



## BRIEFING PAPER

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# Social Work Regulation (England)

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## Summary

**This briefing paper provides an overview of social work reform and the regulation of the social work profession in England. It also outlines the Government's proposal for a new social work specific regulator.**

Social workers work with individuals and families to try and improve outcomes in their lives. There are currently around 95,575 registered social workers in England, located in a variety of public, voluntary and private sector bodies.

The regulation of social work is a devolved matter in the UK. Social work has existed as a profession for many years, but in England it has only been subject to statutory regulation since 2001. Since 1 August 2012 the profession has been regulated by the Health and Care Professions Council (HCPC). A Memorandum of Understanding sets the framework for HCPC's working relationship with the other three social work regulators in the UK.

Policy responsibility for social work in England is primarily shared between the Department of Health (adult social care) and the Department for Education (children and families).

### Social work reform

The last decade has seen a series of reviews, reports, and reforms of social work. A raft of reform initiatives have been, or are in the process of being, put in place to improve the quality of social work and strengthen the profession. However, the extent to which these measures have impacted on the frontline of social work has been called into question.

Serious case reviews and inspections have identified inconsistency in social work practice across the country and in some cases failings in practice. Social workers are under pressure from increasing service demands and funding constraints. Large caseloads, negative media coverage and a 'blame culture' are said to be contributing to high vacancy and turnover rates in the profession.

The Government has set out a broad social work reform programme intended to improve the quality of social work practice and the systems that support social workers.

### The first social work regulator: General Social Care Council (GSCC)

Social workers in England were first brought into statutory professional regulation in 2001, when the General Social Care Council (GSCC) was established. The key functions of the GSCC were to: set and promote standards of conduct and practice for the profession; maintain a register of professionals who met the standards; hold to account those who failed to adhere to the standards; and ensure high standards of education for social workers.

As part of its review of Arm's-Length Bodies in 2010, the Government decided to abolish the GSCC and transfer its regulatory functions to the Health and Care Professions Council (HCPC).

### The College of Social Work (TCSW)

The College of Social Work (TCSW) was set up in 2012 to represent, support and strengthen the social work profession. It was envisaged that this professional body would complement the work of the HCPC. The Government provided £8 million to establish the College and support its formative years. However, TCSW was forced to close in 2015 primarily because of financial difficulties. The House of Commons Education Committee

has recommended that the Government facilitates the development of a new professional body.

### **The current social work regulator: Health and Care Professions Council (HCPC)**

Since 1 August 2012 the social work profession in England has been regulated by the Health and Care Professions Council (HCPC), a UK statutory regulator of 16 health and care professions. The HCPC is operationally independent of government, and fully funded by fees from the professionals it regulates.

The HCPC is responsible for: setting standards for the education and training of practitioners; setting standards of professional conduct, performance and professional development; maintaining a register of practitioners who meet those standards; and removing from practice registrants who are not considered fit to practise. HCPC's work is overseen by the Professional Standards Authority for Health and Social Care (PSA).

### **Reviews of the current health and social care regulatory framework**

Comprehensive reviews of the health and social care regulatory system were published by the Law Commissions in 2014 and the PSA in 2015. The Government welcomed the review recommendations and has committed to consult on options for taking forward broader regulatory reform.

### **Proposal for a new social work regulator**

On 14 January 2016 the Government announced its intention to establish a new regulatory body to improve standards in the social work profession. It initially proposed to establish the social work regulator as an executive agency of the Department for Education, with a primary objective to protect the public and promote confidence in the social work profession. The Government expected the regulator to have a wider remit than the HCPC and to be operational by 2018.

Legislative provisions to establish a new regulator were included in Part 2 of the *Children and Social Work Bill [HL] 2016-17*.

### **The Government's revised proposal – Social Work England**

In response to concerns raised by stakeholders, and following debate during consideration of the *Children and Social Work Bill [HL] 2016-17* in the House of Lords, the Government published a revised proposal for social work regulation on 1 November 2016.

The Government proposes that a new social work regulator – to be known as Social Work England – will be an independent Non-Departmental Public Body with oversight from the PSA. The regulator's overarching objective will be to ensure the protection of the public. It will have a remit to: keep a register of social workers in England; set social work professional, education and training standards; and determine an individual social worker's fitness to practice.

The Government has confirmed it will fund the regulator's set-up costs, and will contribute up to £16 million towards running costs over the rest of the 2015 Parliament. It will also establish an Advisory Group to enable greater collaboration with the social work sector.

The *Children and Social Work Bill [HL] 2016-17* received its First Reading in the House of Commons on 24 November 2016. The Commons Library Briefing Paper: [Children and](#)

[\*Social Work Bill \[HL\] 99: analysis for Commons 2nd Reading\*](#) (CBP07800) provides an analysis of the Bill's provisions and stakeholder commentary.

# 1. Introduction

## 1.1 The social work profession

Social workers play a critical role in society. There is no single, agreed definition of 'social work', however the British Association of Social Workers (BASW) describes the work as follows:

Social work is a profession that is centred around people - from babies through to older people... Social workers work with individuals and families to help improve outcomes in their lives. This may be helping to protect vulnerable people from harm or abuse or supporting people to live independently. Social workers support people, act as advocates and direct people to the services they may require. Social workers often work in multi-disciplinary teams alongside health and education professionals.<sup>1</sup>

Social work has existed as a profession for many years, although the use of the title of 'social worker' only became protected in England in April 2005.<sup>2</sup>

Social workers work in a variety of organisations. Many work for local authorities in departments that provide services for children or adults. Some work in other public bodies (e.g. NHS Trusts and the Children and Family Court Advisory and Support Service) and others work in the voluntary and private sector. Social workers often work in multi-disciplinary teams alongside health and education professionals. As at 1 November 2016, there were 95,575 registered social workers in England<sup>3</sup> - around a third of whom work in child and family social work.<sup>4</sup>

Since 2003, the main qualification route into social work has been via university education, with either an undergraduate or postgraduate degree in social work. There are also 'fast-track' routes into the profession aimed at other graduates and career changers.<sup>5</sup>

There are around 95,575 registered social workers in England, working in the public, private and voluntary sectors.

## 1.2 Social work regulation in England

Social work regulation is a devolved matter in the UK.

Social workers in England are currently regulated alongside 15 other health and care professions by the [Health and Care Professions Council](#) (HCPC) under the *Health and Social Work Professions Order 2001*, an Order in Council made under section 60 of the *Health Act 1999*. The 1999 Act's Explanatory Notes describe the purpose of professional regulation as:

... to establish a countrywide, professionally set, independent standard of training, conduct and competence for each profession for the protection of the public and the guidance of employers.

Social workers in England are currently regulated by the Health and Care Professions Council (HCPC).

<sup>1</sup> British Association of Social Workers (BASW), [Social Work Careers](#) [accessed 6 October 2016]

<sup>2</sup> Under Section 61 of the *Care Standards Act 2000*

<sup>3</sup> Health and Care Professions Council, [Social Workers in England](#) (webpage)

<sup>4</sup> Department for Education, [Nicky Morgan unveils plans to transform children's social work](#), 14 January 2016, Notes to Editors

<sup>5</sup> For example, [Step-Up to Social Work](#) and [Frontline](#)

This is underpinned by personal accountability of practitioners for maintaining safe and effective practice, wherever they are employed and to include effective measures to deal with individuals whose continuing practice presents an unacceptable risk to the public or otherwise renders them unfit to be a registered member of the profession...<sup>6</sup>

The key role of HCPC is to protect the public by ensuring that only qualified and competent practitioners are allowed to practice as social workers. Social workers wishing to practice must be registered with HCPC. In order to register, social workers must be qualified and agree to adhere to a professional code of practice. Those social workers who do not adhere to the code of practice can be removed from the register.

