



**The professional association for  
social work and social workers**

The British Association of Social Workers (BASW) is the professional association for social work in the UK with offices in England, Northern Ireland, Scotland and Wales. With over 22,000 members we exist to promote the best possible social work services for all people who may need them, while also securing the well-being of social workers working in all health and social care settings.

The Social Workers Union (SWU) is the only trade union to offer representation by qualified social workers who understand the complexities of the profession. With officers working across the UK, SWU provides representation at internal hearings for disciplinary and grievance procedures, and employer investigations into practice and misconduct allegations.

This is a joint consultation response from both organisations prepared by the BASW England team and the **BASW/SWU UK Advice and Representation service (A&R)**. A&R represents members of BASW and SWU in employment and regulatory matters in all nations of the UK.

The Social Workers Regulations 2018 and the Children Act 2017 set out the broad regulatory framework for Social Work England's rules and operational efficiency. They cover the registration of professionals, education standards, professional standards and the fitness to practise regime for registered social workers. The regulations aim to protect, promote and maintain the health, safety and wellbeing of the public through promoting and maintaining professional standards for social workers and ensuring there is public confidence in the profession.

BASW England welcomes the Department for Education consultation on the regulatory framework and the proposed technical changes to the Social Workers Regulations 2018. We believe any technical changes to the duty to co-operate; registration of social workers; discipline and fitness to practise proceedings and powers of intervention should align with the values and principles set out in our [Code of Ethics](#).

This consultation response was completed jointly between BASW and SWU and representatives of both memberships. SWU is the only UK trade union run for and run by registered social workers. BASW and SWU work in partnership to protect social work professionals in their workplace. This response reflects the views of some of both organisations' members.

Having considered the proposed amendments, our responses are as follows:

**Q1 - Do you agree or disagree with the proposed changes to Regulation 7, the social work regulator's duty to co-operate?**

Based on the information and rationale provided, we agree with the proposed changes to Regulation to 7, the social work regulator's duty to co-operate. Section 52 of the Children and Social Work Act 2017 already gives

[British Association of Social Workers \(BASW\)](#)

37 Wellesley House | Waterloo Court | Waterloo Street | Birmingham | B2 5PP

SWE a discretionary power to publish or disclose information about any matter relating to its functions or give advice about any matter relating to its functions. The proposed change complements the power granted to the regulator in Section 52 of the 2017 Act.

Also, SWE already has a duty to cooperate (Reg 7) and powers to request information (Reg 25) but does not currently have any express authority to disclose information. The proposed change will ensure the regulator is able to confidently disclose relevant information to those who need it to aid the regulator's overarching objective of public protection.

The proposed amendment widens the ability of the regulator to cooperate with relevant bodies outside of England and, alongside the disclosure power, improves and clarifies the regulator's powers to share information with other bodies when it considers it to be necessary.

Our members have expressed concerns about SWE's attempt to get access to medical records. There is not sufficient awareness among social workers of the fact that they can deny permission for a type of record. We have had to inform many members of this with regards to the SWE consent forms coming through.

Consent feels like coercion if a social worker agrees to the process because it feels like they're causing a problem by denying access to certain records – like medical or police records. The pressure to “not create a fuss” should not be a factor in someone's consent.

Members are concerned that since remote hearings and appeals are speedier, that people might be more willing to hand over personal data to make the process move along more quickly. How can SWE make this process both smooth and fair?

**Q2 - Do you agree or disagree with the proposed changes to Regulations 9 and 14, the social work regulator's registration of social workers?**

Based on the information and rationale provided, we agree with the proposed changes to Regulations 9 and 14, the social work regulator's registration of social workers. We agree for the same day publication of all orders other than final one. We accept it to be necessary for protection of the public, but we note that there will be implications for the social worker being prevented from appealing the decision prior to publication. The changes will promote consistency and provide the regulator with comparable powers to other health and social care regulators who already have provision in their regulations to allow voluntary removal of registrants with outstanding fitness to practise concerns.

We welcome the addition of the option of voluntary removal from the register as this will shorten a lengthy process. We note that there is a difference between voluntary removal on health grounds and voluntary removal on other statutory grounds. We suggest consideration should be given to the nature of the information published according to the reason for removal.

We agree public protection from registrants whose fitness to practise could be impaired will be the regulator's primary consideration when deciding whether voluntary removal is appropriate or not.

We also concur with the requirement to publish the fact of voluntary removal and publishing further details it deems necessary for public protection, whilst protecting registrants' rights and decisions being open to challenge by judicial review. We note that whilst there is a potential challenge by judicial review that this is generally not an option for social workers because of the prohibitive cost.

