

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Seventh Delegated Legislation Committee

DRAFT SOCIAL WORKERS (AMENDMENT AND
TRANSITIONAL PROVISION) REGULATIONS 2022

Wednesday 9 November 2022

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Sunday 13 November 2022

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The Committee consisted of the following Members:

Chair: DAME MARIA MILLER

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| † Byrne, Liam (<i>Birmingham, Hodge Hill</i>) (Lab) | † Lewer, Andrew (<i>Northampton South</i>) (Con) |
| † Cates, Miriam (<i>Penistone and Stocksbridge</i>) (Con) | McDonald, Andy (<i>Middlesbrough</i>) (Lab) |
| † Clarke-Smith, Brendan (<i>Bassetlaw</i>) (Con) | † Moore, Robbie (<i>Keighley</i>) (Con) |
| † Coutinho, Claire (<i>Parliamentary Under-Secretary of State for Education</i>) | Morris, David (<i>Morecambe and Lunesdale</i>) (Con) |
| † Doyle-Price, Jackie (<i>Thurrock</i>) (Con) | † Morris, Grahame (<i>Easington</i>) (Lab) |
| † Farris, Laura (<i>Newbury</i>) (Con) | † Morrissey, Joy (<i>Beaconsfield</i>) (Con) |
| † Glindon, Mary (<i>North Tyneside</i>) (Lab) | Throup, Maggie (<i>Erewash</i>) (Con) |
| Johnson, Dame Diana (<i>Kingston upon Hull North</i>) (Lab) | Twigg, Derek (<i>Halton</i>) (Lab) |
| Lavery, Ian (<i>Wansbeck</i>) (Lab) | Rebecca Lees, <i>Committee Clerk</i> |
| | † attended the Committee |

Seventh Delegated Legislation Committee

Wednesday 9 November 2022

[DAME MARIA MILLER *in the Chair*]

Draft Social Workers (Amendment and Transitional Provision) Regulations 2022

2.30 pm

The Parliamentary Under-Secretary of State for Education (Claire Coutinho): I beg to move,

That the Committee has considered the draft Social Workers (Amendment and Transitional Provision) Regulations 2022.

It is a pleasure to serve under your chairmanship, Dame Maria. The draft regulations, which were laid before the House on 17 October, make changes to Social Work England's regulatory framework. To start with, I thank our brilliant social workers who provide much-needed help and support for the most vulnerable children and adults.

Social Work England began operating in December 2019 as part of wider reforms to improve confidence in social work and raise the status of the profession. As a specialist regulator for social workers in England, public protection is at the heart of what Social Work England does. The Social Workers Regulations 2018 set out the details for the new regulator, covering how social workers would register and how the fitness to practise process would work, as well as educational and professional standards. Social Work England has been operating for nearly three years, and this statutory instrument will enable the regulator to make small improvements to its operational efficiency and support it to better deliver effective public protection.

The Government consulted on the draft changes to Social Work England's regulatory framework from 23 March to 11 May this year. We received 48 responses from a range of interested stakeholders, including service users and social workers. I am pleased to share that each proposal received broad support, with approval ranging from 67% to 94%.¹ Having considered all the responses carefully, we have now laid before the House a draft statutory instrument to implement the proposals made in our consultation. The instrument makes changes to Social Work England's fitness to practise processes and procedures and its duty to co-operate. It also introduces a right for registrants to request voluntary removal from the register. Additionally, it extends the Professional Standards Authority's oversight of Social Work England so that it matches its oversight powers for other regulators.

I will now talk about some of the details of the changes. Fitness to practise means that a social worker meets professional standards. Regulators investigate fitness to practise concerns when they receive information indicating that a social worker's practice could be impaired. That is vital for both public protection and confidence in social work as a regulated profession.

Sometimes, it is appropriate to use interim orders—orders that temporarily prevent a social worker from practising while an investigation is ongoing. The instrument makes improvements to the regulator's internal processes relating

to those interim orders. It removes delay in the current system by allowing the regulator to initiate interim orders directly, bringing Social Work England in line with other regulators. In addition, interim orders will now be linked to individual cases, rather than a specific social worker. That means that each case is treated separately on its own evidence, allowing the regulator to take the most appropriate course of action in each case. The instrument also makes provision for fitness to practise outcomes to be recorded on the register much faster than before. Where a social worker has been found guilty of one of the serious offences set out in schedule 3 to the Social Workers Regulations, automatic removal will now be published with immediate effect.

I would also like to discuss the provisions relating to data sharing. It is vital that Social Work England co-operates with not only other regulators, but the other bodies and individuals who work alongside it in public protection. The instrument introduces two new provisions regarding data sharing: the first is a duty to share information relating to the regulator's functions when it is requested and when it is in the public interest to do so. The second is a power to disclose any information relating to a registered social worker's fitness to practise. The instrument is clear that the provisions do not override existing data protection legislation, ensuring that the changes deliver effective and proportionate public protection.