The work of HCPC is overseen by the [Professional Standards Authority for Health and Social Care](#).

### 1.3 Relationship between the UK social work regulators

Alongside HCPC, the three other social work regulators in the UK are the [Care Council for Wales](#), the [Northern Ireland Social Care Council \(NISCC\)](#), and the [Scottish Social Services Council \(SSSC\)](#). Collectively they are known as 'the Four Councils'.<sup>7</sup>

The Four Councils have agreed a [Memorandum of Understanding](#) setting out a framework for their working relationship with regards to the regulation of social workers and the approval of social work education across the UK.<sup>8</sup>

The four social work regulators in the UK have agreed a Memorandum of Understanding.

### 1.4 Responsibilities of Government Departments

Although social work is one broad profession, policy responsibility for social work in England is shared between Government Departments. The Department of Health is responsible for adult social care, and the Department for Education is responsible for children and families social care. Since social work is delivered via local government, the Department for Communities and Local Government (DCLG) also has a role.

Responsibility for child protection covers a wider spectrum of Departments.<sup>9</sup> In June 2015 the Government announced the creation of a Child Protection Taskforce. Operating as a cross-Government unit consisting of twelve Ministers, and chaired by the Secretary of State for Education, its remit is to: extend and accelerate reforms to the quality of children and families social work; promote innovative models of

Responsibility for social work policy is primarily shared between the Department of Health (adult social care) and the Department for Education (children and families social care).

<sup>6</sup> HM Government, [The Health Act 1999 – Explanatory Notes](#), para. 333 [Accessed 13 October 2016]

<sup>7</sup> Health and Care Professions Council, [UK social work regulation](#) [accessed 27 October 2016]

<sup>8</sup> [Memorandum of Understanding between the Care Council for Wales, the Health and Care Professions Council, the Northern Ireland Social Care Council and the Scottish Social Services Council](#), November 2013

<sup>9</sup> House of Commons Education Committee, [Social work reform: third report of session 2016-17](#), HC 201, 13 July 2016, para.15

delivery; and overhaul the way that police, social services and other agencies work together locally.<sup>10</sup>

## 1.5 Other social work bodies

The [British Association of Social Workers](#) (BASW) is the largest social worker organisation in the UK, with over 20,000 members.<sup>11</sup> The association has a members' code of ethics and works to support social workers through education and resources. It has also established an arms-length trade union, the [Social Workers Union](#) (SWU), to advocate on behalf of social workers.

The College of Social Work, an independent professional body intended to represent and support the social work profession, was set up in 2012. The Government provided £5 million of seed funding to establish the College, and a further £3 million to support the College in its formative years.<sup>12</sup> However, the College was forced to close in 2015 due to financial difficulties.<sup>13</sup>

## 1.6 Social work regulation timeline

Figure 1, published by HCPC, illustrates the timeline for the key events in the history of the regulation of social workers in England.

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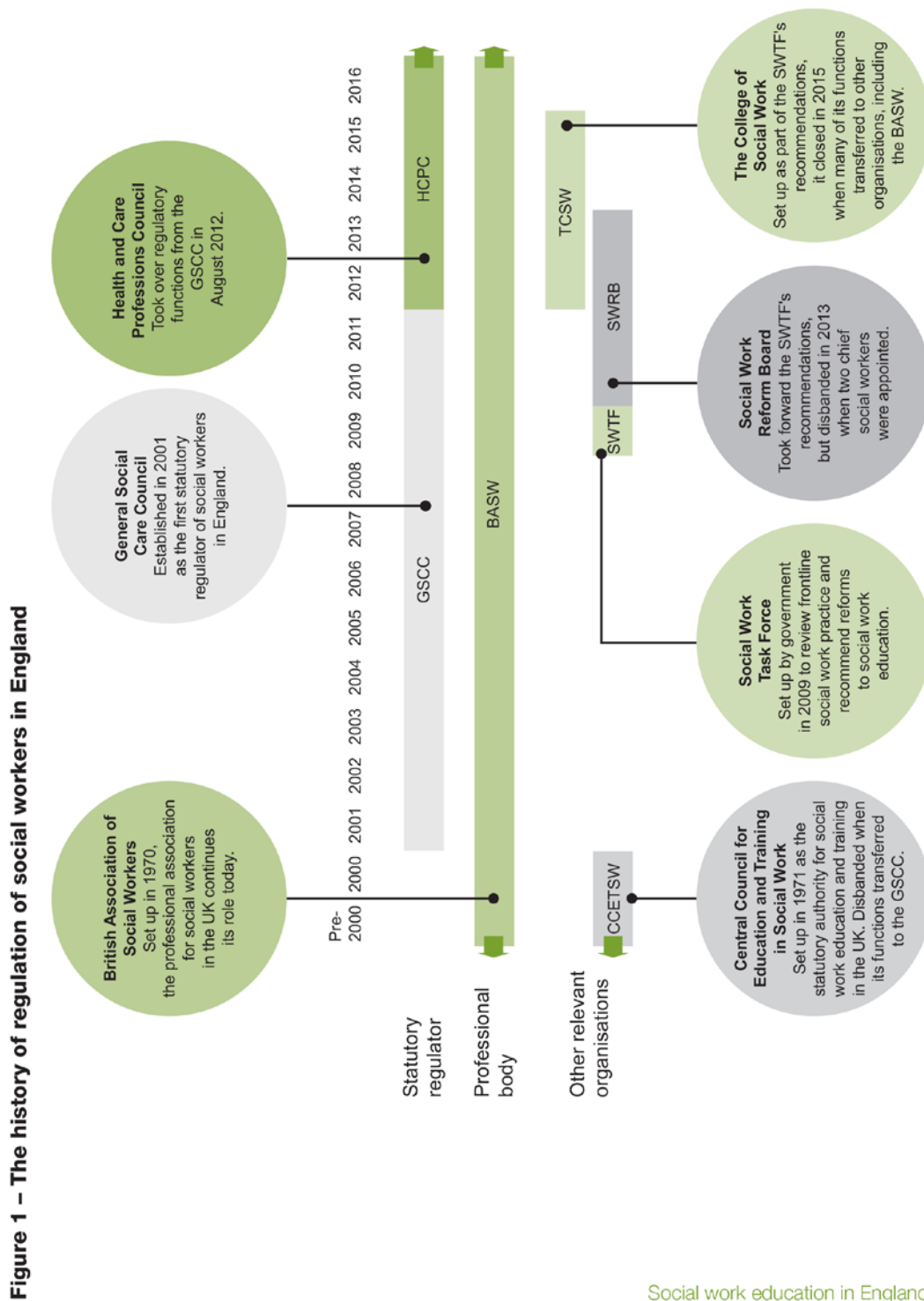
<sup>10</sup> Prime Minister's Office, '[PM announces new taskforce to transform child protection](#),' 24 June 2015

<sup>11</sup> British Association of Social Workers, [Home webpage](#) [accessed 1 November 2011]

<sup>12</sup> House of Commons Education Committee, [Social work reform: third report of session 2016-17](#), HC 201, 13 July 2016, para. 79

<sup>13</sup> Community Care, [The College of Social Work to close due to lack of funds](#), 18 June 2015

Figure 1: The history of regulation of social workers in England



Social work education in England

Source: Health and Care Professions Council, [Social work education in England: Review of the approval process 2012–15](#), 2016, p.5

## 2. Social work reform

### 2.1 Key reform initiatives since 2007

The last decade has seen a series of reviews, reports, and reforms of social work. Following the death of Peter Connelly ("Baby P") in 2007, the Labour Government established a Social Work Task Force (SWTF) to conduct an independent review of social work. The Task Force's final report [\*Building a safe, confident future\*](#) (2009) highlighted the need for broad social work reform:

At present, however, social work in England too often falls short of these basic conditions for success. Weaknesses in recruitment, retention, frontline resources, training, leadership, public understanding and other factors are all compounding one another. They are holding back the profession and making service improvement difficult to achieve. Most importantly, people who look to social workers for support are not getting the consistently high quality of service they deserve.<sup>14</sup>

The Task Force made 15 recommendations (see Box 1 below) intended to transform the quality of social work practice, all of which were accepted by Government.<sup>15</sup>

#### Box 1: The Social Work Task Force's 15 recommendations<sup>16</sup>

1. **Calibre of Entrants:** that criteria governing the calibre of entrants to social work education and training be strengthened.
2. **Curriculum and Delivery:** an overhaul of the content and delivery of social work degree courses.
3. **Practice Placements:** that new arrangements be put in place to provide sufficient high quality practice placements, which are properly supervised and assessed, for all social work students.
4. **Assessed Year in Employment:** the creation of an assessed and supported year in employment as the final stage in becoming a social worker.
5. **Regulation of Social Work Education:** more transparent and effective regulation of social work education to give greater assurance of consistency and quality.
6. **Standard for Employers:** the development of a clear national standard for the support social workers should expect from their employers in order to do their jobs effectively.
7. **Supervision:** the new standard for employers should be supported by clear national requirements for the supervision of social workers.
8. **Front Line Management:** the creation of dedicated programmes of training and support for front line social work managers.
9. **Continuing Professional Development:** the creation of a more coherent and effective national framework for the continuing professional development of social workers, along with mechanisms to encourage a shift in culture which raises expectations of an entitlement to ongoing learning and development.
10. **National Career Structure:** the creation of a single, nationally recognised career structure for social work.
11. **National College of Social Work:** the creation of an independent national college of social work, developed and led by social workers.
12. **Public Understanding:** a new programme of action on public understanding of social work.
13. **Licence to Practise:** the development of a licence to practise system for social workers.

<sup>14</sup> Social Work Task Force, [\*Building a safe, confident future\*](#), November 2009, p.6

<sup>15</sup> [Written Ministerial Statement \[Social Work Task Force\] 1 Dec 2009 c117WS](#)

<sup>16</sup> Social Work Task Force, [\*Building a safe, confident future\*](#), November 2009, p.12

- 14. **Social Worker Supply:** a new system for forecasting levels of supply and demand for social workers.
- 15. **National Reform Programme:** the creation of a single national reform programme for social work.

In 2010 the Coalition Government established a [Social Work Reform Board](#) (SWRB) to oversee the development and implementation of the reform programme. The SWRB published several reports outlining progress with implementing the social work reform programme.<sup>17</sup> The SWRB was disbanded in September 2013 when the Government appointed two Chief Social Workers.<sup>18</sup>

In 2010 Professor Eileen Munro was commissioned by the Government to undertake a review of the child protection system in England. [Munro's final report](#), published in 2011, set out reform proposals intended to enable professionals to make the best judgements to help children, young people and families.<sup>19</sup> The report was critical of the level of increased prescription for social workers and called for them to be able to exercise greater professional judgment. It also made the case for improving the knowledge and skills of social workers from initial training through to continuing professional development, and for the introduction of Principal Social Workers in each local authority and a Chief Social Worker to give social work greater visibility and voice within Government.<sup>20</sup> The Government responded positively to the Munro report and accepted almost all of its recommendations.<sup>21</sup>

In a Westminster Hall debate on social work reform on 20 October 2016 the Minister for Vulnerable Children and Families, Edward Timpson, set out some of the key social work reform achievements since 2010, including:

- The appointment of two Chief Social Workers (for adults and for children and families), and introduction of the first definitive statements of child and family social work knowledge and skills.
- Development of the first four teaching partnerships, whereby employers and universities work together to ensure that university courses provide students with the right on-the-job skills.
- Approximately £50 million invested since 2010 in the fast-track training programmes 'Frontline' and 'Step Up', which have brought more than 770 high-calibre recruits into social work.

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<sup>17</sup> Social Work Reform Board documents are available at <https://www.gov.uk/government/collections/social-work-reform-board> [accessed 2 November 2016]

<sup>18</sup> Department for Education and Department of Health, [Office of the Chief Social Worker: new appointees start](#), 16 October 2013

<sup>19</sup> Department for Education, [The Munro Review of Child Protection Final Report: A child-centred system](#), May 2011

<sup>20</sup> Ibid., Executive Summary

<sup>21</sup> Department for Education, [A child-centred system: the government's response to the Munro review of child protection](#), July 2011

- Expansion of the Assessed and Supported Year in Employment programme to support newly qualified social workers entering the profession.<sup>22</sup>

### 2.2 The Conservative Government's social work reform agenda

In a speech in September 2015 the Prime Minister emphasised that reform of social services and child protection was a key priority for the Government and “a big area of focus over the next 5 years”.<sup>23</sup>

The Government has subsequently published a number of policy papers setting out its broad social work reform proposals, notably: [Children's social care reform: A vision for change](#) (January 2016);<sup>24</sup> [Vision for adult social work in England](#) (July 2016);<sup>25</sup> and [Putting children first: delivering our vision for excellent children's social care](#) (July 2016).<sup>26</sup>

Reform of social services and child protection is a key priority for the Government.

### 2.3 Challenges facing the social work sector

Following earlier social work reviews, a raft of reform initiatives have been, or are in the process of being, put in place to improve the quality of social work in England and strengthen the profession. Yet the extent to which these measures have impacted on the frontline of social work has been called into question.<sup>27</sup>

Whilst there is evidence of much good social work practice in England, a number of serious case reviews and inspections have highlighted inconsistency in practice across the country, and in some cases have pointed to failings in practice including: “variability in leadership, supervision and line management; accountability and governance structures that work better in some areas than others; and, a weakness in the overall system's ability to learn effectively from good practice and from mistakes”.<sup>28</sup> Two independent reviews of social work education in 2014 highlighted the need for improvement in social worker initial education and continuous development.<sup>29</sup> In October 2016 the National Audit Office published a report criticising the Government's progress in improving children's services:

Six years have passed since the Department recognised that children's services were not good enough. It is extremely disappointing that, after all its efforts, far too many children's

Serious case reviews and inspections have highlighted inconsistency in social work practice across the country.

<sup>22</sup> [Westminster Hall \[Looked-after Children/Social Work Reform\] 20 October 2016 c411WH](#)

<sup>23</sup> [Prime Minister: My vision for smarter state](#), 11 September 2015

<sup>24</sup> Department for Education, [Children's social care reform: A vision for change](#), 14 January 2016

<sup>25</sup> Department of Health, [Vision for adult social work in England](#), 12 July 2016

<sup>26</sup> Department for Education, [Putting children first: delivering our vision for excellent children's social care](#), 4 July 2016

<sup>27</sup> All Party Parliamentary Group on Social Work, [Inquiry into the State of Social Work report](#), 2013

<sup>28</sup> Department for Education and Department of Health, [Regulating Social Workers: Policy Statement](#), 27 June 2016, para.22

<sup>29</sup> Department for Education, [Making the education of social workers consistently effective – Sir Martin Narey's independent Review](#), January 2014; [Department of Health, Re-visioning social work education: an independent review by David Croisdale-Appleby](#), February 2014

services are still not good enough. To achieve its new goal of improving the quality of all services by 2020 the Department will need to inject more energy, pace and determination in delivering on its responsibilities.<sup>30</sup>

It is widely recognised that the social work profession continues to face considerable challenges. Social workers are under pressure from increasing service demands and expectations, at a time when public sector funding is under pressure.<sup>31</sup> A survey of social workers in 2012, conducted by the British Association of Social Workers (BASW), found that 77% of respondents thought their caseloads were at an unmanageable level.<sup>32</sup> High rates of stress and burnout amongst social workers are well documented.<sup>33</sup>

In a 2012 survey, 77% of social workers thought their caseloads were at an unmanageable level.

