interim orders are only put in place where it is necessary for the protection of the public or in the best interests of the social worker. This change ensures the public are still protected while an appeal is ongoing.
Schedule 2 Para 12(3A) and (4)	This amends the existing provision. It makes clear it is the responsibility of the regulator to inform the social worker and others listed under 12(4) of a final order imposed by the adjudicators.	The adjudicators are not involved in scheduling or case management. This change makes clear the administrative functions relating to the final order process rest with the regulator. It does not move the power

Regulation	What we are changing	Why we think the change is needed
		away from adjudicators to make the final order.
Schedule 2 Para 12(5)	This is a new provision. It makes clear that a final order does not take effect while there is an appeal ongoing.	This clarifies the position for social workers if they appeal a final order made by the adjudicators.
Schedule 2 Para 13(2)	<p>This amends the existing provision. It makes clear: removal orders can be imposed by case examiners or adjudicators where a review of a final order occurs shortly before the two-year mark, the power to remove is engaged when:</p> <p>a) the social worker was subject to a mixture of either suspension and/or conditions of practise during the two-year period; and</p> <p>b) the two-year period is counted back from when the removal order would take effect rather than when the order would be made.</p>	<p>Case examiners are already able to impose a final order by accepted disposal under Schedule 2 para 12(3)(b). This change makes clear that they can also impose removal orders.</p> <p>The current wording of 13(2) confirms that a removal order – when a finding is made on adverse health, competency or English language grounds – can only be imposed when a social worker has been suspended or subject to a conditions of practise order for two years.</p> <p>This change will allow for either or both situations by changing the provision to include ‘and/or.’ This will clarify that, over the course of the two years, there could have been a combination of the two orders i.e., the social worker started with conditions of practise and was then suspended.</p> <p>By making clear the two-year period is from when the order would ‘take effect’ rather than when it would be made will avoid the need for the regulator to impose a short order to ‘bridge’ a gap where the review period falls just short of the two-year mark. This will allow the regulator to impose removal orders without undue delay.</p>

	Total (48)	Percent
Strongly Agree	12	25%
Agree	22	46%
Not sure	10	21%
Disagree	2	4%
Strongly Disagree	2	4%

71% of respondents supported the changes to the regulator's fitness to practise hearings and related procedures.

Respondents noted that changes to Paragraph 13(2) would mean that case examiners will be dealing with cases that are as serious as those being dealt with by adjudicators at hearings and this could create a potential for weaker decision-making given case examiners are assessing from documentation only and are unable to resolve disputes in fact and suggested the need for clear guidance on when accepted disposal is appropriate.

Question 6

Do you agree or disagree with the proposed changes to Schedule 2, Part 4 Review of orders and Schedule 2, Part 5 Appeals, part of the social work regulator's fitness to practise proceedings?

Regulation	What we are changing	Why we think the change is needed
Schedule 2 Para 14(1)	This amends the existing provision. It amends the review period for interim orders from three to six months.	This will align the regulator's interim order process with those of other health and social care regulators. This change does not affect a registrant's right to request early review at any time where new information is available.
Schedule 2 Para 14(8)	This is a new provision. It makes clear that when an interim order is reviewed under Paragraph 14, the review decision comes into force immediately, even if the order is appealed.	Interim orders are only put in place where it is necessary for the protection of the public or in the best interests of the social worker. This change ensures the public is still protected while an appeal is ongoing.
Schedule 2 Para 15(1)	This amends the existing provision. It:	The regulator currently has to use its powers under the early review provisions at paragraph 15(2) to revoke

Regulation	What we are changing	Why we think the change is needed
	<p>allows the regulator power to revoke a suspension or conditions of practise order on review with immediate effect; and</p> <p>makes clear any new order imposed at a review cannot exceed three years, without limit to extensions or sequential running time.</p>	<p>a suspension order or a conditions of practise order as there is no express power to revoke an order under paragraph 15(1).</p> <p>This change provides the regulator the specific power of revocation at mandatory review which is consistent with the powers of other health and social care regulators.</p> <p>This change also clarifies that any new order imposed on review under paragraph 15(1) can only be imposed for a maximum of three years at a time, but an order can be extended by a further decision of the adjudicators.</p>
Schedule 2 Para 15(1A)	This is a new provision, it makes clear that when a review decision made under Para 15(1), the order comes into force after the expiry of the previous order even if the order is appealed.	This clarifies what happens if a social worker appeals a review order.
Schedule 2 Para 15(2)	This amends the existing provision. It allows: warning orders to be extended to five years; and both case examiner and adjudicator warning orders to be reduced on review to a period not less than one year.	Warning orders can be imposed for up to five years but can only be extended for up to three years currently. This change allows warning orders to be extended for a period of up to five years. There is no reason to have a distinction between adjudicator and case examiner warning orders. The change provides parity between the regulator's approach to case examiner warnings and adjudicator warnings.
Schedule 2 Para 15(2A)	This is a new provision, it makes clear that when a review decision is made under Para 15(2), the order comes into force immediately even if the order is appealed.	This clarifies what happens if a social worker appeals a review order.
Schedule 2 Para 15(3)	This amends the existing provision. It makes clear that orders made by accepted disposal take effect immediately, and only adjudicator-made final	This change removes a potential public protection risk to ensure that, in cases of accepted disposal, there is no delay in the order taking effect. The purpose of a 28-day delay for adjudicator decisions is to allow for the

