

Tuesday 20 March 2018

By email to: SocialWorkReg.CONULTATION2018@education.gov.uk

ADCS response to the consultation on the secondary legislative framework for Social Work England

1. The Association of Directors of Children's Services Ltd. (ADCS) is the national leadership organisation in England for directors of children's services (DCSs) under the provisions of the Children Act (2004). The DCS acts as a single point of leadership and accountability for services for children and young people in a local area, including children's social care and education. ADCS welcomes the opportunity to respond to the government's consultation on the secondary legislative framework underpinning Social Work England.

Regulatory functions

2. ADCS agrees that Social Work England should have the power to register social workers in England with conditions and it is right that the register is annotated with current fitness to practice sanctions. Social Work England should hold any rule-making power to determine the length of time expired sanctions are annotated on the register and in making this rule, consideration should be given to the practice of other regulatory bodies. A guiding principle must be recognition that individuals can reflect and learn from their mistakes.
3. Proportionate English language controls, for both verbal and written communication, should be a requirement for registration. Within England, there are many established and emerging new communities where English is not the first language and any requirement should not disproportionately impact on those who have English as a second language. It is recognised that the requirements around English language for registration are likely to be lower than those expected for qualification and employment.
4. There is a logic to annotating additional qualifications, specialisms and accreditations on the register, however, ADCS members would like clarification as to which qualifications, specialisms and accreditations would be included. A new system of assessment and accreditation for the three children and family social work statuses is currently being introduced by the Department for Education. Assessment and accreditation is not mandatory and therefore funding for roll out of this initiative across all local authorities has not yet been confirmed. Any annotation of additional qualifications, specialisms and accreditations must not be mandation of assessment and accreditation though the back door – any mandation must be fully funded as a new burden.

Education and training

5. It is sensible that approval of education and training courses, qualifications, and other post-qualification specialisms sits with Social Work England, as should the power to attach conditions to and suspend approval where necessary. Sitting these powers within one organisation will help to improve standards and drive consistency. Further details around the process for challenge, holding providers to account in relation to impact and quality, would be welcome.
6. Social Work England must ensure that there is sufficiency and choice of providers. A small number of providers should not be allowed to hold a monopoly on social work education and training. Further, the development of any future post qualification specialisms must be done in full consultation with the sector.

Fitness to practice

7. Before considering the approach to fitness to practice inquiries, ADCS members would suggest that there need to be clear criteria around what should be referred to the regulator for inquiry. This needs to include a clear expectation in relation to the responsibilities of employers to go through due process with regard to disciplinary or capability inquiries prior to referral to the regulator. Consideration must also be given to the process for referrals for agency social workers as employer responsibilities are significantly different in relation to this fluid cohort of staff.
8. Recent research conducted by [Worsley, McLaughlin and Leigh](#) (2017), published in the British Journal of Social Work found that the current regulatory system “positions social workers at a disadvantage and which raises several ethical and moral issues in relation to power, representation, fairness and finance”. Wherever possible and appropriate, restorative approaches should be used to address fitness to practice concerns. Such approaches will not only reduce the costs and stress associated with the fitness to practice process, it may also have longer term benefits given the workforce challenges facing the sector.
9. The proposed list of offences that would result in automatic removal from the register is appropriate. There are no details as to how the regulator will pick up on international convictions of similar offences.

Operation and oversight of the regulator

10. It makes sense that advisors are able to provide Social Work England with information, specialist or expert advice, and recommendations on matters relating to any of its functions. Social Work England should be required to set out the detail as to how advisers are appointed and for what purpose. Further, regulations should also detail the circumstances under which the Secretary of State can direct the regulator to appoint an adviser to support and assist in taking remedial action.

Information and advice

11. Social Work England should be required to provide information about its core regulatory functions to a range of audiences including the public, registrants, and education providers. It should also be required to produce a strategic plan and determine the relevant period to which the plan will apply.

Fees

12. There should be an expectation that Social Work England will set out in regulatory rules the detail as to how it will charge fees in relation to regulation, and the approval of education, training course and additional post qualifying specialisms. Details should also be provided as to how fees will be set and reviewed. Many social workers pay their own registration fees so in setting and reviewing fees, Social Work England should be mindful of this.

Regulatory rules

13. There should be oversight for all rules, however, it is recognised that some changes may not require this. It would be helpful to know what changes are considered either technical or minor and therefore require no oversight. In order for the provision to be as transparent as possible, consultation with the sector must be meaningful and the Secretary of State's role should be minimal.

Duty to co-operate

14. Social Work England should be required to co-operate with the range of organisations as set out in draft regulations, this should include relevant inspectorates, the police, NHS bodies, and the Disclosure and Barring Services. Consideration should be given to extending the duty to co-operate to include other regulatory bodies such as the General Teaching Council for England and the General Medical Council.

Default powers

15. If, for any reason, the new regulator is failing, it is right that contingency plans are in place to ensure its functions continue to operate. The details of the Secretary of State's power to investigate as outlined in the draft regulations are helpful. As Social Work England is a Non-Departmental Public Body (NDPB) operating at arm's length from government, there must be appropriate checks and balances on the Secretary of State to ensure that these powers are exercised with appropriate caution and only used as a last resort.

Role of the Professional Standards Authority and funding

16. The level of detail provided in regulations regarding the scope of the Professional Standards Authority (PSA) should be similar to the detail provided in regulations underpinning the legislative framework for other, similar, regulatory bodies. The way in which Social Work England fund the PSA should also be on the same basis as other health and care regulators.

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Impact assessment

17. Without any details as to the level of fee to be changed, it is not possible to say how the changes will affect costs for ADCS members. ADCS members would urge the new regulator to ensure that the changes are at least cost neutral, changes to the regulatory body for social work should not result in an increased cost for those in the profession.
18. ADCS supports the creation of a regulator that focusses exclusively on the social work profession and recognises the benefits of a sector regulator in terms of the status of the profession, driving standards and providing quality assurance as social workers progress in their careers. We particularly welcome Social Work England being created as a NDPB; it is important for the profession that decisions on things such as a social workers fitness to practice are made at arm's length from government.

Equality analysis

19. It is not clear how the proposals will help achieve the stated aims of: 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; and, fostering good relations between persons who share a relevant protected characteristic and persons who do not share it.

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