



BRIEFING PAPER

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Social Work Regulation (England)

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Summary

This Commons Library 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 plans to establish a new social work specific regulator: Social Work England.

Social workers work with individuals and families to try and improve outcomes in their lives. There are currently around 96,497 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 and Social Care (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. Many 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 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 reviews made a wide range of recommendations intended to improve regulation of the health and social care sector as a whole. The Government welcomed the review recommendations and committed to consult on options for taking forward broader regulatory reform.

Social Work England

On 14 January 2016 the Government announced its intention to establish a new regulatory body to improve standards in the social work profession. Legislative provisions to establish a new, specialist regulator of social workers in England - Social Work England - were included in Part 2 of the *Children and Social Work Bill* [HL] 2016-17. Stakeholders raised a number of concerns about the Bill, which was amended during its passage. The *Children and Social Work Act 2017* received Royal Assent on 27 April 2017.

Social Work England will be an independent Non-Departmental Public Body with oversight of its regulatory functions 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 practise.

The 2017 Act sets out the broad legal framework for Social Work England, but much of the detail of the regulatory framework will be set out in secondary legislation. Following a public consultation, the Government laid the *The Social Workers Regulations 2018* on 4 June 2018. The regulations are subject to the affirmative resolution procedure and require approval from both Houses of Parliament.

The Government has established an Advisory Group, consisting of key social work sector representatives, to advise on the development and implementation of Social Work England. The new regulator is not expected to take over from the existing regulator HCPC before Spring 2019.

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.¹

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 2005.²

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 5 April 2018, there were 96,497 registered social workers in England³ - around a third of social workers work in child and family social work.⁴

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.⁵

There are around 96,497 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).

¹ British Association of Social Workers (BASW), [How to become a social worker](#) [accessed 14 June 2018]

² Under Section 61 of the *Care Standards Act 2000*

³ Health and Care Professions Council webpage, [Social Workers in England](#) [accessed 14 June 2018]

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

⁵ 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...⁶

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 \(PSA\)](#).

1.3 Relationship between the UK social work regulators

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

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.⁸

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 and Social Care is responsible for adult social care, and the Department for Education is responsible for children and families social care. Since social services are delivered via local government, the Ministry of Housing, Communities and Local Government (MHCLG) also has a role.

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

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.⁹ The association has a members' code of ethics and works to support social workers through education and resources. It has also established an

⁶ HM Government, [The Health Act 1999 – Explanatory Notes](#), para. 333

⁷ Health and Care Professions Council, [UK social work regulation](#) [accessed 14 June 2018]

⁸ [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

⁹ British Association of Social Workers, [Home webpage](#) [accessed 14 June 2018]

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.¹⁰ However, the College was forced to close in 2015 due to financial difficulties.¹¹ (See Section 4 for further information on the College).

