

Social Work England

Consultation on appointment rules

Launch date 8 November 2018

Respond by 5pm 19 December 2018

Foreword



As we prepare to become the new specialist regulator of social workers in England, our vision is that we will be a modern, agile, innovative, and transparent regulator, with public protection and the promotion of high-quality standards at the heart of everything we do. We believe we have the potential to make a real difference in improving the status of the profession by working to ensure that regulation contributes effectively to safeguarding, protecting and transforming the lives of the country's most vulnerable and often neglected individuals and families.

I believe that the establishment of Social Work England is a great opportunity to create an intelligence-led regulator, basing our work on evidence and data that will help the whole sector improve and learn. We will work in a way that enables us to understand and articulate where some of the problems are in the sector, what the risks are to the public, service users and professionals and how we can collaborate with key stakeholders to prevent problems escalating. To do this we will involve stakeholders from across the sector in the design and build of Social Work England at every stage of our evolution.

As an organisation, we will ensure that there is transparency in our work with a focus on open and honest conversations. We are keen to listen to a range of viewpoints that will strengthen our understanding, improve our practice, and ensure a strong collaborative approach to public protection and raising the profile of social work as a trusted and valued profession.

A period of consultation is one of a range of methods and approaches we will use to engage with key stakeholders in the sector and ensure we are listening to, and being informed by their experience and expertise. This is the first consultation launched by Social Work England and it arises directly from the legislative framework underpinning the work of the organisation. It marks the beginning of a planned programme of consultation by Social Work England that will take place in the next few months as work continues through this set up phase.

The focus of this consultation is our appointment rules and we would welcome your views on the following:

- The appointment of advisers by Social Work England;
- The establishment of panels of advisers;

- The role of inspectors appointed to inspect courses of education and training;
- Requirements and restrictions in relation to those appointed as case examiners, investigators and adjudicators for fitness to practise proceedings.

Creating a new specialist regulator for social workers presents a unique and exciting opportunity for everyone. We don't underestimate the challenges nor the complexity of the task ahead and intend to do all that we can to ensure our key stakeholders are involved in every step of the way. This consultation is the start of our journey together and we welcome your views both now and in future consultations.



Colum Conway
Chief Executive, Social Work England

Introduction

1. Social Work England will be the new, specialist professional regulator for social workers in England. As established in our founding legislation – the Children and Social Work Act 2017 – we are a Non-Departmental Public Body, operating at arm’s length from Government.
2. Like all of the existing health and care professional regulators, our central focus will be on public protection. We have, however, been given the tools to achieve this core objective in different ways to those other regulators. Our secondary legislation – the Social Workers Regulations 2018 – drew on evidence and recommendations for effective professional regulation from a number of sources. This includes reform proposals for healthcare regulation¹, the Law Commissions’ recommendations on health and social care regulation² and the Professional Standards Authority’s (PSA) Right-touch reform report.³
3. This consultation focuses on the first set of our rules. These rules operate within the framework set by our primary and secondary legislative framework and set out in more detail some of the processes and procedures that we will use operationally. Of course, in establishing ourselves as a new organisation, and in advance of taking over regulation, we have also been working closely with the current regulator (the Health and Care Professions Council) to ensure a smooth and safe transition of functions.

What we are consulting on

4. We are rightly required to consult when making rules. This provides an opportunity for people – including social workers and members of the public – to challenge our thinking and help shape the way that we will operate. We will also be consulting with our Professional Expert Group⁴ to further ensure that

¹ [Promoting professionalism, reforming regulation](#)

² [Law Commission: regulation of health and social care professionals](#)

³ [PSA: Right-touch reform - a new framework for assurance of professions](#)

⁴ Group membership consists of British Association of Social Workers, the Chief Social Workers for Adults and for Children and Families, Professional Standards Authority, Principal Social Worker Networks, Joint University Council Social Work Education Committee, Goldsmiths University, University of Central Lancashire, Sheffield University, Shaping Our Lives, Become, NSPCC, Skills for Care, Frontline, Youth Justice Board, Scottish Social Care Council, Northern Ireland Social Care Council, Social Care Wales, Association of Professors of Social Work, Association of

those who are likely to be affected by them have supported the development of them.

5. This first set of rules focuses on the appointment of people to fulfil a number of important roles. This consultation will inform how we appoint to specific roles in our legal framework. This includes inspectors who we may appoint in connection with the approval or re-approval of any course, qualification or test in relation to social work, which includes:

- courses of education and training, operated and delivered in England, for persons who wish to become social workers in England (“initial education and training”);
- qualifications granted following success in an examination, or other appropriate assessment, taken as part of an approved course of initial education or training;
- tests of knowledge of English which are operated and delivered in England; and
- courses for persons who are, or wish to become, approved to act as approved mental health professionals.

