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Fourth Delegated Legislation Committee

DRAFT SOCIAL WORKERS REGULATIONS 2018

Monday 2 July 2018

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The Committee consisted of the following Members:

Chair: MARK PRITCHARD

† Badenoch, Mrs Kemi (*Saffron Walden*) (Con)
 † Benyon, Richard (*Newbury*) (Con)
 † Brabin, Tracy (*Batley and Spen*) (Lab/Co-op)
 † Eagle, Maria (*Garston and Halewood*) (Lab)
 † Fletcher, Colleen (*Coventry North East*) (Lab)
 † Howarth, Mr George (*Knowsley*) (Lab)
 † Howell, John (*Henley*) (Con)
 † McGinn, Conor (*St Helens North*) (Lab)
 † Morton, Wendy (*Aldridge-Brownhills*) (Con)
 † Pawsey, Mark (*Rugby*) (Con)
 † Platt, Jo (*Leigh*) (Lab/Co-op)

† Slaughter, Andy (*Hammersmith*) (Lab)
 † Vickers, Martin (*Cleethorpes*) (Con)
 † Warburton, David (*Somerton and Frome*) (Con)
 † Western, Matt (*Warwick and Leamington*) (Lab)
 † Whittingdale, Mr John (*Maldon*) (Con)
 † Zahawi, Nadhim (*Parliamentary Under-Secretary of State for Education*)

Kenneth Fox, *Committee Clerk*

† **attended the Committee**

Fourth Delegated Legislation Committee

Monday 2 July 2018

[MARK PRITCHARD *in the Chair*]

Draft Social Workers Regulations 2018

6 pm

The Chair: Before the Minister rises, it is rather warm in here, so if colleagues want to take off their jackets, they may do so.

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

That the Committee has considered the draft Social Workers Regulations 2018.

It is an honour to serve under your chairmanship, Mr Pritchard. These regulations are crucial for delivering the Government's social work reform agenda. At its heart, social work is a vital profession that promotes social change and individual and collective wellbeing, and that challenges social injustice. We are committed to do all we can to develop a strong and consistently effective social work profession that is well trained, competent and properly supported to transform the lives of the most vulnerable.

Establishing Social Work England, as provided for under the Children and Social Work Act 2017, as the new single profession regulator for social workers in England is vital to achieve our ambitions for the profession and for this country's most vulnerable children and adults. Like the other health and social care regulators, Social Work England's primary focus will be public protection, but we aim to enable it to operate streamlined, proportionate and efficient systems and processes. It needs to be able to adapt to emerging opportunities and challenges, and to promote best practice in social work. Providing for a specialist regulator that sets profession-specific standards will ensure that regulation reflects the changing reality of delivering social work practice safely and effectively.

Introducing these regulations signals another significant step forward in establishing Social Work England, although we have already made great strides in that respect. In March, we appointed Lord Patel of Bradford as its chair, and in June, we announced that Colum Conway had been appointed its chief executive. Those appointments bring significant experience in social work practice, education and regulation, and have been warmly welcomed by the sector. The momentum continues with recruitment for other senior posts and non-executive board members.

I want to pause for a moment to acknowledge the significant input from the social work sector, other professional regulators and hon. Members during the passage of the 2017 Act and in developing the regulations.

Conor McGinn (St Helens North) (Lab): Does the Minister share the concern of many in the sector that by introducing that change through delegated rather than primary legislation, it is something of a power grab by

the Secretary of State? We want a strong independent regulator that works with the sector; we do not want Whitehall to take control through the back door.

Nadhim Zahawi: I eagerly disagree with that sentiment. As I hope to share with the Committee, professionals in the sector and many stakeholders support and applaud the steps we are taking to create the regulator.

In December 2016, we established the Social Work England advisory group, which has representatives from sector organisations, social workers, employers and, of course, service users. In October 2017, we established the regulator expert group, which brings together experts from the world of professional regulation to shape and challenge our thinking. Those groups have been invaluable in advising us on this complex task.

We consulted on the regulatory framework for Social Work England in February and March, and we received nearly 200 responses that were overwhelmingly in favour of our proposals, including 43 from sector and regulatory organisations. We also held 11 events to consult directly with social workers, education providers and interested parliamentarians. I welcome those contributions.