The House of Commons Education Committee's inquiry into social work reform found evidence that "Poor working conditions, caused by high caseloads, negative media coverage and a dysfunctional 'blame culture', are driving experienced social workers from the profession".<sup>34</sup> High vacancy and turnover rates are a growing concern; the average social work career is less than 8 years, compared to 16 for a nurse and 25 for a doctor.<sup>35</sup>

## 2.4 The Education Select Committee's inquiry into social work reform

Prompted by a concern over the lack of clarity on how the Government intended to achieve its aims for social work reform, the House of Commons Education Committee launched an inquiry into the issue, and in November 2015 wrote to the Department for Education (DfE) asking for further information on the Government's reform agenda. The Government's response to the Education Select Committee focused on three core aims:

- improving the skills of capacity of the workforce, by introducing a new accreditation and assessment system, and expanding accelerated schemes into children and families social work.
- creating quality working environments focused on efficiency and innovation, through funding from the Children's Social Care Innovation Programme and sharing best practice from high-performing local authorities.
- streamlining governance and accountability by working with local authorities and others on new models for delivering children's social care, such as independent trusts,

The Education Select Committee's report on social work reform was published on 13 July 2016 and made a number of recommendations for change.

<sup>30</sup> National Audit Office, [Children in need of help or protection](#), 12 October 2016

<sup>31</sup> House of Commons Education Committee, [Social work reform: third report of session 2016-17](#), HC 201, 13 July 2016, Summary, p.3

<sup>32</sup> The British Association of Social Workers, [The State of Social Work 2012](#), May 2012

<sup>33</sup> Kings College London Social Care Workforce Research Unit, [Literature review of roles and issues within the social work profession in England](#), March 2015

<sup>34</sup> House of Commons Education Committee, [Social work reform: third report of session 2016-17](#), HC 201, 13 July 2016, Summary, p.3

<sup>35</sup> Department of Health, [Department of Health strategic statement for social work with adults in England 2016-2020](#), July 2016, p.5

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and intervening earlier in local authorities with records of persistent failure.<sup>36</sup>

The Education Select Committee published its [Report on Social Work Reform](#) on 13 July 2016.<sup>37</sup> The report welcomed the Government's commitment to strength social work practice, but raised concerns about several aspects of its reform strategy. The Committee's recommendations included:

- the development of a new professional body for social work;
- greater collaboration with the social work sector;
- a single national reform implementation plan;
- a single Chief Social Worker;
- a national social work career development framework; and
- limits on social worker caseloads, and a national workforce planning system.<sup>38</sup>

The Committee published the [Government's response](#) to its report on social work reform on 13 October 2016.<sup>39</sup>

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<sup>36</sup> House of Commons Education Committee, [Social work reform: third report of session 2016-17](#), HC 201, 13 July 2016, para. 3

<sup>37</sup> House of Commons Education Committee, [Social work reform: third report of session 2016-17](#), HC 201, 13 July 2016

<sup>38</sup> Ibid., Conclusions and Recommendations

<sup>39</sup> House of Commons Education Committee, [Social work reform: Government Response to the Committee's Third Report of Session 2016-17](#), HC 733, 13 October 2016

### 3. The first social work regulator: General Social Care Council (GSCC)

The social work profession in England was first regulated by the General Social Care Council (GSCC), an executive non-departmental public body of the Department of Health (DH). The GSCC was established on 1 October 2001, following enactment of the *Care Standards Act 2000*, with the aim of raising standards in social care.<sup>40</sup>

The first social work regulator in England – the General Social Care Council (GSCC) – was established on 1 October 2001.

Under the 2000 Act, the GSCC had a statutory duty to promote “high standards of conduct and practice among social care workers; and high standards in their training”.<sup>41</sup> The Act defined “social care worker” to include:

- social workers; and
- other care workers, such as those providing social care in children’s homes, retirement homes or in an individual’s home.<sup>42</sup>

With regards to social workers, the key functions of the GSCC were to:

- set and promote standards of conduct and practice for the profession;
- maintain a register of professionals who met the standards;
- hold to account those who failed to adhere to the standards;
- and ensure high standards of education for social workers.<sup>43</sup>

On 1 April 2005 the title ‘social worker’ became protected by law, meaning that only those who were registered with the GSCC could call themselves social workers.<sup>44</sup> Statutory registration put social work on a par with other regulated professions such as medicine, law and nursing.

The title ‘social worker’ became protected by law on 1 April 2005.

#### 3.1 The Council for Healthcare Regulatory Excellence (CHRE) review - 2009

In June 2009 the Department of Health (DH) was made aware that the GSCC had a significant backlog of conduct referrals, many of which had not been risk-assessed. In light of serious concerns around public safety, DH commissioned the Council for Healthcare Regulatory Excellence (CHRE) to carry out a review of the GSCC’s conduct function.

The CHRE’s report, entitled [\*Report and Recommendations to the Secretary of State for Health on the conduct function of the General Social Care Council\*](#) (September 2009), identified serious operational

<sup>40</sup> General Social Care Council, [\*Annual Report and Accounts 2011-12\*](#), 10 July 2012, p.8

<sup>41</sup> [\*The Care Standards Act 2000, Part IV, Section 54\(2\)\*](#)

<sup>42</sup> [\*The Care Standards Act 2000, Part IV, Section 55\(2\)\*](#)

<sup>43</sup> Council for Healthcare Regulatory Excellence, [\*Report and Recommendations to the Secretary of State for Health on the conduct function of the General Social Care Council\*](#), September 2009, para.1.2

<sup>44</sup> [\*The Care Standards Act 2000 \(Commencement No. 21\) Order 2005 \(S.I. 2005/375\)\*](#)

failings, and was highly critical of the management of the GSCC's conduct function. It concluded that:

This review of the GSCC's conduct function, its management and governance, reveals an organisation looking in another direction. The GSCC's focus on public protection was not as strongly expressed in its conduct function as it should have been, possibly because it was giving greater attention to its other statutory duties of developing and improving social work education, establishing a register and maintaining public confidence in social care services.

The GSCC's conduct function was not effective, efficient or well governed. It needs to be if the professionalism of social workers is to be properly supported and challenged to deliver the highest possible practice standards.<sup>45</sup>

The CHRE report made 20 recommendations intended to address the failings in the GSCC's conduct function, its management and governance, including:

- A fitness-to-practise regime, similar to those used in healthcare regulation, should be used.
- Conditions – such as retraining during suspension – should be introduced as an additional sanction.
- A lower threshold of referral of cases to the conduct committee should be adopted.
- GSCC should become financially independent of the Department of Health.
- GSCC should be given additional powers to require employers to pass on concerns about a social worker's fitness to practise.
- Appeals against GSCC decisions should be made to the High Court.
- GSCC should be given a clearer public protection role.<sup>46</sup>

A CHRE review in 2009 made 20 recommendations intended to address failings in GSCC's conduct function, management and governance.