6. The rules also cover the appointment of, and requirements and restrictions around, three roles in our fitness to practise process – the process that regulators use where there are concerns about the ability of a registrant to practise. These roles are:

- investigators, who will undertake enquiries and gather evidence about individual cases;
- case examiners, who will determine whether a case should be taken forward following an investigation, and can (in certain circumstances) agree case outcomes with registrants; and
- adjudicators, who will run hearings where they are required to determine the final case outcome, including deciding whether fitness to practise is impaired and, if so, what sanction is appropriate. Adjudicators may also make interim orders to suspend or impose a restriction or condition on a social worker’s practice with immediate effect.

7. Finally, these rules also deal with the appointment of advisers, who may be appointed to any of the above four roles. Advisers will not be members of our staff, but our governing legislation allows for us to appoint them to fulfil these roles or advise us on matters relating to our functions, and in particular to provide us with information, specialist or expert advice, or recommendations.

8. This consultation seeks views on our proposed rules for:
 - the appointment of advisers by Social Work England;
 - the establishment of panels of advisers;
 - the role of inspectors appointed to inspect courses of education and training; and
 - requirements and restrictions in relation to those appointed as case examiners, investigators and adjudicators for fitness to practise proceedings.

9. The legislative context, which sets out the detail of what we need to cover in these rules, is at **Annex A**.

Proposed rules

10. The proposed rules for advisers are at **Annex B**.

11. The proposed rules for case examiners, investigators, adjudicators and inspectors are at **Annex C**. At this stage we are not making rules under regulation 21(3)(c) setting out the procedures for inspectors to report back to Social Work England following inspections. These will be consulted on later, as part of rules governing the education and training approval scheme.

12. The rules in relation to case examiners, investigators and adjudicators set out clearly the three different roles. This is based on the distinction made between the roles in the regulations. The importance of this distinction was highlighted by the government consultation on the regulations and by the responses received.

Forthcoming consultation activity

13. Over the coming months, there will be opportunities to help shape the development of our key regulatory areas, through online engagement and focus groups. Our regulatory standards and our rules are interdependent and we will be consulting on both.

14. We will consult on two sets of standards:

- **Professional standards** covering standards of proficiency (the skills and expertise that social workers are required to have), standards of performance and conduct and ethics (the way that social workers are expected to work) and standards for continuing professional training and development.
- **Standards of education and training** covering standards to be met by social work educational courses and training.

15. We will consult on further rules which will focus on three key areas:

- **Registration** rules, including criteria for eligibility (including English language requirements), renewal and restoration, registration procedures and registration fees.
- **Education and training** rules, including criteria for the approval of courses and the role of inspectors of courses.
- **Fitness to practise** rules, including standard of acceptance, caseworker allegations drafting guidance, case examiner decision making guidance, pre-hearing case management procedure and indicative sanctions guidance for hearing panels.

16. We expect to launch our standards consultation activity and consult on a second tranche of rules in early 2019.

How to respond

17. The deadline for responding to this consultation is 5pm Wednesday 19 December 2018.

18. Responses should be submitted online via [our survey page](#).

19. Alternatively, responses can be sent by email to:
consultation.responses@socialworkengland.org.uk

or by post to:

Appointment Rules Consultation Responses, Social Work England, 3rd floor, 2 St Paul's Place, 125 Norfolk Street, Sheffield, S1 2FJ.

20. Please note that we do not normally accept responses by telephone or in person. We normally ask that consultation responses are made online or in writing. However, if you are unable to respond online or in writing, please contact us on 0114 274 2624 to discuss any reasonable adjustments that would help you to respond.

Questions

21. We welcome your response to our consultation and have listed some questions below. For ease of reference these questions are also included in the proposed rules at Annex B and Annex C. There is opportunity to make any further comments in the free text section of each question.

Appointment and Functions of Advisers and Constitution of Panels of Advisers

Minimum criteria

We have set in these rules minimum criteria to be met by individuals to be appointed as advisers, panel members and panel chairs. The rules also make clear that the minimum criteria do not preclude Social Work England from setting and publishing further criteria. We think that this approach strikes an appropriate balance between setting a baseline in rules, whilst giving the flexibility to apply additional criteria as the roles develop.

- To what extent do you agree with the minimum criteria for advisers in rule 3(3)?

1	2	3	4	5	6	7	8	9	10
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Disagree Not sure Agree

Comments:

- To what extent do you agree with the minimum criteria for panel members in rule 11(2)?