The instrument addresses an omission in the Social Workers Regulations by making it clear that the regulator can share information with relevant bodies outside of England in the exercise of its functions. It also introduces a provision to allow the regulator to consider applications from registered social workers to be voluntarily removed from the register, a power that is held by many other health and care regulators. It will, for example, help social workers with significant ill health and an open fitness to practise concern to leave the register if they are no longer able to practise. When deciding whether voluntary removal is appropriate, the regulator's primary consideration will be protecting the public from social workers whose fitness to practise could be impaired. The regulator will be required to publish voluntary removals from the register, and may publish further details if it deems it necessary for the protection of the public.

The instrument also helps to ensure that the Professional Standards Authority's oversight of Social Work England is equal to its oversight of other regulators. The Professional Standards Authority is the regulator of all health and care regulators. It performs a number of functions in respect of Social Work England, including annual performance reviews and the referring of cases to the High Court where it feels that fitness to practise decisions are insufficient for public protection.

This instrument enables the Professional Standards Authority to refer to the High Court mandatory review decisions and cases where the regulator has restored a social worker to the register without conditions or sanctions. These changes strengthen public protection safeguards. It is usual once a new body has become operational to identify areas of regulation that can be improved. The measures in the regulations are important to support Social Work England to improve its fitness to practise processes and deliver effective

1. [Official Report, 14 November 2022, Vol. 722, c. 3MC.]

public protection. I hope the Committee will support the measures and their objectives and I commend them to the Committee.

2.35 pm

Mary Glendon (North Tyneside) (Lab): It is a pleasure to serve under your chairmanship today, Dame Maria. I am pleased to speak to this statutory instrument on behalf of the Opposition and my hon. Friend the Member for Dulwich and West Norwood (Helen Hayes), who is very sorry that due to a long-standing prior commitment she is unable to be here today. I start by welcoming the new Minister to her post. I wish her well.

Social workers across the country are working hard every day to support families and protect children. They are making difficult decisions about some of our country's most vulnerable children and young people, often in the most harrowing of circumstances. Social work is too often undervalued. The independent review of children's social care, published earlier this year, calls for a total reset of children's social services, and 50% of all children's services departments are rated "inadequate" or "requires improvement" by Ofsted.

At the heart of this crisis is a workforce feeling increasingly under pressure, with rising case loads and staff recruitment and retention problems across the social sector. I pay tribute to social workers and their vital work, as did the Minister. They are being let down by an absence of leadership from this Government, but the Opposition fully accept the need for regulations to be updated to ensure social workers remain accountable.

The changes the Government are bringing forward today will expand the duties of Social Work England in a range of areas, including disclosing information on applicants to the register of social work to specified organisations including social work employers, NHS bodies and fellow regulators when this is deemed to be in the public interest. They will ensure that all fitness to practise sanctions made against social workers, with the exception of final orders, will appear immediately on the register.

The regulations will give the regulator discretion to grant voluntary removal from the register where there are fitness to practise issues, with such issues to be published, provided they do not infringe on individuals' rights. They also make changes to the fitness to practise investigation proceedings, including broadening the regulator's powers to require disclosure of information and to initiate interim orders. Among other changes, they make provision for interim orders to come into force immediately. The changes are supported by Social Work England, and the majority of the 48 consultation responses were in support.

As the Minister will know, important concerns were raised during the consultation, including by trade unions, about the impact of these measures on social workers and, in particular, the plans to allow the regulator to

publish details of orders before an appeal has expired. When strengthening the accountability framework for social workers, it is important that the new regulations do not compromise due process and the fair treatment to which every employee is entitled. I hope the Minister will engage with trade unions and other concerned organisations and work to reassure social workers of the intention behind the new measures. I hope she will provide some assurance on this point today.

Finally, I would like to use this opportunity to press the new Minister on the wider crisis in children's social care. The independent review of children's social care starkly sets out the pressures and challenges facing children's social care and makes a compelling case for change. In September, the then Prime Minister committed to publishing a response to the independent review and an accompanying implementation plan before the end of the year. I appreciate that the Minister is new to her post, but I hope it is clear that any further delay in bringing forward reform of children's social care will continue to let down the country's most vulnerable children and the professionals who work to support them.

Will the Minister confirm that her Department still intends to respond to the review before the end of the year? The current system is clearly not working for either social workers or the children they are supporting. While we are content to support these measures today, we will continue to press the new ministerial team to bring forward their plans for reform with urgency.

2.40 pm

Claire Coutinho: I thank the hon. Lady for her constructive contribution, and I look forward to her perhaps making more such contributions in similar roles in the future. I think she is right to call out the problem with inadequate children's social care. The Department is making good progress, and we have seen the number of providers rated as "inadequate" come down. She is also right to highlight wider reform. In my time in this role, I have already met with Josh MacAlister. I am very passionate about children's social care, and I will be looking at publishing an implementation strategy as quickly as possible. It will address some of the challenges she has raised, particularly around the recruitment and status of social care workers.

I note the shadow Minister's concerns about the protection of employees. We have ensured that public protection is paramount, but we also want to make sure that social workers in this country who do tremendous work feel respected in their profession. I commend the regulations to the Committee.

Question put and agreed to.

2.41 pm

Committee rose.