The GSCC accepted all the CHRE recommendations addressed to it and in December 2009 published a comprehensive programme to take forward the improvement work.<sup>47</sup>

In its response to the report the DH committed to "a comprehensive review of the GSCC's rules and powers", and said further consideration was needed regarding the fitness-to-practise proposal "in view of the different context in which social workers work" to healthcare professions.<sup>48</sup>

<sup>45</sup> Council for Healthcare Regulatory Excellence, [\*Report and Recommendations to the Secretary of State for Health on the conduct function of the General Social Care Council\*](#), September 2009,

<sup>46</sup> [\*'The past and future of the GSCC conduct system'\*](#), *Community Care*, 15 January 2010

<sup>47</sup> General Social Care Council, [\*Report to DH/DCSF Ministers – GSCC Progress on its Response to CHRE'S Report on the GSCC Conduct Function\*](#), 2010

<sup>48</sup> [\*'The past and future of the GSCC conduct system'\*](#), *Community Care*, 15 January 2010

## 3.2 GSCC's achievements

With its abolition imminent, the [\*GSCC's Annual Report and Accounts 2011/12\*](#) summarised some of the Council's achievements since its inception:

Over 10 years we created England's first comprehensive register of social workers; upgraded the social work qualifying standard from a two-year diploma to an accredited three-year degree; established a set of standards that all social workers agree to adhere to; set up a conduct process to ensure social workers are held to account if they breach those standards; and ensured that continual training and development was a key part of continuous registration.<sup>49</sup>

However, the Annual Report 2011/12 also acknowledged some of the challenges faced by GSCC. For example, confusion within the sector and media over GSCC's role in both holding the workforce to account and being a body that represented its interests<sup>50</sup>, and the difficulties of creating a single set of standards fit for both social workers and social care workers.<sup>51</sup>

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<sup>49</sup> General Social Care Council, [\*Annual Report and Accounts 2011-12\*](#), 10 July 2012, p.8

<sup>50</sup> Ibid.

<sup>51</sup> Ibid., p.10

## 4. The College of Social Work (TCSW)

### 4.1 Setting up TCSW

In its final report in 2009, the Social Work Task Force called for the creation of a national college of social work, an independent body to represent, support and strengthen the social work profession.<sup>52</sup> The Government accepted this recommendation and undertook to help the sector establish an independent college:

We want to see the college acquire Royal status to give the profession the standing it deserves and the status it needs to influence national policy making and public debate. The college will have to establish itself as a credible, independent voice for social work and for the profession, and while Government will provide it with start-up support the College will need to work with social workers to determine its independent funding and governance arrangements. It may also wish to explore the potential to expand its coverage to other parts of the UK.<sup>53</sup>

The College of Social Work was set up with financial support from government in 2012.

When responsibility for social work regulation transferred to HCPC in August 2012 it was therefore envisaged that there would be a professional body for social work to complement its work.

The College of Social Work (TCSW) was set up in 2012. The Government provided £5 million of seed funding to establish the College, and a further £3 million to support the College in its formative years.<sup>54</sup>

### 4.2 The work of TCSW

In May 2015 TCSW published a [review of its functions](#).<sup>55</sup> The review document summarised TCSW's role:

Through an active conversation with its members, TCSW:

- Helps to shape social work including defining and setting standards, through a critical friend relationship to government.
- Presents a balanced perspective of social work in the media and public debate.

TCSW offers members:

- Support to achieve and maintain standards through practice guides, training sessions, conferences, and formal routes like CPD; and helping employers to enable best practice through a parallel offer.

<sup>52</sup> Social Work Task Force, *Building a safe, confident future*, November 2009, p.45

<sup>53</sup> [Written Ministerial Statement \[Social Work Task Force\] 1 Dec 2009 c117WS](#)

<sup>54</sup> House of Commons Education Committee, *Social work reform: third report of session 2016-17*, HC 201, 13 July 2016, para. 79

<sup>55</sup> The College of Social Work, *The College of Social Work: Functions Review*, May 2015

- A proactive and credible voice in public and in government.<sup>56</sup>

The review highlighted some of TCSW's achievements, including:

- Creating a range of outputs including written resources (for example, about social work and mental health), and training events and conferences;
- Gaining 17,000 members, increasing membership at a similar rate to other colleges at comparable stages in their development; and
- Building three member-led faculties covering – Adults, Children and Families and Mental Health.<sup>57</sup>

However, the review also recognised that TCSW was facing some significant challenges, including:

- A significant gap between income and expenditure in 2013/14;
- An uneven standard of output; and
- Online systems and a website which were not fit for purpose.<sup>58</sup>

### 4.3 Closure of TCSW

TCSW was forced to close three years later, in 2015, primarily because of financial difficulties. In particular, the College had struggled to attract sufficient fee-paying members.<sup>59</sup> At the time, Community Care reported that:

The closure comes after the government rejected proposals from The College that it should be given responsibility for additional functions, such as post-qualifying training, which would have secured much-needed income as the organisation faced severe financial difficulties

The government said the decision to stop funding The College had not been taken lightly. On social media Isabelle Trowler, the chief social worker for children, said that The College's financial situation was such that it was "not tenable" for the government to keep "ploughing in" funds.<sup>60</sup>

Two independent reviews of social work education, both published in 2014, highlighted the duplication of functions between the TCSW and the HCPC.<sup>61</sup> In written evidence submitted to the Education Select Committee's inquiry into social work reform, former TCSW leaders contended that the lack of a coherent role and functions had contributed to the College's demise:

TCSW's effectiveness and sustainability was arguably vulnerable from its inception because of an ongoing lack of coherence about

The College of Social Work was forced to close in 2015 primarily because of financial difficulties.

<sup>56</sup> The College of Social Work, [The College of Social Work: Functions Review](#), May 2015, p.4

<sup>57</sup> Ibid.

<sup>58</sup> Ibid., p.5

<sup>59</sup> ['The College of Social Work to close due to lack of funds'](#), *Community Care*, 18 June 2015

<sup>60</sup> Ibid.

<sup>61</sup> Department for Education, [Making the education of social workers consistently effective – Sir Martin Narey's independent Review](#), January 2014, Recommendation 4, p.43; Department of Health, [Re-visioning social work education: an independent review by David Croisdale-Appleby](#), February 2014, p.73

its core functions. These functions have instead been dispersed across a range of organisations, including HCPC and BASW. TCSW faced a continued challenge in defining and shaping a clear mandate for its role and functions and this in turn made it harder to recruit members. The strategic review, which TCSW undertook in 2015 jointly with Department of Health officials, was explicit that these issues had had a fundamental impact on the work and sustainability of TCSW.<sup>62</sup>

With the closure of TCSW several of its resources and functions, including the Professional Capabilities Framework (an overarching set of professional standards for the social work sector), transferred to the British Association of Social Work (BASW).<sup>63</sup>

## 4.4 Calls for a new social work professional body

The Education Select Committee has expressed concern about the current absence of a professional body for social work. Its report into social work reform, published in July 2016, recommended that the Government facilitates the development of a new body, “instead of spending more money changing regulators”<sup>64</sup>:

We are concerned about the absence of a professional body for social work to provide high profile leadership for the profession following the closure of The College of Social Work. We accept that a top-down approach to its replacement may not be suitable but the Government must do much more to help the profession recover from the loss of the College. (Paragraph 85)

We recommend that the Government facilitate the development of a professional body for social work, working in partnership with the British Association of Social Workers (BASW), other social worker representatives and the wider sector. It is imperative the proposed body is widely supported, and that its functions are clearly mandated and not shared with other bodies. It is important that there is a single, unified solution and that BASW and the professional body do not find themselves in competition. (Paragraph 87)<sup>65</sup>

The Education Select Committee has recommended that the Government facilitates the development of a new professional body for social work.