Maria Eagle (Garston and Halewood) (Lab): It is useful to hear the litany of events that have taken place to inform the policy making and regulations before us today. Will the Minister tell the Committee how the proposed changes will improve protection for the children most in danger because of their home circumstances?

Nadhim Zahawi: The hon. Lady raises an important point. The new regulator will, as I hope to convince her today, improve the quality of outcomes for the most vulnerable children. This is not the only thing we are doing. As I have articulated, we are also making sure that through joint agency work locally, bringing together local government, police, education and social care, we will deliver the most robust safeguarding for children.

The valuable points raised during the consultations have helped to shape the draft regulations that we are discussing today. The 2017 Act establishes Social Work England. However, to operate as the regulator, Social Work England also needs a secondary legislative framework that sets out the framework for how its regulatory functions will operate. I have spoken about the importance of creating a modern regulatory framework for Social Work England. In this respect it is important to emphasise that these draft regulations draw on a range of evidence and recommendations, including those from the Law Commission's review of health and social care regulation, the Professional Standards Authority's "Right-touch reform" report, and the Government's own reform proposals for healthcare regulation. The provisions demonstrate our use of the very best evidence to enable proportionate, targeted and efficient regulating, setting Social Work England at the forefront of modern regulatory standards.

An accurate, transparent register is crucial for effective registration, keeping the safety of the public at its core. We consulted on a range of provisions, including powers to register social workers with conditions; introduce English language controls; and annotate sanctions and additional qualifications, specialisms or accreditations. Attaching conditions is linked to the individual's ability to meet eligibility criteria. The provision might be used effectively, for example, where a social worker has a

time-limited health condition. Attaching conditions will allow continued registration while recognising that the individual might not meet the standards of health for a period of time. We are confident that that will enable the regulator to adopt a proportionate response to concerns and maximise retention in the workforce while protecting service users.

We have also provided for Social Work England to annotate additional qualifications and specialisms on the register. Recording post-qualification information will provide more transparent and meaningful information on the breadth and depth of a social worker's skill levels to employers and the public. It will allow for the annotation of established, approved mental health professionals and best interest assessors' roles, creating for the first time a national list of those qualified to carry out those roles. Better data on the scope of practice can also be used to support practice improvements and proportionate and targeted regulation.

Current fitness-to-practise outcomes will also be recorded on the register, which is also critical for public protection. Following the Law Commission's recommendation, Social Work England will be able to annotate expired sanctions for specified periods. The regulations are clear that the power must be used proportionately, ensuring public protection while not unduly penalising registrants. Social Work England, in line with some of the other health and social care regulators, will introduce proportionate English language controls as a registration requirement. Proficiency in written and spoken English is fundamental to safely and effectively engaging with service users.

I will now turn to the provisions relating to the approval of social worker education and training. As many Members know, some high-profile incidents have seen the social work profession face greater scrutiny and challenge over the quality and capability of the workforce. The 2014 reviews by Sir Martin Narey and David Croisdale-Appleby found that too often, social workers are poorly trained and not ready for frontline practice. This is not good enough for social workers, and it is unacceptable for the children and adults who desperately need their help. I am confident that Social Work England will make a significant impact in this area by setting new profession-specific standards, and improving initial education training courses and qualifications for social workers.

Maria Eagle: Does the Minister agree that one of the issues faced by social workers is the high case load they have to deal with with their particular employer? Does he anticipate that these new regulations will include a limit on the number of cases that each social worker should have to take on?

Nadhim Zahawi: Social workers are ultimately answerable not only to their employers, but to the young people and adults they serve in the work that they do. The level of cases has to be appropriate, but it is decided by the practice leaders and those professionals who work with them. I have discovered in my six months in the job that those social workers who perform at the highest quality are the ones that are the best supported. I have seen it in Hackney, Doncaster and other parts of the country, where the profession has been really effective by being supported well by its leadership and having the confidence to make those decisions that are crucial in safeguarding children, certainly in my area.

Maintaining the quality of professional education ensures that students meet the necessary standards for registration and public protection. That is crucial for both initial education and post-qualifying courses. Importantly, Social Work England will be required to reapprove courses over time, and be able to consult on and determine its own role in the post-qualification space. Legislative provisions allow the regulator to approve post-qualifying courses through existing approval processes set in regulations and rules.