Regulation	What we are changing	Why we think the change is needed
	orders do not take effect until the expiry of the 28-day period set out in the regulator's Fitness to Practise Rules.	registrant to request an early review. However, as case examiner accepted disposals are agreed by the registrant, there is no purpose for such a period. This change makes clear the 28-day period is not applicable to accepted disposal.
Schedule 2 Para 15(4)	This amends the existing provision. It makes clear the regulator's power of review under paragraph 15 applies to final orders made by adjudicators and accepted disposals by case examiners.	This change removes ambiguity in the drafting. It does not change the regulator's current processes.

	Total (47 ¹)	Percent
Strongly Agree	13	28%
Agree	19	40%
Not sure	10	21%
Disagree	3	6%
Strongly Disagree	2	4%

¹ One response was missing, and so was removed from analysis

68% of respondents supported the changes to the regulator's processes to reviews of orders and appeals.

Most concerns focused on proposed changes to Paragraph 15(2) which would allow warning orders to be extended up to a maximum of 5 years. Respondents noted this seemed excessive and suggested this could increase uncertainty for the public regarding a social worker's fitness to practise.

Powers of intervention

The regulations allow for oversight by the Professional Standards Authority (PSA) of Social Work England's regulatory functions. This includes providing for the PSA to refer adjudicators' final decisions to the High Court if it is concerned that such decisions do not sufficiently protect the public.

Question 7

Do you agree or disagree with the proposed changes to Regulation 34, powers of intervention?

Regulation	What we are changing	Why we think the change is needed
34(g)	This amends the existing provision to include mandatory reviews.	This change will put both early and mandatory reviews within the PSA's remit. This will ensure the PSA's powers relating to social worker is the same as for other regulators as set out in Section 29 of the NHS Reform and Health Care Professions Act 2002.

	Total (47 ²)	Percent
Strongly Agree	11	23 %
Agree	23	49 %
Not sure	7	15 %
Disagree	2	4%
Strongly Disagree	4	9%

² One response was missing, and so was removed from analysis

72% of respondents supported the proposed change to extend the PSA's oversight to include all final order reviews by the regulator.

Themes from the comments showed respondents agreed that oversight of Social Work England should be the same as for other health and social care regulators.

Other legislation

The regulations make provisions to amend other legislation to reflect the change of regulatory oversight of social workers from the Health and Care Professions Council (HCPC) to Social Work England.

Question 8

Do you agree or disagree with the proposed changes to amend other legislation?

Regulation	What we are changing	Why we think the change is needed
41(3)	This amends article 14 of the Health and Social Work Professions Order 2001 to omit article 14(ba).	This is a technical change to address an erroneous reference to 14(b) instead of to article 14(ba) in the original drafting.
44(2)	This amends 5(2) of the Mental Capacity (DoLs: Standard Authorisations Assessments and Ordinary Residence) Regulations 2008 to only reference social workers registered with Social Work England.	This is a technical change to address an erroneous reference to social workers registered with HCPC or Social Work England in the Mental Capacity regulations. As HCPC no longer register social workers we are removing the reference to HCPC.

	Total (48)	Percent
Agree	45	94%
Not sure	1	2%
Disagree	2	4%

There was a high level of support for the proposed amendments to other legislation, 94% of respondents supported the change to address anomalies in the original drafting of these provisions.

Listed offences

This allows the regulator to take action to remove social workers convicted of certain very serious criminal offences from the register, without having to go through fitness to practise processes.

Question 9

Do you agree or disagree with the proposed changes to the listed offences?

Regulation	What we are changing	Why we think the change is needed
Schedule 3	This amends Schedule 3 to include two additional offences: s.1 and s.2 of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015.	This change ensures all UK wide equivalent offences are included as listed offences. Equivalent offences in the Modern Slavery Act 2015 and the Scottish equivalents are already listed offences. This change adds the Northern Irish equivalents.

	Total (48)	Percent
Agree	45	94%
Not sure	1	2%
Disagree	2	4%

There was a high level of support for the proposed changes to the listed offences, 94% of respondents supported the changes to ensure equivalent offences across all the devolved governments are included on the list of Schedule 3 offences.