The Government made clear in its response to the Education Select Committee that whilst it recognises the importance of a strong professional body for social work, it considers such a body should be member-led.<sup>66</sup>

Edward Timpson, the Minister for Vulnerable Children and Families, emphasised this point in a [Westminster Hall debate on Social Work Reform](#) on 20 October 2016:

... I re-emphasise, as I did in evidence to the Select Committee, that it is important that there is a strong professional body for

<sup>62</sup> [Supplementary written evidence submitted by Annie Hudson, SWR0046](#), May 2016

<sup>63</sup> ‘BASW to take on package of College of Social Work functions’, *Community Care*, 20 August 2015

<sup>64</sup> House of Commons Education Committee, [Social work reform: third report of session 2016-17](#), HC 201, 13 July 2016, Summary, p.3

<sup>65</sup> *Ibid.*, p.46

<sup>66</sup> House of Commons Education Committee, [Social work reform: Government Response to the Committee's Third Report of Session 2016-17](#), HC 733, 13 October 2016

social work. It has to be sustainable, but also have a sense of ownership by the profession. It cannot be top-down; it has to be a bottom-up organisation. We want to continue to work with the British Association of Social Workers, other representatives of the workforce and the Department of Health to see how we can start to nurture and craft a professional body in that mould so that we have something that truly represents social workers and can go into bat for them when they need that.<sup>67</sup>

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<sup>67</sup> [Westminster Hall Debate \[Looked-after Children/Social Work Reform\] 20 October 2016 c413WH](#)

## 5. The current social work regulator: Health and Care Professions Council (HCPC)

### 5.1 Abolition of the GSCC and transfer of its functions

On 26 July 2010 the Department of Health (DH) published the outcome of a review of its 18 Arm's Length Bodies (ALBs). The review assessed whether the work of each ALB remained essential nationally, whether work was being duplicated, and whether it could be carried out more effectively by a different body. This was part of a cross-Government strategy to increase efficiency, accountability and transparency, and to reduce the number and cost of quangos.<sup>68</sup>

The review concluded that the General Social Care Council (GSCC) should be abolished and the regulation of social workers should be transferred to the then Health Professions Council (HPC), a multi-professional regulator, which would be renamed to reflect its new remit. Under this arrangement regulation would be financially and operationally independent of government.

The DH gave the following rationale for the decision:

We see no compelling reason why the General Social Care Council should remain as an Executive Non-Departmental Public Body in the arm's-length bodies sector, and we see potentially significant benefits from putting the regulation of social workers on a similar footing to the regulation of health professions. This involves the regulator being funded through registration fees charged to those registered, set at a level to cover the regulatory functions. In this way members of a regulated profession buy into their professional standards, which are set independently of government, and have an incentive to ensure these are upheld throughout the profession.<sup>69</sup>

A Department of Health review of its Arm's Length Bodies in 2010 concluded that the General Social Care Council should be abolished.

According to a [Community Care](#) article dated 26 July 2010, the GSCC and social work sector did not expect the announcement to transfer the regulation of social workers:

[Rosie] Varley [Chair of the GSCC] said: "We were surprised by this decision. We recognise the economic imperative behind the proposal. However discussions have yet to take place about how this will work, including the costs, benefits and wider consequences. We are seeking an early meeting with the Health Professions Council and the government."<sup>70</sup>

The British Association of Social Workers (BASW) reportedly expressed concern that the HPC's model of professional regulation was a health

<sup>68</sup> Department of Health, [Review of arm's length bodies to cut bureaucracy](#), 26 July 2010

<sup>69</sup> Department of Health, [Liberating the NHS: Report of the arms-length bodies review](#), 26 July 2010

<sup>70</sup> ['Sector leaders shocked and surprised by abolition of GSCC'](#), *Community Care*, 26 July 2010

model, and might therefore not be appropriate for a social care model.<sup>71</sup>

## 5.2 The Health and Social Care Act 2012

Part 7 of the [Health and Social Care Act 2012](#) abolished the Council and transferred the regulation of social workers in England to the (renamed) Health and Care Professions Council (HCPC).

A [DH Streamlined ALBs Fact Sheet](#) explained the perceived benefits of the transfer:

The Act transfers the regulation of social workers in England from the General Social Care Council (which will be abolished) to the Health Professions Council. The Council is an experienced professional regulator and is already engaging with key social worker stakeholders [...] The changes will help ensure that public protection and confidence is maintained. There will also be significant year on year savings to the public as the Health Professions Council is funded by its registrants. Social workers will benefit from: being regulated on the same basis as other health professionals; standards of proficiency tailored specifically for their profession; and being subject to a fitness to practise process.<sup>72</sup>

## 5.3 Role and Functions of the HCPC

Since 1 August 2012, the social work profession has been regulated by the [Health and Care Professions Council](#) (HCPC). The HCPC derives its powers from the *Health and Social Work Professions Order 2001*<sup>73</sup>, an Order in Council made under Section 60 of the *Health Act 1999*.<sup>74</sup>

The HCPC is a multi-profession UK statutory regulator of over 340,000 health and care professionals from 16 professions, including occupational therapists, paramedics and radiographers.<sup>75</sup> The work of the HCPC includes:

- Setting standards for the education and training of practitioners and assuring the quality of education and training provided;
- Setting and maintaining standards of conduct, performance, ethics for practitioners, and standards or proficiency for each professional group;
- Maintaining a register of practitioners ('registrants') who meet those standards;
- Setting standards of continuing professional development to ensure registrants maintain their ability to practise safely and effectively; and

Since August 2012 the social work profession has been regulated by the Health and Care Professions Council.

<sup>71</sup> 'Sector leaders shocked and surprised by abolition of GSCC', *Community Care*, 26 July 2010

<sup>72</sup> Department of Health, [Streamlined arm's length bodies factsheet](#), June 2012, p.2

<sup>73</sup> *The Health Professions Order 2001 (S.I. 2002/254) (as amended)*

<sup>74</sup> Department for Education and Department of Health, [Regulating Social Workers: Policy Statement](#), 27 June 2016, para.61

<sup>75</sup> Health and Care Professions Council, [Council Paper - New Regulatory body for social work](#), 9 May 2016, p.8, para. 1.1

- Taking action to restrict or remove from practice individual registrants who are not considered fit to practise.<sup>76</sup>

The HCPC's regulation of social workers differs from that of the GSCC in several key respects:

- The HCPC is operationally and financially independent of government. It is fully funded by fees from the professionals it regulates.
- The HCPC operates a fitness to practice model of regulation, whilst the GSCC operated a conduct model (see Box 2 for further information on these models).
- The HCPC's judgements can only be appealed in the High Court, whereas decisions made by the GSCC were subject to appeal in a first tier tribunal, the Care Standards Tribunal.<sup>77</sup>

The work of the HCPC is overseen by the Professional Standards Authority for Health and Social Care (PSA).

HCPC's work is overseen by the [Professional Standards Authority for Health and Social Care](#) (PSA); a body that is independent and accountable to Parliament. The PSA's role is to protect the public by improving the regulation of people working in health and social care. It currently oversees the work of nine statutory regulators in the UK, in particular by reviewing the regulators' performance and scrutinising their decisions about whether people on their registers are fit to practise. The PSA's [HCPC Annual Review of Performance 2015-16](#) concluded that the HCPC is an efficient regulator and meeting most of the PSA's Standards of Good Regulation.<sup>78</sup>

### Box 2: Conduct and Best Practice Models of Regulation

The UK law firm [Shoosmiths](#) provides the following explanation of the different models of regulation:

The HCPC adopt a 'fitness to practise' model when investigating registrants. Previously, the GSCC considered complaints against social workers using a 'conduct model', which focused on whether the registrant's behaviour or actions were in breach of the code of conduct and, as a result, whether a sanction should be imposed on the registrant.

There are two main differences between the use of a 'conduct model' and a model based on the registrant's 'fitness to practise':

- under the new regime, the HCPC can consider concerns in relation to a social worker's competence and/or ill health. The GSCC did not have these powers.
- the test of impairment is a 'current' test, which means HCPC panels deciding whether a social worker's fitness to practise is impaired must consider whether this is the case at the time the decision is being made. This is in line with other regulatory bodies adopting the fitness to practise model, such as the General Medical Council.