An effective fitness-to-practise system is also critically important, both in public protection and public confidence in social work as a regulated profession. As the PSA has pointed out, existing fitness-to-practise systems can be expensive and overly adversarial. We have taken account of this and the PSA's and Law Commission's proposals for reform, by designing a more flexible and proportional fitness-to-practise system for Social Work England. This system ensures that investigatory and adjudicatory functions—it is a bit of a mouthful, Mr Pritchard—remain separate, while providing the regulator with new tools to deliver public protection more flexibly and efficiently. That includes streamlined approaches, such as automatic removal where registrants are convicted of serious criminal offences, such as rape or murder, and swifter processes where registrants have been convicted of criminal offences with custodial sentences.

Social Work England will also be able to resolve cases without a hearing where the registrant accepts the facts of the case and the outcome proposed by the regulator. The regulations make it clear that this can only be used where it is in the public interest and the registrant has provided explicit consent, thereby ensuring adequate safeguards. The PSA has been clear that it wants oversight of such cases and I am pleased to confirm that that will be provided as soon as a legislative vehicle can be found to amend the PSA's primary legislation. We will also explore extending such oversight to other regulators operating similar accepted outcomes consensual disposal systems.

I want to provide reassurance about the role of the Secretary of State in relation to Social Work England. Social Work England is a separate legal entity in the form of a non-departmental public body, operating at arm's length from Government. The Secretary of State will, therefore, necessarily have a role in two specific areas. The first is oversight of regulatory rules and powers in the event of default by the regulator in the performance of its functions. We have provided Social Work England with flexibility on how it makes those rules—the detailed procedures and requirements that set out how its functions will be carried out. That will allow Social Work England to change its operational processes efficiently. Rules will be subject to public consultation and to oversight by the Secretary of State. The flexible oversight procedure in the regulations, which has been refined drawing on feedback received through the consultation, provides for a 28-day review period for the Secretary of State. The rules come into force automatically if no objection is raised, or earlier if the Secretary of State agrees. Social Work England is also able to specify a later date to provide maximum implementation flexibility. The Secretary of State may also draw on independent advice from the PSA.

Conor McGinn: The Minister is being generous in giving way. Has he not just given an elegant description of the fact that the Secretary of State's word will be final?

[Conor McGinn]

If the Secretary of State wants any new regulations amended or modified, the regulator has to do it. The Minister talks of arm's-length independence and the advisory role of the Secretary of State, but that is actually not the case, because the Secretary of State's word is final and he or she can make the regulator do what he or she says.

Nadhim Zahawi: Again, respectfully, I disagree because, as I hope I have demonstrated, we have taken on board the views of the Law Commission and the PSA and have consulted deeply to ensure that the new regulator is modern and meets the demands and requirements of the profession.

Maria Eagle: Many other professions, such as the legal profession, have regulators that are independent of the Government. The SWE is an NDPB. Is it not also the case that the Secretary of State will have power over the budget of this organisation, simply because it is an NDPB?

Nadhim Zahawi: The hon. Lady raises an important point. The Government are funding the setting up of Social Work England, but we envisage that ultimately it will become self-financing and will not require Government funds to carry out its remit.

Default powers ensure that someone can intervene in cases of regulatory failure. That includes giving remedial directions and taking over functions where the regulator fails to comply with a remedial direction. The regulations clarify the Secretary of State's role in that respect, established under the Children and Social Work Act, which was debated in this Parliament and voted for in this Parliament. They provide that the Secretary of State, or a person appointed by the Secretary of State, cannot make,

"a decision about whether to make, amend, remove or restore an entry in the register".

That deals with any potential for political interference in decisions about the registration of an individual social worker. On a day-to-day basis, Social Work England will operate independent of Government. The oversight role of the PSA and the use of default powers only in the most serious circumstances of actual or likely failure to perform regulatory functions will ensure its continued independence.

Maria Eagle: I have thought of another question. I am very grateful to the Minister for giving way again—he is being incredibly generous. Can he give us an example of another NDPB that is technically under the remit of a Secretary of State but, in time, gets no budget whatever from the Department? I cannot think of another example. Can he?

Nadhim Zahawi: As I said, the Government will be funding Social Work England and covering all its costs for set-up, but ultimately, in the long term, we expect it to be self-funding.

Mr John Whittingdale (Maldon) (Con): The communications regulator Ofcom is fully self-funded and does not receive any money from Government.

Nadhim Zahawi: I am grateful for my right hon. Friend's intervention.