1	2	3	4	5	6	7	8	9	10
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Disagree Not sure Agree

Comments:

- To what extent do you agree with the minimum criteria for panel chairs in rule 12(2)?

1	2	3	4	5	6	7	8	9	10
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Disagree Not sure Agree

Comments:

Appraisal and continuing professional development of advisers

We have deliberately taken a flexible approach to these requirements, in recognition of the fact that appraisal and development needs will vary between advisers appointed for different reasons and for varying time periods.

- Please review our proposed requirements for appraisal and continuing professional development of advisers (rules 6 and 7). To what extent do you agree with our proposed approach?

1	2	3	4	5	6	7	8	9	10
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Disagree Not sure Agree

Comments:

Investigators, Case Examiners, Adjudicators and Inspectors

Minimum criteria

We have set in these rules minimum criteria to be met by individuals to be appointed as investigators, case examiners, adjudicators and inspectors. The

rules also make clear that the minimum criteria do not preclude Social Work England from setting and publishing further criteria. We think that this approach strikes an appropriate balance between setting a baseline in rules, whilst giving the flexibility to apply additional criteria as the roles develop.

- To what extent do you agree with the minimum criteria for investigators in rule 4(2)?

1	2	3	4	5	6	7	8	9	10
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Disagree Not sure Agree

Comments:

- To what extent do you agree with the minimum criteria for case examiners in rule 5(2)?

1	2	3	4	5	6	7	8	9	10
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Disagree Not sure Agree

Comments:

- To what extent do you agree with the minimum criteria for adjudicators in rule 6(2)?

1	2	3	4	5	6	7	8	9	10
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Disagree Not sure Agree

Comments:

- To what extent do you agree with the minimum criteria for inspectors in rule 10?

1	2	3	4	5	6	7	8	9	10
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Disagree Not sure Agree

Comments:

Restrictions on who can be appointed

We have focused restrictions on conflicts of interest, fitness to practise concerns and criminal convictions.

- To what extent do you agree with the categories of person who may not act as investigators, case examiners or adjudicators in rule 8?

1	2	3	4	5	6	7	8	9	10
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Disagree

Not sure

Agree

Comments:

- To what extent do you agree with the categories of person or circumstances that should preclude people from acting as inspectors in rule 12?

1	2	3	4	5	6	7	8	9	10
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Disagree

Not sure

Agree

Comments:

What will happen next

- Once the consultation period is completed, we will analyse the responses we receive. We will then publish a document which summarises the responses and explains the decisions we have taken as a result. This will be published on our website.
- All rules are subject to review by the Secretary of State before publication. The final sets of rules will be published on our website. The rules will specify the date on which they are to come into force. These rules are required to support recruitment plans and we currently anticipate that they will come into force in early to mid-January 2019.

Legislative context

Social Work England has been given the power in legislation to appoint advisers and panels of advisers, if it so chooses. This power allows Social Work England to access expertise from outside its core workforce by appointing individuals to provide information, specialist or expert advice, or recommendations. The power also permits the appointment of advisers to carry out the specific functions of case examination, investigation and adjudication (for fitness to practise purposes) and inspection (in connection with the education and training approval scheme).

Social Work England is able to appoint individuals as inspectors, either from its staff or through the adviser provisions, to carry out inspections in connection with the approval and re-approval process for education and training courses. This includes courses of initial education, tests of English language and training to become an approved mental health professional. Individuals can be appointed either through the adviser provisions or from within Social Work England's staff.

Social Work England is required to set out any requirements and restrictions in relation to those appointed, either from its staff or through the adviser provisions, as case examiners, investigators and adjudicators for fitness to practise proceedings.

In order to use these powers, The Social Workers Regulations 2018 require the making of rules about:

- The process for the appointment, suspension, and removal of advisers.
- The appraisal of the performance of advisers.
- Continuing professional development for advisers.
- An appeals process against the suspension and removal of advisers.
- The resignation of advisers.
- The provision of the regulator's staff, facilities and other assistance to advisers.
- Any other matter the regulator considers appropriate.

Regulation 5

- The establishment, and size, of panels of advisers.
- The selection and appointment of the chair of any panel of advisers.

Regulation 4(3)

- The role of an inspector.
- The knowledge, skills or experience necessary to undertake the role of inspector.
- Any persons who may not act as an inspector.
- May require inspectors to declare to the regulator any conflict of interest in relation to any relevant institution.

Regulation 21(3)(a) and (b)

- Any requirements and restrictions in relation to who may be appointed as a case examiner, investigator or adjudicator for fitness to practise proceedings.

Regulation 25(5)(c)