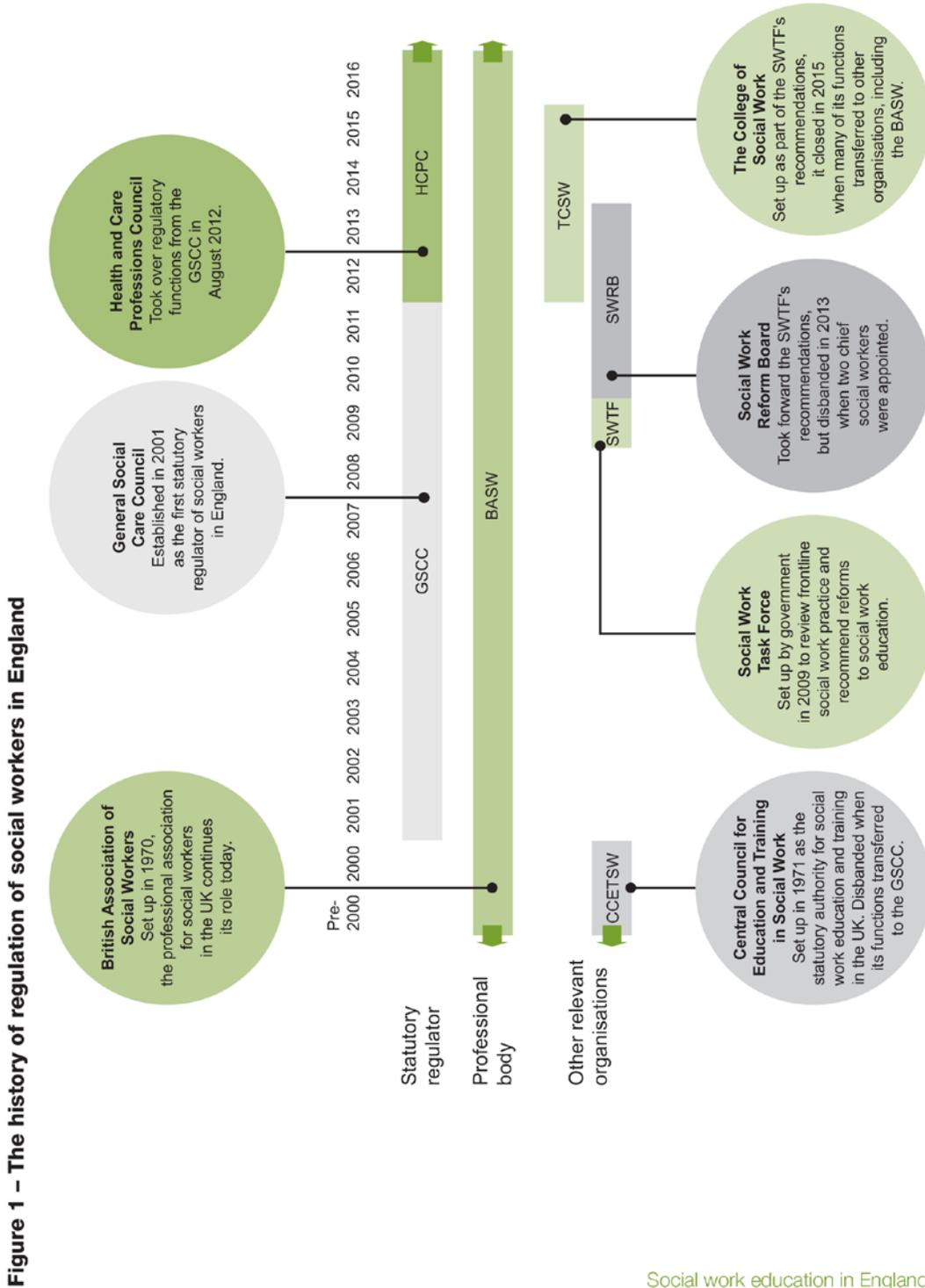
1.6 Social work regulation timeline

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

¹⁰ House of Commons Education Committee, [Social work reform: third report of session 2016-17](#), HC 201, 13 July 2016, para. 79

¹¹ 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



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.¹²

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.¹³

Box 1: The Social Work Task Force’s 15 recommendations¹⁴

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.

¹² Social Work Task Force, [Building a safe, confident future](#), November 2009, p.6

¹³ [Written Ministerial Statement \[Social Work Task Force\] 1 Dec 2009 c117WS](#)

¹⁴ 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.¹⁵ The SWRB was disbanded in September 2013 when the Government appointed two Chief Social Workers.¹⁶

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.¹⁷ 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.¹⁸ The Government responded positively to the Munro report and accepted almost all of its recommendations.¹⁹

In a Westminster Hall debate on social work reform on 20 October 2016 the Minister for Vulnerable Children and Families, then 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.

¹⁵ Social Work Reform Board documents are available at <https://www.gov.uk/government/collections/social-work-reform-board> [accessed 14 June 2018]

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

¹⁷ Department for Education, [The Munro Review of Child Protection Final Report: A child-centred system](#), May 2011

¹⁸ Ibid., Executive Summary

¹⁹ 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.²⁰

2.2 The 2015 Conservative Government's social work reform agenda

In a speech in September 2015 the Prime Minister, then David Cameron, 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".²¹

The Government 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);²² [Vision for adult social work in England](#) (July 2016);²³ and [Putting children first: delivering our vision for excellent children's social care](#) (July 2016).²⁴

Reform of social services and child protection was a key priority for the 2015 Conservative 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.²⁵

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".²⁶ Two independent reviews of social work education in 2014 highlighted the need for improvement in social worker initial education and continuous development.²⁷ 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