Public protection is at the heart of everything Social Work England will do. We believe that our approach to developing a modern regulatory framework for Social Work England will ensure public confidence in the profession, as well as the best possible support for those who are most in need in our country. It is crucial that those registered as social workers in England can be trusted, are highly skilled and remain safe and effective in their practice. That is what changes lives.

I am extremely grateful for the wide range of people, including Members of this House, who have helped to bring us to this important stage in our ambition to establish a new specialist social work regulator. These regulations provide a framework that will allow Social Work England to operate a responsive and flexible model of professional regulation, placing it at the forefront of modernising health and social care regulations. Subject to their successful passage, we anticipate that Social Work England will become the regulator of social work in England in 2019.

6.20 pm

Mr George Howarth (Knowsley) (Lab): It is a pleasure to serve under your chairmanship, Mr Pritchard. I believe this is the first Delegated Legislation Committee I have served on for about 15 years, so I intend to take full advantage of the opportunity that the Opposition Whips Office has presented me with.

I begin by echoing the Minister's words that social workers make an important contribution. I fully acknowledge that he conceded that fact. All too often, particularly in some of the popular press, social workers are denigrated for the important professional work that they do. I concede that there have been examples where social services departments have let down individual vulnerable young people—the baby P case being the obvious one—but their work is depressing at times and they have to work in areas that most of us, even MPs, who are used to having difficult cases put on our desks, would find harrowing to deal with, including the neglect of young people or elderly people. It is right that the Minister acknowledges the important contribution social workers make, and that we, as Members of Parliament, do so too.

I have a number of concerns about the draft regulations. I will try not to go on too long, although on one occasion I did detain the House for two hours and 10 minutes. I do not intend to do the same today, because I know I would exhaust your patience, Mr Pritchard.

The Chair: You have 67 minutes.

Mr Howarth: Yes, we do not have that much time anyway. I intend to be reasonably concise.

My first concern relates to regulation 3(4)(a) and (b), which states that

"the Secretary of State must notify the regulator accordingly" if there are any concerns about proposals that it makes, and

"the regulator must modify the rules in light of the objection, but is not required to comply with paragraph (2)".

I have difficulty with "modify" because it is a definite word and means that some action ought to follow. My hon. Friend the Member for St Helens North said that

we all support the idea of a strong independent regulator that can take appropriate action without political interference, but if it is specifically asked to “modify” something, rather than, for example, “have regard to” or “consider” it, that is quite specific. I seek the Minister’s reassurance on that, because that wording could override the independence of the regulator. I am sure that that is not the intention, but it could be the effect.

The Minister referred to the consultation that took place in March and April. I have been able to confirm with Knowsley Council that that did take place and that the social workers and senior social workers in the local authority were consulted in the way that the Minister described. However, they expressed some concerns at the time that I am not entirely convinced the regulations properly reflect, so I will listen carefully to the Minister’s response.

The social workers were concerned about the separation of the investigation and adjudication functions, which I am sure the Minister will accept is an important separation. They were concerned about interim orders and about political interference, which comes back to the role and independence of the regulator. They also had concerns about what would and would not be a criminal offence and, finally, about the co-operation of Social Work England. I hope that the Minister is able to satisfy me on those points, which were raised at the time.

I am also indebted to the British Association of Social Workers, which briefed me and one or two colleagues on this matter. It has concerns about the role of the regulator and the need for it to be independent and strong, which the association, supported by many of us, has campaigned for over many years. It suggests replacing “modify” in the sub-paragraph I just referred to with “consider”. I know that the draft instrument is not amendable, but perhaps the Minister can assure us that, in such circumstances, the regulator’s actions will be more a matter of considering the Secretary of State’s objections, rather than definitely modifying the rules accordingly, which I am sure he accepts would undermine the independence from political interference that social workers in Knowsley and the British Association of Social Workers raised during the consultation.

There is also concern about the sole control of the continuous professional development of social workers. Because of the difficult, delicate and sometimes onerous issues that social workers are involved in, it is right that there should be regular and continuous professional development. The British Association of Social Workers wants a framework in which that can happen, but to do that, it is necessary to consult everybody involved in that process. For example, the 80 or so universities that deliver social work pre-qualification and post-qualification education need to be consulted on any changes to professional development. I cannot see any reference to that in the draft order; perhaps the Minister can help me. That is clearly hugely important, because if we are to get it right, it will not only be a matter of providing the appropriate regulatory framework, but the regulators should themselves consult those who will be charged with providing professional development.