As the registrant's fitness to practise is considered in the present, the HCPC looks at the registrant's current situation and make a decision about whether or not the regulator needs to take action against the registrant. The HCPC process is entirely forward looking; the intent of this approach being to protect the public from those who are not fit to practise and not to punish the registrant for past actions.<sup>79</sup>

<sup>76</sup> Professional Standards Authority, [HCPC Annual Review of Performance 2015-16](#), 30 September 2016, p.2

<sup>77</sup> ['Is the HCPC fit to practise?'](#), *Community Care*, 9 December 2014

<sup>78</sup> Professional Standards Authority, [HCPC Annual Review of Performance 2015-16](#), 30 September 2016

<sup>79</sup> ['Change to social worker regulation: Investigation of conduct'](#), *Shoosmiths*, 14 August 2012

## 6. Reviews of the current health and social care regulatory framework

Comprehensive reviews of the current health and social care regulatory system were published by the Law Commissions in 2014 and the Professional Standards Authority for Health and Social Care (PSA) in 2015. The reviews made a wide range of recommendations intended to improve regulation of the health and social care sector as a whole.

### 6.1 Law Commissions' regulation review - 2014

In 2010 the Secretary of State for Health commissioned the Law Commission to review the UK law relating to the regulation of health care professionals and, in England only, the regulation of social workers.

Following meetings with stakeholders and a public consultation, a report [\*Regulation of Health Care Professionals and Regulation of Social Care Professionals in England\*](#)<sup>80</sup> was jointly published by the Law Commission of England and Wales, the Scottish Law Commission and the Northern Ireland Law Commission in April 2014. The report was critical of the UK legal framework for health and social care professionals' regulation, contending that it was fragmented, inconsistent, poorly understood, incoherent, cumbersome and expensive.<sup>81</sup>

The Law Commissions' report set out 125 recommendations intended to simplify the legal framework and improve public protection.<sup>82</sup> The report included a draft *Regulation of Health and Social Care Professions etc Bill* to enact the recommendations. A key recommendation was the creation of a single statute for the regulation of health and care professionals, in order to standardise the powers, duties and responsibilities of the nine main UK-wide regulatory bodies, including the Health and Care Professions Council (HCPC).<sup>83</sup> The report also proposed that:

The main objective of each regulator and the Professional Standards Authority should be to protect, promote and maintain the health, safety and well-being of the public. The regulators and the Authority also have the following general objectives: to promote and maintain public confidence in the profession and to

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<sup>80</sup> Law Commission, Scottish Law Commission and Northern Ireland Law Commission, [\*Regulation of Health Care Professionals and Regulation of Social Care Professionals in England\*](#), CM 8839, April 2014

<sup>81</sup> Ibid., paras 1.2 and 1.3

<sup>82</sup> Ibid., Appendix B

<sup>83</sup> Ibid., Appendix B, Recommendation 1

promote and maintain proper standards and conduct for individual registrants.<sup>84</sup>

Other recommendations of relevance to social workers included:

- The government should have the power to enable the introduction of compulsory student registration for any regulated profession.
- All registered professionals should be practising or intend to practise; anyone else should be moved to a supplementary register.
- The government should have powers to establish barring schemes, to be run by the regulators.
- The range of sanctions available to regulators should extend to: advice, warnings, conditions, suspension and removal from the register. Panels would also be able to agree undertakings and voluntary removal.
- The Professional Standards Authority would be required to review the economic efficiency of the regulators, to ensure they are providing value for money.<sup>85</sup>

The HCPC welcomed the Law Commissions' findings and committed to working with the Government and other stakeholders to take forward the proposals.<sup>86</sup>

## 6.2 Professional Standards Authority regulation review - 2015

In August 2015 the Professional Standards Authority for Health and Social Care (PSA) published a report entitled [Rethinking Regulation](#). The report called for a radical overhaul of the health and care regulatory system, and concluded:

We will not be able to change health and care unless we also change the way it is regulated. We need to apply right touch regulation principles, to understand better what regulation can and can't do to control the risk of harms, to deregulate in some areas and focus regulation more effectively in others. We need to remove barriers between professions and create new roles. Health and care regulation is incoherent and expensive and there is little evidence for its effectiveness; if it was going to improve care it would have done so by now. It's time to rethink regulation.<sup>87</sup>

The PSA proposed a number of reforms to the regulatory framework, including:

- A shared "theory of regulation" across the sector.

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<sup>84</sup> Law Commission, Scottish Law Commission and Northern Ireland Law Commission, [Regulation of Health Care Professionals and Regulation of Social Care Professionals in England](#), CM 8839, April 2014, Appendix B, Recommendation 13

<sup>85</sup> ['Social workers unable to communicate clearly in English could be sanctioned or struck off'](#), Community Care, 2 April 2014

<sup>86</sup> ['HCPC's response to the Law Commissions final report on proposals for the regulation of health and social care professionals'](#), *Health and Care Professions Council*, 2 April 2014

<sup>87</sup> Professional Standards Authority, [Rethinking Regulation](#), August 2015, p.1.2 and 1.3

- Shared objectives for system and professional regulators, and greater clarity on respective roles and duties.
- Transparent benchmarking to set standards.
- A reduced scope of regulation so it focuses on what works.
- A proper risk assessment model for who and what should be regulated to be put into practice.<sup>88</sup>

The PSA's reform proposals were set out in more detail in a follow-up report, [Regulation rethought: Proposals for reform](#), published in October 2016.<sup>89</sup>

### 6.3 Government's response to the regulation reviews

In a [Written Statement on 17 December 2015](#) the Government responded to the reviews by the Law Commissions and the PSA and committed to consult on options for taking forward regulatory reform:

[...] Our priorities for reform in this area are better regulation, autonomy and cost-effectiveness while maintaining and improving our focus on public protection. We intend to consult on how these priorities can be taken forward, taking account of the Law Commissions' work on simplification and consistency and building on the Professional Standards Authority for Health and Social Care's paper "Rethinking regulation" published in August 2015. We will present proposals that give the regulators the flexibility they need to respond to new challenges in the future without the need for further primary legislation.

We recognise the need for some immediate reform in this area. Subject to parliamentary time we plan to take forward reforms to regulators' rule-making process and the way that the larger regulators deal with concerns about their registrants. This will improve accountability and make the system more efficient and effective...<sup>90</sup>

The Government has committed to consult on options for reforming the broader health and social care regulatory framework.

At the time of publication, the Government has yet to launch a consultation on regulatory reform.

<sup>88</sup> 'Approach to regulating social care and health professionals becoming 'unfit for purpose'', *Community Care*, 18 August 2015

<sup>89</sup> Professional Standards Authority for Health and Social Care, [Regulation rethought: Proposals for reform](#), October 2016

<sup>90</sup> [Written Statement HCWS417 \[Regulation of Health and Social Care Professionals\] 17 December 2015](#)

## 7. Proposal for a new social work regulator

### 7.1 The Children and Social Work Bill [HL] 2016-17

On 14 January 2016 Nicky Morgan, then Secretary of State for Education, announced her intention to establish a new regulatory body to improve standards in the social work profession, as part of broader social care reforms:

The new body will have a relentless focus on raising the quality of social work, education, training and practice in both children's and adult's social work. It will also set standards for training and oversee the roll out of a new assessment and accreditation system for children and family social workers. Over time, it will become the new regulatory body for social work, in place of the Health and Care Professions Council.<sup>91</sup>

On 14 January 2016 the Government announced that it would establish a new social work regulator.

In the May 2016 [Queen's speech](#) the Government set out its intention to introduce a *Children and Social Work Bill* in order to, amongst other things, "drive improvements in the social work profession, by introducing more demanding professional standards, and setting up a specialist regulator for the profession".<sup>92</sup>

Provisions to enable the establishment of a new social work regulator were subsequently included in Part 2 of the [Children and Social Work Bill \[HL\] 2016-17](#), which received its First Reading in the House of Lords on 19 May 2016.

Part 2 of the *Children and Social Work Bill [HL] 2016-17* provides the legislative framework for establishing the new social work regulator.