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

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

²¹ [Prime Minister: My vision for smarter state](#), 11 September 2015

²² Department for Education, [Children's social care reform: A vision for change](#), 14 January 2016

²³ Department of Health, [Vision for adult social work in England](#), 12 July 2016

²⁴ Department for Education, [Putting children first: delivering our vision for excellent children's social care](#), 4 July 2016

²⁵ All Party Parliamentary Group on Social Work, [Inquiry into the State of Social Work report](#), 2013

²⁶ Department for Education and Department of Health, [Regulating Social Workers: Policy Statement](#), 27 June 2016, para.22

²⁷ 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

disappointing that, after all its efforts, far too many children's 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.²⁸

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.²⁹ 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.³⁰ High rates of stress and burnout amongst social workers are well documented.³¹

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 in the parliamentary session 2016-17 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".³² 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.³³

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.

²⁸ National Audit Office, [Children in need of help or protection](#), 12 October 2016

²⁹ House of Commons Education Committee, [Social work reform: third report of session 2016-17](#), HC 201, 13 July 2016, Summary, p.3

³⁰ The British Association of Social Workers, [The State of Social Work 2012](#), May 2012

³¹ Kings College London Social Care Workforce Research Unit, [Literature review of roles and issues within the social work profession in England](#), March 2015; BASW, [UK Social Workers: Working Conditions and Wellbeing](#), Dr Ravalier, 11 June 2018

³² House of Commons Education Committee, [Social work reform: third report of session 2016-17](#), HC 201, 13 July 2016, Summary, p.3

³³ 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.³⁴

The Education Select Committee published its [Report on Social Work Reform](#) on 13 July 2016.³⁵ 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.³⁶

The Committee published the [Government's response](#) to its report on social work reform on 13 October 2016.³⁷ The response outlined the Government's progress in delivering social work reform and identified areas where it views differed from those of the Committee.

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

³⁵ House of Commons Education Committee, [Social work reform: third report of session 2016-17](#), HC 201, 13 July 2016

³⁶ *Ibid.*, Conclusions and Recommendations

³⁷ 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 then 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.³⁸

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”.³⁹ 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.⁴⁰

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.⁴¹

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.⁴² 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

³⁸ General Social Care Council, [*Annual Report and Accounts 2011-12*](#), 10 July 2012, p.8

³⁹ [*The Care Standards Act 2000, Part IV, Section 54\(2\)*](#)

⁴⁰ [*The Care Standards Act 2000, Part IV, Section 55\(2\)*](#)

⁴¹ 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

⁴² [*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.⁴³

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.⁴⁴

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.⁴⁵

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.⁴⁶

⁴³ 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,

⁴⁴ ['The past and future of the GSCC conduct system'](#), *Community Care*, 15 January 2010

⁴⁵ General Social Care Council, [Report to DH/DCSF Ministers – GSCC Progress on its Response to CHRE'S Report on the GSCC Conduct Function](#), 2010

⁴⁶ ['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.⁴⁷

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 interests⁴⁸, and the difficulties of creating a single set of standards fit for both social workers and social care workers.⁴⁹

⁴⁷ General Social Care Council, [Annual Report and Accounts 2011-12](#), 10 July 2012, p.8

⁴⁸ Ibid.

⁴⁹ 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.⁵⁰ 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.⁵¹

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.⁵²

4.2 The work of TCSW

In May 2015 TCSW published a review of its functions. 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.
- A proactive and credible voice in public and in government.⁵³

⁵⁰ Social Work Task Force, *Building a safe, confident future*, November 2009, p.45

⁵¹ [Written Ministerial Statement \[Social Work Task Force\] 1 Dec 2009 c117WS](#)

⁵² House of Commons Education Committee, *Social work reform: third report of session 2016-17*, HC 201, 13 July 2016, para. 79

⁵³ The College of Social Work, *The College of Social Work: Functions Review*, May 2015, p.4

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.⁵⁴

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.⁵⁵

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.⁵⁶ 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.⁵⁷

Two independent reviews of social work education, both published in 2014, highlighted the duplication of functions between the TCSW and the HCPC.⁵⁸ 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 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

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

⁵⁴ Ibid.

⁵⁵ Ibid., p.5

⁵⁶ ['The College of Social Work to close due to lack of funds'](#), *Community Care*, 18 June 2015

⁵⁷ Ibid.