The British Association of Social Workers England has also raised concerns about the process of annotation on the register of additional qualifications, the process of annotation for fitness to practise, the proposed process

of automatic removal and the principle of accepted disposal. The association believes that a strong regulator, independent of Government interference, could carry out that role in a satisfactory and constructive way, but it also feels, with some justice, that if it is not strong and independent of Government, there is a danger that individual cases, or individual types of case, could become a political football between Ministers—not necessarily this Minister, but future Ministers—and the regulator.

A number of concerns need to be addressed, and my hon. Friends the Members for St Helens North and for Garston and Halewood highlighted some of theirs in interventions. I hope that the Minister can satisfy us all on those points, but at the moment I remain to be satisfied on any of them.

6.31 pm

Nadhim Zahawi: I am grateful to the right hon. Member for Knowsley for raising some important points, on which I hope to satisfy him.

On the question of a power grab, which I think was also raised by the Member for St Helens North, I am clear that the system needs to support every social worker to qualify to the highest standard and to continue to develop their skills and knowledge throughout their career, so that they can, in turn, support those in need. During the passage of the Children and Social Work Act, we heard about and recognised the importance of maintaining an appropriate distance between the regulator of social workers and, of course, Government. We have therefore changed the nature—

Maria Eagle: On a point of order, Mr Pritchard. I apologise to the Minister for interrupting, but is it correct that the Minister gets to reply now? He has introduced the regulations. Does he not reply to the whole debate at the end? When is my Front-Bench colleague going to get her speech? I have never been in a Committee where this has happened.

The Chair: I am grateful to the hon. Lady, who has been here a long time. First, this is not a debate; this is a Committee. The Minister is replying to specific questions that have been raised. Then I was going to call the shadow Front-Bench spokesperson. This is a Committee, not a debate. If the shadow Minister wants to speak now, that is entirely up to her, but I understood that she was going to make a personal statement ahead of it anyway, so I was giving her a bit more time. It is entirely up to her.

Nadhim Zahawi: I am happy for the shadow Minister to speak now.

The Chair: I do not know whether the hon. Member for Garston and Halewood was aware of the conversation that I had with the shadow Front-Bench spokesperson earlier.

Maria Eagle: I was not.

The Chair: Well, I am now going to ask the shadow Minister to speak. She might have wanted a little more time.

Tracy Brabin (Batley and Spennings) (Lab/Co-op): I am happy to speak now, Mr Pritchard, particularly because I also have questions. The Minister can then answer all the questions at the end.

The Chair: Then I call the shadow Minister.

6.33 pm

Tracy Brabin: Thank you, Mr Pritchard. I begin by paying tribute to my hon. Friend the Member for South Shields, who has been a passionate and articulate lead for the Opposition on this statutory instrument. Unfortunately, she is unable to be with us today because of ill health. I hope that Members understand that many of the observations made and questions asked in this speech are hers.

I also thank my right hon. Friend the Member for Knowsley, who argued that the organisation needs to be strong and independent of Government, my hon. Friend the Member for St Helens North, who said that there is a need for a strong regulator that works across the sector, and my hon. Friend the Member for Garston and Halewood, whose interventions were, as always, incredibly astute and articulate. Certainly, we could do with a clear answer from the Minister about the challenges faced by social workers, such as high caseloads. I hope the he will also discuss the lack of a timeframe for SWE to become self-financing.

Overall, we welcome the creation of Social Work England, but much of the detail has been left out of the regulations, which makes it difficult to scrutinise them. The new regulator is required to make at least 90 rules, and there could be extensive debate on the most appropriate rule in each case. It is certainly an ambitious task. What is the proposed timeframe for making those new rules?

Regulation 3(2)(a) states that the regulator needs to carry out a public consultation before making the rules. Although we welcome that, I worry that the caveat in that regulation—that the regulator does not have to carry out a consultation if

“the regulator considers that the content of the proposed rules is such that it would be inappropriate or disproportionate to do so”—

will be misused. In the Government consultation, a majority of respondents thought that oversight should apply to all the rules. I am disappointed that that is not fully integrated in the legislation and that the loophole exists. Which of the 90 rules does the Minister anticipate the loophole being applied to? What reassurances can he offer that the loophole will not be misused by the regulator?