We recommend the regulator should set out its approach for dealing with voluntary removal requests from the register during a fitness to practise investigation in its rules and guidance.

We do not think the proposed changes will make a difference to streamlining the process, it just means that the outcome is published more quickly.

We recognise this change will have a resulting impact on the registrant, but we agree that this provision is necessary to ensure public safety and maintain public confidence in the regulator.

**Q3 - Do you agree or disagree with the proposed changes to Regulation 25 and 26, the social work regulator's discipline and fitness to practise?**

Based on the information and rationale provided, we agree with the proposed changes to Regulation 25 and 26, the social work regulator's discipline and fitness to practise. Section 52 of the Children and Social Work Act 2017 already gives Social Work England (SWE) a discretionary power to publish or disclose information about any matter relating to its functions or give advice about any matter relating to its functions. The proposed change complements the power granted to the regulator in Section 52 of the 2017 Act. We note that consideration needs to be given to the restoration process should an appeal be successful.

Also, SWE already has a duty to cooperate (Reg 7) and powers to request information (Reg 25) but does not currently have any express authority to disclose information. The proposed change will ensure the regulator is able to confidently disclose relevant information to those who need it to aid the regulator's overarching objective of public protection.

The proposed amendment widens the ability of the regulator to cooperate with relevant bodies outside of England and, alongside the disclosure power, improves and clarifies the regulator's powers to share information with other bodies when it considers it to be necessary.

We do not think the proposed changes will make a difference to streamlining the process, it just means that the outcome is published more quickly.

**Q4 - Do you agree or disagree with the proposed changes to Schedule 2, Part 2 Investigation, part of the social work regulator's fitness to practise proceedings?**

Based on the information and rationale provided, we agree with the proposed changes to Schedule 2, Part 2 Investigation, part of the social work regulator's fitness to practise proceedings. The proposed changes mean that the regulator can require information at any stage, rather than limiting it to the investigation stage. This will bring the regulator's powers in accordance with other health and care regulators who already have existing powers to require disclosure. We note that this may be of most benefit at the Triage/pre-investigation stage whereby the attaining of relevant information may prevent referral to the investigation stage.

We hope the proposed changes and new provisions will streamline fitness to practice proceedings, by removing unnecessary delays, clarifying unclear processes and upholding public protection; whilst also ensuring fairness, transparency and proportionality for the registrant.

**Q5 - Do you agree or disagree with the proposed changes to Schedule 2, Part 3 Fitness to practise hearings, part of the social work regulator's fitness to practise proceedings?**

Based on the information and rationale provided, we agree with the proposed changes to Schedule 2, Part 3 Fitness to practise hearings, part of the social work regulator's fitness to practise proceedings. We agree that

for the protection of the public that interim orders should be initiated at the earliest stage i.e point of referral and only reviewed if new information comes to light. An interim order that is issued some months or years after the initial concern has been raised may threaten public confidence in the regulator's ability to manage the risk to public.

We do not agree that Case Examiners should be able to make interim orders where they see fit, it should be based on risk.

We hope the proposed changes and new provisions will streamline fitness to practice proceedings, by removing unnecessary delays and upholding public protection whilst an appeal is ongoing; whilst also ensuring fairness, transparency and proportionality for the registrant. However, we anticipate the proposed changes will not reduce delays, it could potentially make the process much more punitive for registrants.

**Q6 - Do you agree or disagree with the proposed changes to Schedule 2, Part 4 Review of orders and Schedule 2, Part 5 Appeals, part of the social work regulator's fitness to practise proceedings?**

Based on the information and rationale provided, our response to the proposed changes is as follows:

Schedule 2

Para 8(6) we do not agree that the rule should transfer to a social worker rather than a case. Each case should be assessed for risk and if two orders are running concurrently, they should cease when a no impairment decision or final order has been made.

Schedule 2

Para 9A We agree that there should be a power of review to enable the regulator to correct Case Examiners decisions where there have been procedural errors.

Schedule 2

Para 11(2) We agree with the proposed changes to these schedules

Schedule 2

Para 13(2) We agree that case examiners should have removal orders available as part of the accepted disposal process but there should still remain the option for social workers to go to hearing if they do not accept the CE disposal.

Schedule 2

We welcome the extension of the interim order period from 3 to 6 months to streamline the fitness to practise process. We note that the option for the registrant to seek early review if required should remain in place.