⁵⁸ 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

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.⁵⁹

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).⁶⁰

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”⁶¹:

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)⁶²

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.⁶³

The Minister for Vulnerable Children and Families, then Edward Timpson, 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 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

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

⁵⁹ [Supplementary written evidence submitted by Annie Hudson, SWR0046](#), May 2016

⁶⁰ ‘BASW to take on package of College of Social Work functions’, *Community Care*, 20 August 2015

⁶¹ House of Commons Education Committee, [Social work reform: third report of session 2016-17](#), HC 201, 13 July 2016, Summary, p.3

⁶² *Ibid.*, p.46

⁶³ 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

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.⁶⁴

⁶⁴ [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 then 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.⁶⁵

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.⁶⁶

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."⁶⁷

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

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

⁶⁵ Department of Health, [Review of arm's length bodies to cut bureaucracy](#), 26 July 2010

⁶⁶ Department of Health, [Liberating the NHS: Report of the arms-length bodies review](#), 26 July 2010

⁶⁷ ['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.⁶⁸

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.⁶⁹

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*⁷⁰, an Order in Council made under Section 60 of the *Health Act 1999*.⁷¹

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.⁷² 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.

⁶⁸ 'Sector leaders shocked and surprised by abolition of GSCC', *Community Care*, 26 July 2010

⁶⁹ Department of Health, [Streamlined arm's length bodies factsheet](#), June 2012, p.2

⁷⁰ *The Health Professions Order 2001 (S.I. 2002/254) (as amended)*

⁷¹ Department for Education and Department of Health, [Regulating Social Workers: Policy Statement](#), 27 June 2016, para.61

⁷² 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.⁷³

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.⁷⁴

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 2016-17* concluded that the HCPC met all the 'Standards of Good Regulation' for: Guidance and Standards; Education and Training; and Registration. However, the report raised concerns in respect of HCPC's Fitness to Practice procedures.⁷⁵

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;

⁷³ Professional Standards Authority, [HCPC Annual Review of Performance 2015-16](#), 30 September 2016, p.2

⁷⁴ ['Is the HCPC fit to practise?'](#), *Community Care*, 9 December 2014

⁷⁵ Professional Standards Authority, [HCPC Annual Review of Performance 2016-17](#), October 2017

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.⁷⁶

⁷⁶ [‘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*](#)⁷⁷ 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.⁷⁸

The Law Commissions' report set out 125 recommendations intended to simplify the legal framework and improve public protection.⁷⁹ 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).⁸⁰ 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

⁷⁷ 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

⁷⁸ *Ibid.*, paras 1.2 and 1.3

⁷⁹ *Ibid.*, Appendix B

⁸⁰ *Ibid.*, Appendix B, Recommendation 1

promote and maintain proper standards and conduct for individual registrants.⁸¹

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.⁸²

The HCPC welcomed the Law Commissions' findings and committed to working with the Government and other stakeholders to take forward the proposals.⁸³

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.⁸⁴

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

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

⁸¹ 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

⁸² ['Social workers unable to communicate clearly in English could be sanctioned or struck off'](#), Community Care, 2 April 2014

⁸³ ['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

⁸⁴ 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.⁸⁵

The PSA's reform proposals were set out in more detail in a follow-up report, [Regulation rethought: Proposals for reform](#), published in October 2016.⁸⁶

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...⁸⁷

The Department of Health and Social Care's consultation - [Promoting professionalism, reforming regulation](#) – sought views on proposals to reform the regulation system for healthcare professionals in the UK.⁸⁸ The consultation ran from 31 October 2017 to 23 January 2018; the Government is currently analysing the responses.

In November 2017 the PSA published [Right-touch reform](#), a detailed report covering: the role of regulators in prevention of harm; the future of fitness to practise; professional regulators' role in education and training; and modernising registers.⁸⁹

⁸⁵ 'Approach to regulating social care and health professionals becoming 'unfit for purpose'', *Community Care*, 18 August 2015

⁸⁶ Professional Standards Authority for Health and Social Care, [Regulation rethought: Proposals for reform](#), October 2016

⁸⁷ [Written Statement HCWS417 \[Regulation of Health and Social Care Professionals\] 17 December 2015](#)

⁸⁸ Department of Health and Social Care, [Promoting professionalism, reforming regulation](#), 31 October 2017

⁸⁹ Professional Standards Authority for Health and Social Care, [Right-touch reform - a new framework for assurance of professions](#), 23 November 2017

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.⁹⁰

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".⁹¹

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.