I seek clarification on how the representatives referenced in regulation 3(2)(b) will be chosen. It states that the regulator will choose

“any group of persons who the regulator considers are likely to be affected by the proposed rules”.

Although I welcome the inclusion of social workers, employers of social workers, users of the services of registered social workers and those involved in social work training, I worry about how those individuals will be chosen. These are rules that will affect social workers across the UK, so what is the process through which those individuals will be chosen? Will there be regional representation? Will there be an equal number from each job role?

I am glad that after scrutiny from myself—obviously not myself, but my hon. Friend the Member for South Shields—and the hard work of the Lords, the Government have moved away from making Social Work England an Executive agency of the Department for Education, but I still have questions about the Secretary of State’s role, because control seems to have been reintroduced through the back door. For example, under regulation 3(4)(b), the Secretary of State has the power to object to rules. It is disappointing that the Secretary of State will be given the final say on all rules, despite the efforts of myself, the sector and the Lords to ensure that the regulator is fully independent. Will the Minister say in what cases the Secretary of State anticipates using his power to object to rules? What is the purpose of introducing that control over the regulator?

During the passage of the 2017 Act, we campaigned hard on fees. I am pleased that the Government have clarified that they will cover the set-up costs and that there will be no increase in fees to social workers as a result of transfer. I welcome that commitment, because social workers struggle enough with low wages. A report by the Resolution Foundation said that real-terms pay for professionals in health and social care could be lower in 2020 than in 2005—a shocking statement. Social workers do not need higher registration fees to hinder them in their profession. None the less, new social workers who register after Social Work England has been created will have to pay fees. Like most of the content of the regulations, the fees will be decided by the regulator in consultation with the public and social workers. I have two concerns about that. First, it will be difficult to come to a decision regarding fees, which could significantly slow down the process of creating the regulator. Secondly, if registration fees increase, they may represent a real barrier to practice for social workers on already tight budgets. What assurances can the Minister give us that fees will be fair?

Regulation 9(3) states:

“The regulator may record any other information in the register it considers appropriate.”

Given that the basic necessary details about social workers will already be collected, what other information may be necessary? I note also that there is provision for deregistration where health conditions are undefined. The British Association of Social Workers held a meeting with some of its members, who expressed concern that that provision would be misused and is not specific enough. Does the Minister believe that it is compliant with the Equality Act 2010? What is the protection against misuse?

With others in the sector, I am glad that regulation 20 makes provision for sector-wide professional development. However, BASW expressed concern that there is apparently no requirement to consult or involve the 80-plus universities that deliver social work pre-qualification and post-qualification education and training, or employers, service user groups or the professional association for social workers. Why does that provision for the professional development of social workers does not include consultation with educators?

Transitional arrangements need to be put in place to protect social workers and, most importantly, the public, in particular with respect to fitness to practise. Unison has a solid plan for the transition from the Health and Care Professions Council to Social Work England, which

outlines how a service level agreement between the HCPC and SWE would ensure a smooth transition period in which the HCPC retained responsibility for fitness to practise cases for an interim period of two to five years. That would give Social Work England time to set up its own fitness-to-practise process, and allow for meaningful consultation with the trade unions and staff in both organisations and for the creation of a structured plan to ensure a smooth transition. Does the Minister plan to consult Unison on the transition period? What assurances can he give us that social workers, employers and the public will be protected in that interim period?

Overall, I do not have a problem with the majority of the rules that Social Work England is creating, but like many in the sector I worry that it is over-ambitious, and there is no plan B. Can this be achieved in such a short time, while the chair and chief executive are in post but the board and the executive team are not?

6.43 pm

Nadhim Zahawi: I thank the hon. Member for Batley and Spenningsdale for stepping in at the last minute. I am sure that the whole Committee wishes the hon. Member for South Shields well and hopes that she returns to the House soon.

I am grateful to hon. Members for their comments and questions, and I will attempt to address them all. The hon. Member for St Helens North and the right hon. Member for Knowsley raised the separation between the Secretary of State and the independent regulator. I am clear that the system needs to support every social worker to qualify to the highest standard and to continue to develop their skills and knowledge throughout their career so that they, in turn, can support those in need. During the passage of the Children and Social Work Act, we heard and recognised the importance of maintaining an appropriate distance between the regulator of social workers and the Government. We have therefore changed the nature of the new regulator from an Executive agency to a separate legal entity in the form of a non-departmental public body, in line with the approach of the devolved Administrations.