Equalities Analysis

Question 10

Do you think that any of the proposed changes would help achieve any of the following aims:

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

If you have answered ‘yes’ to any of the above questions, please explain the effect you think the proposed changes will have?

If you have answered ‘no’ to any of the above questions, please explain what effect you think the proposed changes will have and whether you think the proposals should be changed so that they would help achieve those aims?

Respondents did not raise concerns of negative impacts on those with protected characteristics specific to the proposed changes, however, several respondents made suggestions on how the regulator could improve its equality diversity and inclusion generally, particularly in the collection and publication of diversity data about registrants.

	Total (46)³	Percent⁴
Yes	8	17%
Not sure	24	52%
No	14	30%

³ Two responses were missing, and so were removed from analysis

⁴ Percentages may not sum to 100% due to rounding

Government response

At the heart of any decision to regulate a profession is ensuring that statutory regulation provides the most effective and proportionate means of delivering this public protection function. We are pleased that the majority of respondents supported the proposed changes to Social Work England's regulatory framework which will further improve the regulator's operational efficiency in support of effective public protection.

Having analysed all the responses provided we intend to take forward all the proposed changes without substantive amendments to the draft legislation.

We think it is important that the regulator is able to publish details of orders made in respect of specific social workers without undue delay to protect the public and maintain public confidence in the profession. We have considered concerns raised about changes to Regulation 9 and Regulation 26 to allow the regulator to publish orders prior to expiry of the appeals period. We carefully balanced these points against the arguments for proceeding with the proposal. We feel these changes are proportionate for interim orders, review orders, and cases involving automatic removal where a social worker has been convicted of one of the very serious offences listed in Schedule 3. This approach is consistent with the Professional Standards Authority (PSA's) [Standards of Good Regulation](#). While we recognise this change will have an impact on registrants, it is important the public can make informed choices. Timely publication of decisions supports the regulator to fulfil its overarching objective of public protection.

There were concerns that the change to introduce a requirement to disclose information to the regulator at triage stage could create burdens on employers and other professionals to supply information. The proposed change only brings forward the point at which the regulator can require disclosure and should not increase the requests being made. Introducing this provision earlier in the process will bring Social Work England in line with other health and care regulators who already have such powers.

Ensuring interim orders are linked to a specific case rather than a specific social worker is important for public protection in the rare instances where a registrant has simultaneous yet unrelated open fitness to practise concerns. Following the change, where a social worker had two separate interim orders, should one case be closed or concluded without sanction, there is provision for review of the other matter on the basis of new evidence should this be appropriate. We do not therefore think an additional provision for automatic review is necessary.

We have listened carefully to feedback on changes to Schedule 2 Paragraph 13(2) which will allow case examiners to impose removal orders. We agree that the regulator must update its guidance to reflect these changes and set out clearly the circumstances in which cases are appropriate for accepted disposal by case examiners. Whilst we acknowledge the concerns raised by some respondents that allowing warning orders to

be extended by up to 5 years instead of the current limit of 3 years seemed excessive, this provision provides the regulator flexibility to deliver proportionate public protection when it is needed.

Considering feedback from the consultation, we have taken the opportunity to improve the drafting of changes to Regulation 34 to ensure it delivers the intended benefit of aligning oversight of Social Work England with that which exists for other health and social care regulators. It was highlighted that the changes as drafted would not bring the PSA oversight powers completely in line with what is in place for other regulators. While the drafting extended the provision to mandatory reviews, it did not include restoration decisions by the regulator post fitness to practise removal where the applicant is restored to the register without conditions. We will be revising the draft legislation to correct this inconsistency.

We have noted equality, diversity and inclusion specific comments, as they are important in terms of our policy development and will form part of our future work with the regulator. Whilst we have not made changes to the draft legislation as the feedback related to the wider work of the regulator, the government expects Social Work England to meet the [PSA's standards of Good Regulation](#). The government expects Social Work England to work closely with the sector as part of its Equality, Diversity and Inclusion Action Plan to better understand its registrants and ensure its regulatory processes are fair and free from bias and take appropriate action where necessary to achieve this.

Next steps

The Department for Education intends to take forward the Social Workers (Amendment and Transitional Provision) Regulations 2022 which will support Social Work England to improve its processes and procedures for fitness to practise concerns and ensure Social Work England is able to confidently disclose relevant information to those who need it to aid its overarching objective of public protection. Subject to Parliamentary approval, we anticipate that the Regulations will come into force on 1 December 2022 to align with the Social Work England's annual registration cycle.

The draft Regulations will be introduced to Parliament shortly after the publication of this consultation response and are subject to the affirmative procedure. This means that they can only be made with the approval of Parliament. There will be an interval of at least 2 months between the Regulations being laid in draft and their coming into force. This will give social workers and other interested parties time to take account of the changes. Additionally, Social Work England will be updating their Rules and published guidance to reflect the final regulations ahead of commencement.



Department
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