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.⁹² 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

⁹⁰ Department for Education, [Nicky Morgan unveils plans to transform children's social work](#), 14 January 2016

⁹¹ [The Queen's Speech 2016 – Background Notes](#), 18 May 2016, p.32

⁹² Department for Education and Department of Health, [Regulating Social Workers: Policy Statement](#), 27 June 2016

continue to share policy responsibility for social work. This position would be reviewed after three years.⁹³

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.⁹⁴

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".⁹⁵ 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".⁹⁶

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;

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

⁹⁴ Ibid., paras 43-55

⁹⁵ Ibid., para.57

⁹⁶ 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).⁹⁷

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.⁹⁸

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.⁹⁹

⁹⁷ Department for Education and Department of Health, [Regulating Social Workers: Policy Statement](#), 27 June 2016, p.5

⁹⁸ Ibid., para. 128

⁹⁹ 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 then Department of Health (DH) published an [Updated Policy Statement](#) on 1 November 2016.¹⁰⁰ 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,¹⁰¹ 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.¹⁰²

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.¹⁰³

Section 7 (Social Workers) of the Commons Library legislative briefing paper - [Children and Social Work \[HL\] Bill 121: analysis for Commons Report Stage \(CBP-7800\)](#) – outlines in more detail the concerns raised about Part 2 of the Bill as it passed through Parliament, and the Government’s responses.

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 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.

¹⁰⁰ Department for Education and Department of Health, [Social Work Regulatory Reform – Update to Policy Statement](#), 1 November 2016

¹⁰¹ 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

¹⁰² Department for Education and Department of Health, [Social Work Regulatory Reform – Update to Policy Statement](#), 1 November 2016

¹⁰³ *Ibid.*, p.6

8. Social Work England

Part 2 of the [Children and Social Work Act 2017](#), which received Royal Assent on 27 April 2017, makes provision to establish a new, specialist regulator of social workers in England: Social Work England. The new regulator will take over from the existing regulator the Health and Care Professions Council (HCPC).

Social Work England will be an independent Non-Departmental Public Body with oversight of its regulatory functions from the [Professional Standards Authority for Health and Social Care \(PSA\)](#). 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 practise.

The new regulator underpins the Government's ambition to improve the practise of social work and raise the status of the profession.

The 2017 Act sets out the broad legal framework for Social Work England, but much of the detail of the regulatory framework will be set out in secondary legislation. These regulations are subject to the affirmative resolution procedure and will require approval from both Houses of Parliament.

The Government has established a Social Work England Advisory Group, consisting of key social work sector representatives, to advise on the development and implementation of Social Work England, and a Regulator Expert Group, consisting of representatives from a number of professional regulators, to provide critical advice and guidance on the development of aspects of the regulatory framework for Social Work England. The membership and terms of reference for the groups can be found here: [PQ 131078, 8 March 2018](#).

8.1 Consultation on the secondary legislation framework

The Government consulted on the [secondary legislation framework](#) for Social Work England and draft illustrative regulations between 8 February and 21 March 2018. The consultation sought views on the policy underpinning the regulations, in particular, the:

- overall approach to creating a modern, proportionate regulatory framework
- specific approach taken in each of the regulatory areas
- possible oversight procedures for regulatory rules

Part 2 of the *Children and Social Work Act 2017* provides the broad legislative framework for establishing the new social work regulator: Social Work England.

The detail of the new regulatory framework will be set out in secondary legislation.

The Government consulted on the secondary legislation framework between 8 February and 21 March 2018.