On the point made by the right hon. Member for Knowsley, I believe the rule-making procedure meets the ambition for Social Work England to have a flexible model of professional regulation that can adapt swiftly to future developments and provide appropriate, proportionate, targeted and efficient regulation. That in turn will achieve better public protection and support the implementation of improvements within the profession. I hope that this helps the right hon. Gentleman: Social Work England will be required to consult publicly on all its rules, other than in cases of minor or technical changes. That will ensure that the sector, service users and the public can contribute their views.

Mr Howarth: It is useful that the Minister has explained the progression of the idea; that is helpful. Perhaps he is coming on to this; I do not know. My concern in relation to regulation 3(4)(b) is about the use of the word “modify” as distinct from, for example, “consider”, which seems to me much more appropriate than “modify”, because modify means change.

Nadhim Zahawi: I have heard the right hon. Gentleman’s concern, but I think that where we are now, with the change to an arm’s length public body, is where we should be.

The right hon. Gentleman asked a very important question about fitness to practise. We want to ensure that the Social Work England fitness-to-practise system is transparent, accountable and, of course, consistent. That includes having a robust investigative process, a clear and transparent mechanism for hearings, a clear separation between investigation and adjudication—I know he is concerned about that—and a clear right of appeal for registrants. To achieve that, the draft regulations set out the essential elements of the fitness-to-practise decision-making framework. That covers determining which allegations meet the thresholds for undertaking investigations, which are set by the regulator in rules; investigating allegations that meet the threshold; deciding what action to take following the investigation; and a process for holding hearings where necessary. In addition, drawing on feedback received through the consultation exercise, we have strengthened the proposed regulations to make it even clearer that the investigation, case examination and adjudication functions are separate. In particular, we have responded to potential European convention on human rights concerns about the process for making interim orders, by ensuring that those can be made only by adjudicators, with a clear right to a hearing. That will, I believe, enable Social Work England to operate a fitness-to-practise system that is efficient, proportionate and robust.

The right hon. Gentleman spoke about the BASW’s concern about continuing professional development. Social Work England will be required to set its approval process for education and training in rules. All rules must be consulted on. Social Work England can, under regulation 20(7), use its approval scheme for post-qualification training approvals.

The hon. Member for St Helens North raised the issue of case loads. Professional regulation is central to the system of assurance that underpins public trust. Professional regulators are responsible for regulating individuals who are members of a particular profession, but it is for councils to ensure that social workers’ case loads are manageable. We are supporting them to consider how they can manage delivery so that resources are effectively utilised.

The hon. Members for Garston and Halewood and for Batley and Spenningsdale raised the important issue of fees. I want to be clear about that. Future fees will be a matter for Social Work England. I think the fee level, at £90 for social workers, is at the right place compared with that charged by the Nursing and Midwifery Council, which is about £120. We do not anticipate any fee increases before 2020.

We have also committed to ensuring that the set-up costs and the costs of transfer do not fall on social workers—the hon. Member for Batley and Spenningsdale was concerned about the smooth transfer to the new regulator. We have built in additional safeguards by requiring Social Work England to consult on any proposals to change the level of fees and to seek approval from the Secretary of State. The Children and Social Work Act provides further restrictions by explicitly preventing the regulator’s fee income from exceeding its expenses, which will ensure that SWE cannot be a profit-making body.

I share the ambition of my predecessors and ministerial colleagues to achieve genuine and long-lasting positive change across the social work landscape. Social Work England as a single professional regulator is key to that.

[Nadhim Zahawi]

In establishing a new regulator, I believe we are rightly taking the opportunity to pioneer new approaches that will bring significant improvements to the way social workers are held to account, supported and recognised for the vital work they do, day in, day out, for the most vulnerable people in our society. The regulations provide a strong foundation for improved and effective regulation of social work in England, and I commend them to the Committee.

Question put and agreed to.

Resolved,

That the Committee has considered the draft Social Workers Regulations 2018.

The Chair: I am sure the Committee wishes the hon. Member for South Shields a speedy recovery. I thank the shadow Minister for standing in for her so well.

6.52 pm

Committee rose.