Schedule 2

Para 15(2) the ability to increase the extension of a warning order from 3 to 5 years seems excessive. This could mean a warning order of 10 years.

We hope the proposed changes and new provisions will streamline fitness to practice proceedings, by removing unnecessary delays, clarifying processes, upholding public protection whilst an appeal is ongoing and supporting a registrant's best interests.

We are pleased this change does not affect a registrant's right to request early review at any time where new information is available.

**Q7 - Do you agree or disagree with the proposed changes to Regulation 34, powers of intervention?**

Based on the information and rationale provided, we agree with the proposed changes to Regulation 34, powers of intervention to put both early and mandatory reviews within the Professional Standards Authority's (PSA) remit. This will ensure the PSA's powers relating to social workers is the same as for other regulators as set out in Section 29 of the NHS Reform and Health Care Professions Act 2002.

**Q8 - Do you agree or disagree with the proposed changes to amend other legislation?**

Based on the information and rationale provided, we agree with the proposed changes to amend other legislation to correct erroneous references in the original drafting.

**Q9 - Do you agree or disagree with the proposed changes to the listed offences?**

Based on the information and rationale provided, we agree with the proposed changes to the listed offences to ensure all UK wide equivalent offences are included as listed offences for consistency.

**Q10 - Do you think that any of the proposed changes would help achieve any of the following aims:**

- *Eliminating discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010?*

We certainly hope the proposed changes and new provisions go some way to eliminating discrimination, harassment and victimisation. Our recommendation is for there to be explicit reference to equality, diversity and inclusion within the regulatory framework and clear links to anti-racism, anti-discrimination and anti-oppression. Here is a link to our own framework on this: <https://www.basw.co.uk/what-we-do/equality-diversity-and-inclusion-edi-social-work>.

Our recommendation is for an equality impact assessment to be undertaken following the implementation of any changes and/or new provisions.

- *Advancing equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it?*

We certainly hope the proposed changes and new provisions go some way to advancing equality for all. Our recommendation is for there to be explicit reference to equality, diversity and inclusion within the regulatory framework and clear links to anti-racism, anti-discrimination and anti-oppression. Here is a link to our own frameworks on this: <https://www.basw.co.uk/what-we-do/equality-diversity-and-inclusion-edi-social-work>.

- *Fostering good relations between persons who share a relevant protected characteristic and persons who do not share it? If you have answered 'yes' to any of the above questions, please explain the effect you think the proposed changes will have? If you have answered 'no' to any of the above questions, please explain what effect you think the proposed changes will have and whether you think the proposals should be changed so that they would help achieve those aims?*

We believe SWE should collate equality, diversity and inclusion data and take swift and appropriate action in relation to known issues of inequality. For example, the over-representation of Black and ethnic minority social workers in fitness to practise cases and disproportionately white adjudication panels.

Our recommendation is for a thorough equality impact assessment to be undertaken following the implementation of any changes and new provisions.

**BASW England feedback & recommendations:**

Recent Community Care articles revealed that *“less than 1% of social workers reported to regulator referred to hearing or found to have fitness to practise issues”* and additional financial resources have been provided by the Department of Education to clear backlogs. The comments related to this article: <https://www.communitycare.co.uk/2022/04/05/social-work-england-seeks-to-boost-efficiency-through-rule-changes/> should also be considered. BASW England hopes the new proposed amendments will streamline the fitness to practice process and address the disproportionate outcomes experienced by social workers from Black and ethnic minority backgrounds and other inequalities. We also request that the revised rules and regulations incorporate and embody anti-racist, anti-oppressive and anti-discriminatory values and ethics explicitly in accordance with equality, diversity and inclusion.

The proposal to increase the time for SWE to take action and at the same time decrease the time that social workers have to respond to procedural requests is problematic because social workers are already waiting years for their cases to be processed. There are no repercussions for delays caused by SWE, but delays can have devastating consequences for social workers who remain unable to practice. If SWE processes are delayed beyond the current and proposed processing times, it would be a show of good faith to the social work community for the regulator to take responsibility for the financial impact this has on social workers in the form of recompense.

Long waiting times are an equality issue. Not being able to practice for long periods of time diminishes the finances of those least able to afford it, including social workers who do not have a financial buffer to rely on whilst unable to practice and those without a support network.

We hope this feedback is helpful and received in the constructive spirit with which it is intended.

For further information please contact:

Co-ordinator of members' responses & compilation  
Wayne Reid  
BASW England Professional Officer  
British Association of Social Workers  
[wayne.reid@basw.co.uk](mailto:wayne.reid@basw.co.uk)