- likely impacts of the proposed changes.¹⁰⁴

198 consultation responses were submitted from a variety of interested stakeholders, including representatives from social worker networks, local authorities, unions, charities, education providers, service user groups, regulatory bodies and individual social workers. During the consultation period Government officials also held 11 events, consulting with social workers, education providers and interested parliamentarians and met with both the Regulatory Expert Group and the Advisory Group.¹⁰⁵

Stakeholder commentary

The British Association of Social Workers (BASW) issued a broad [Position statement on the regulation of social work and social workers in the UK](#) in January 2018.¹⁰⁶ This was followed, on 9 March 2018, by an [interim Position statement on the Government consultation for the new professional regulator Social Work England \(SWE\)](#).¹⁰⁷

On 28 March 2018, following a survey of members, BASW England and the Social Workers Union (SWU) delivered a [joint response](#) to the consultation on the secondary legislation framework for Social Work England.¹⁰⁸

In particular, BASW and SWU were concerned that much of the detail of how Social Work England will operate had not been made available through the consultation, and will therefore not be subject to full Parliamentary scrutiny:

Whilst the consultation document contains 39 pages and the draft social worker regulations are 33 pages in total, there is a distinct lack of detail, making it extremely difficult for members and others to respond meaningfully, without the full information on proposals to be put before Parliament being made available.

The Government is deploying a Statutory Instrument to pass the Regulations and while these will need to go through both Houses of Parliament for affirmative assent by MPs and Peers, this process is not full scrutiny and is essentially a ratification process.

We recognise that the Regulator will be required to consult the public and 'representative groups' on further rule making (the next level of governance below the Regulations) but there are some opt outs on this. The Regulator itself determines if consultation is 'inappropriate or disproportionate' - and this doesn't involve Parliamentary scrutiny.¹⁰⁹

¹⁰⁴ Department for Education and Department of Health and Social Care, [Social Work England: consultation on secondary legislative framework](#), 8 February 2018

¹⁰⁵ [HCWS728 4 June 2018](#)

¹⁰⁶ BASW, [BASW position statement on the regulation of social work and social workers in the UK](#), 11 January 2018

¹⁰⁷ BASW, [BASW England position on the Government consultation for the new professional regulator Social Work England \(SWE\)](#), 9 March 2018

¹⁰⁸ BASW, [BASW England and SWU respond to Government's consultation on Social Work England: secondary legislative framework \(Regulations\)](#), 28 March 2018

¹⁰⁹ BASW, [BASW England and SWU respond to Government's consultation on Social Work England: secondary legislative framework \(Regulations\)](#), 28 March 2018

In their statement of 28 March 2018, BASW England and SWU also made the following points:

- Social Work England should focus on the core issues of regulation i.e. public protection and come back to post-qualification issues and specialisms at a later stage in the process.
- There needs to be a clear distinction between regulation and improvement activities. Members want a sector led approach to improvement and post-qualification education and training that is independent of Government.
- They do not support the annotation in the register of social workers of additional qualifications, specialisms and accreditations.
- Independence from Government needs to be evident in the running of Social Work England and its operating principles and rules.
- The Government should engage, work with and listen to the sector.
- A guaranteed freeze on registration fees should be affected from point of transfer to Social Work England for a substantial time period.
- There should be integration of the Professional Capabilities Framework and BASW Code of Ethics into all regulatory standards, aligned with the Knowledge and Skills Statement.
- 50% of the Social Work England leadership and Board representation should be made up of social workers.
- In the future, students should be regulated and registered with Social Work England.

The response can be read in full here:

<https://www.basw.co.uk/news/article/?id=1745>

Consultation outcome

The [Government's response to the consultation on the secondary legislation framework for Social Work England](#)¹¹⁰, published on 4 June 2018, provided a summary of consultation responses, along with the Government's proposed next steps. An accompanying Written Statement summarised the consultation as follows:

Overall, respondents supported the majority of proposals. The consultation response summarises respondents' views, areas of concern raised and the changes made to address those concerns. We have taken clear and practical steps to respond to what experts, professionals and the sector told us to further strengthen and refine the proposed secondary legislative framework for Social Work England.

¹¹⁰ Department for Education and Department of Health and Social Care, [Social Work England Secondary Legislative Framework - Government consultation response](#), 4 June 2018

A number of respondents also requested further clarity on the role of Government in relation to Social Work England; expressed strong support for collaboration between Social Work England and the sector; and, highlighted the importance of minimising disruption to the profession during the transfer of regulatory functions. Many recognised the potential benefits a specialist, single profession regulator will bring to social workers and for the social work profession. Respondents also provided wider comments on the way in which Social Work England will operate as the regulator on a day-to-day basis, and how it might consider effective and efficient ways to discharge its functions. While these responses fall outside of the scope of the consultation on the secondary legislative framework, we do expect Social Work England to work closely with the sector through its consultations on standards and regulatory rules, and as it establishes itself as the new regulator for social workers in England. We hope that respondents will welcome the opportunity to contribute further to such consultation.¹¹¹

The key changes made by the Government as a result of the consultation are summarised on page 11 of the [Government's response](#) to the consultation.¹¹²

8.2 The Social Workers Regulations 2018

On 4 June 2018 the Government laid the [The Social Workers Regulations 2018](#) that, subject to parliamentary approval, will support the implementation of Part 2 of the *Children and Social Work Act 2017* in setting out the detail of the new regulatory framework under which Social Work England will regulate social workers in England.