On 27 June 2016 the Department for Education (DfE) and the Department of Health (DH) published a joint [Policy Statement on Regulating Social Workers](#), outlining the Bill's provisions in greater detail.<sup>93</sup> The statement was accompanied by [draft Social Worker Regulations](#), which set out the broad content the Government expected secondary legislation to cover.

### 7.2 First policy statement on regulating social workers

#### A social work specific executive agency

The Government's June 2016 policy statement outlined its initial intention to establish a new social work specific regulator as an executive agency of government. It proposed that the Secretary of State for Education would be formally accountable for the operation and performance of the regulatory agency, but both DfE and DH would continue to share policy responsibility for social work. This position

<sup>91</sup> Department for Education, [Nicky Morgan unveils plans to transform children's social work](#), 14 January 2016

<sup>92</sup> [The Queen's Speech 2016 – Background Notes](#), 18 May 2016, p.32

<sup>93</sup> Department for Education and Department of Health, [Regulating Social Workers: Policy Statement](#), 27 June 2016

would be reviewed after three years. The Government expected the new regulator to be up and running by 2018.<sup>94</sup>

The Government put forward the following arguments for creating a social work specific regulator and establishing it as an executive agency of government, as opposed to a 'wholly independent' regulator:

- HCPC regulates several professions and focuses on maintaining appropriate minimum standards of public safety. In the Government's view it lacks the status and specific expertise to deliver improvements to social work. A new social work specific regulator would arguably have greater scope to focus on and raise standards in social work;
- HCPC's remit is focused on initial social worker qualification, it does not set post-qualification professional standards. A new regulator would be able to take on responsibility for setting continuous professional development standards and approving post-qualifying courses and training. With the closure of the College of Social Work in 2015, social workers do not currently have a professional body to carry out this function;
- To be effective, a wholly independent regulator would arguably need to be partnered by a strong professional body, which the social work profession has been unable to sustain. Furthermore, establishing a wholly independent regulator from scratch would take time and be more expensive; and
- Establishing the regulator as an executive agency would provide a mechanism for DfE and DH to quickly and effectively drive forward change. It would also minimise cost and set up time.<sup>95</sup>

The Government expected the new social work regulator to be up and running by 2018.

The Government initially proposed that the new social work regulator would be established as an executive agency of government.

## Role and functions

The Government envisaged that the new regulator would have a wider remit than the current regulator, HCPC. The policy statement proposed that the regulator's primary objective would be: "to protect the health and well-being of the public and to promote confidence in the social work profession".<sup>96</sup> It would do this by putting in place "an end to end regulatory system that supports high standards of social work practice from initial qualification, into employment and throughout a social work career".<sup>97</sup>

The Government proposed that the new body would:

- Publish new professional standards, aligning with the Chief Social Workers Knowledge and Skills statements;
- Set new standards for qualifying education and training, and reaccredit providers against these standards by 2020;

<sup>94</sup> Department for Education and Department of Health, [Regulating Social Workers: Policy Statement](#), 27 June 2016

<sup>95</sup> Ibid., paras 43-55

<sup>96</sup> Ibid., para.57

<sup>97</sup> Ibid., para.33

- Maintain a single register of social workers, annotating it to denote specialist accreditations;
- Set new, social work specific, standards for continuous professional development;
- Oversee a robust and transparent fitness to practise system;
- Approve post qualifying courses and training in specialisms such as Approved Mental Health Professionals and Best Interest Assessors;
- Oversee the proposed new assessment and accreditation system for child and family social workers; and,
- Oversee the required arrangements for successfully completing the Assessed and Supported Year in Employment (ASYE).<sup>98</sup>

## Funding

The Government proposed that the regulator would have powers to set registration fees, and social workers would continue to pay a fee to register. It did not envisage registration fees rising within the current spending review period, and the regulator would be required to consult with the social work sector on any future proposal to raise fees.<sup>99</sup>

The Government proposed that any future increases in social worker registration fees would be subject to consultation with the sector.

## 7.3 Updated policy statement on regulating social workers

The Government's aim to improve the quality of social work practice and raise the status of the profession is widely supported. However, some elements of the Government's proposed approach to regulating social workers proved to be controversial. In particular, stakeholders raised concerns about:

- the need for regulatory change;
- the impact of further change on social workers;
- the Bill's reliance on delegated legislation;
- the social work regulator's independence from Government;
- the distinction between regulation and improvement;
- the costs of setting up and running the social work regulator;
- the lack of consultation with the social work sector; and
- social work policy fragmentation.<sup>100</sup>

<sup>98</sup> Department for Education and Department of Health, [Regulating Social Workers: Policy Statement](#), 27 June 2016, p.5

<sup>99</sup> Ibid., para. 128

<sup>100</sup> House of Commons Library Briefing Paper [Children and Social Work Bill \[HL\] 99: analysis for Commons 2nd Reading](#) (CBP07800), 1 December 2016, Section 5

In light of the concerns raised by stakeholders, and following debate during the passage of the *Children and Social Work Bill 2016-17* through the House of Lords, the Department for Education (DfE) and the Department of Health (DH) published an [Updated Policy Statement](#) on 1 November 2016.<sup>101</sup> At the same time the Government withdrew the draft Social Worker Regulations published in June 2016.

The key revisions to the initial regulatory proposal included:

- placing greater detail about the new social work regulator – to be known as Social Work England - in primary legislation;
- establishing the regulator as an independent non-departmental public body overseen by the Professional Standards Authority for Health and Social Care (PSA). This would ensure a clear separation between the regulator and Government Ministers, as is the case with social work regulation in the Devolved Administrations;
- focusing the regulator's role on professional regulation rather than professional development. It was proposed that, in line with the recommendations of the Law Commissions regulatory review,<sup>102</sup> the regulator's overarching objective should be to ensure the protection of the public; and
- requiring the regulator to consult with the social work sector, and seek Ministerial approval, when setting professional, education and training standards.<sup>103</sup>

The Government also announced that it had:

- set up an Advisory Group, consisting of key social work sector representatives, to work through the detail of the proposal; and
- committed to fund the regulator's set-up costs and to contribute up to £16 million towards the regulator's running costs over the rest of the 2015 Parliament.<sup>104</sup>

The *Children and Social Work Bill [HL] 2016-17* received its First Reading in the House of Commons on 24 November 2016. The Government's proposal for a new social work regulator may therefore be subject to further revision as the Bill passes through Parliament.

The Commons Library Briefing Paper: [Children and Social Work Bill \[HL\] 99: analysis for Commons 2nd Reading](#) (CBP07800) provides an analysis of the Bill's social work regulation provisions and stakeholder commentary.<sup>105</sup> The Bill documents and the latest news on the progress of the Bill are available on the Parliament website.<sup>106</sup>

The Government's revised policy statement proposed that the regulator be established as an independent non-departmental body, with an overarching objective to protect the public.

The Government has committed to fund the set-up costs of the new social work regulator, and contribute £16 million to its running costs over the rest of the 2015 Parliament.

<sup>101</sup> Department for Education and Department of Health, [Social Work Regulatory Reform – Update to Policy Statement](#), 1 November 2016

<sup>102</sup> Law Commission, Scottish Law Commission and Northern Ireland Law Commission, [Regulation of Health Care Professionals and Regulation of Social Care Professionals in England](#), CM 8839, April 2014

<sup>103</sup> Department for Education and Department of Health, [Social Work Regulatory Reform – Update to Policy Statement](#), 1 November 2016

<sup>104</sup> Ibid., p.6

<sup>105</sup> House of Commons Library Briefing Paper [Children and Social Work Bill \[HL\] 99: analysis for Commons 2nd Reading](#) (CBP07800), 1 December 2016

<sup>106</sup> <http://services.parliament.uk/bills/2016-17/childrenandsocialwork.html>



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