The Social Workers Regulations 2018 were laid in Parliament on 4 June 2018.

Alongside the Regulations the Government published:

- A [Written Statement on Social Work England](#);¹¹³
- The [Government's response to the consultation on the secondary legislation framework for Social Work England](#);¹¹⁴ and
- [An Impact Assessment](#).¹¹⁵

In the Written Statement on Social Work England the Parliamentary Under-Secretary of State for Education, Nadhim Zahawi, explained the aim of the regulatory framework:

The aim of this regulatory framework is to enable Social Work England to protect the public by operating streamlined, proportionate and efficient systems and processes which adapt to emerging opportunities, challenges and best practice. This will ensure the professional regulation of social workers in England reflects the changing reality of delivering

¹¹¹ [HCWS728 4 June 2018](#)

¹¹² Department for Education and Department of Health and Social Care, [Social Work England Secondary Legislative Framework - Government consultation response](#), 4 June 2018, p11

¹¹³ Ibid.

¹¹⁴ Department for Education and Department of Health and Social Care, [Social Work England Secondary Legislative Framework - Government consultation response](#), 4 June 2018

¹¹⁵ Department for Education and Department of Health and Social Care, [Social Work England: secondary legislation, assessment of impacts](#), 4 June 2018

social work practice safely and effectively – building public trust and confidence in the profession.¹¹⁶

The [draft Explanatory Memorandum](#) provides a detailed explanation of all the provisions in the Statutory Instrument.

Provisions relating to fees to be paid by Social Work England to the PSA are being implemented at the same time through [The Professional Standards Authority for Health and Social Care \(Fees\) \(Social Work England\) Regulations 2018](#) (S.I. 2018/655).

8.3 Transfer of functions to Social Work England

The *Social Workers Regulations 2018* will come into force when Social Work England takes over the regulation of social workers from the current regulator, the Health and Care Professions Council (subject to successful passage of the regulations through the Parliamentary process).

The Government has said that whilst it is developing the secondary legislation, it is “working with the current regulator (the Health and Care Professions Council) and the social work profession, to establish a timeline that will enable a safe transfer of regulatory functions to Social Work England”.¹¹⁷

Social Work England is not expected to begin regulating the profession before Spring 2019.¹¹⁸

During the passage of the *Children and Social Work Bill* through Parliament, the Government confirmed that set up costs for Social Work England would be covered by Government, with no increase in fees to social workers as a result of the transfer.¹¹⁹

The Government has confirmed that Lord Patel of Bradford, a former social worker, will chair Social Work England.¹²⁰ The Chair has written about his priorities for the new regulator in [an article for Community Care](#).¹²¹ The Government announced on 4 June 2018 that Colum Conway has been appointed as the Chief Executive of Social Work England.¹²² Mr Conway is currently Chief Executive of the regulatory body for the social work profession and social care workforce in Northern Ireland, and also has a background in social work.

Social Work England is not expected to take over from the existing regulator HCPC before Spring 2019.

¹¹⁶ [HCWS728 4 June 2018](#)

¹¹⁷ [PO HL3460, 5 December 2017](#)

¹¹⁸ Department for Education and Department of Health and Social Care, [About Social Work England – Factsheet](#), June 2018

¹¹⁹ Draft Explanatory Memorandum to [The Social Workers Regulations 2018](#), para 4.4

¹²⁰ Department for Education and Department of Health and Social Care, [Education Secretary praises profession on World Social Work Day](#), 20 March 2018

¹²¹ ‘[Social Work England chair: We must set and maintain highest standards for social workers](#)’, *Community Care*, 25 April 2018

¹²² [HCWS728 4 June 2018](#)

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