

Feedback on Regulation of health care professionals, Regulation of social care professionals, in England – a joint consultation paper

BASW welcome the opportunity to provide feedback on the Law Commission, The Scottish Law Commission and the Northern Ireland Law Commission consultation on health and social care regulatory legislation. BASW can only really comment on social work regulation in the UK, which varies across the four UK countries. As the consultation paper argues however the principles of regulation and the role of the regulator have much in common across the countries. England has been most affected by the recent change in pending change of regulator from the GSCC to the HCPC. BASW's comments will therefore be mainly confined to the impact on social workers in England. The change to the HCPC has highlighted a number of issues in terms of the role of the regulator and has raised awareness of the differences between the GSCC and HCPC. Some of the differences are perhaps cultural, but others appear to be because these two regulatory organisations have different policy and legal frameworks. It is too soon to comment in detail about the impact on social workers, so comments are confined to the possible impact and perceptions of that.

BASW have the following observations:

- The consultation document is comprehensive and puts the case for reform well and details proposals that in broad terms BASW would support. It clearly makes little sense to have such a plethora of legal and procedural differences and to create one piece of legislation appears logical
- It is a perception of our members that the GSCC has taken an over punitive approach and compared to people who are subject to other regulators the perception is that the GSCC has been quick to “punish” people by striking them off the register. It is the experience of members that alternatives admonishments, particularly ones linked to developmental needs of the worker have not been sufficiently used. The Advice and Representation service of BASW has successfully challenged a number of GSCC rulings regarding misconducts and the view of the Advice and Representation service is that the GSCC has operated too much on a punitive model. We are not clear whether the legal regulations restricted the course of actions that GSCC had to take, or whether it has been a cultural issue. We note that the HPC appears to have struck off, or admonished proportionately less people who have come before their standards and conduct committees. Therefore

the opportunity that the Law Commission Consultation allows to examine in detail the legal and policy frameworks of all the health and associated regulators is welcomed.

- BASW have strongly been of the opinion that there has not been enough emphasis on Continuous Professional Development (CPD) by the GSCC, again we do not know whether this has occurred because of organisational issues, or inadequacies in the legal and regulatory framework of GSCC. BASW welcome the emphasis that HCPC have on CPD, particularly the requirement to demonstrate the impact of learning on practice.
- An important concern of BASW is that the GSCC in effect regulated student social workers. (An issue raised in part 5 of the consultation, where the issues to do with student registration are raised and the possible use of the Health and Social Care Act to create a voluntary register.) BASW argues that the reasons that social work students need to be registered is that they are often working without direct supervision with some of the most vulnerable people and therefore in order to protect the public students should be registered. With the transfer of the registration of social workers to the HCPC the registration of students will cease. The HCPC do say that they are going to review the position of the regulation of students for professions regulated by them. We welcome the inclusion by the Law Commission the issues of student registration.
- The HCPC is taking up the regulatory role for qualified social workers; BASW would also like the Law Commission to consider the issues associated with the regulation of social care workers. Social care workers work with the most vulnerable people in society, frequently in people's own homes, without direct supervision. BASW are of the strong opinion that the public need protecting by introducing compulsory regulation of the social care workforce. We urge the Law Commission Review to include the issue of social care workers in the review, so that if and when social care workers become regulated then the law and regulations would adequately cope with this.
- Regulation of social workers who are in posts that do not have the designated title of social worker, but who are undertaking aspects of the role of a social worker. It is the experience of BASW that the reason for practitioners and organisations not using the title social worker is rarely as a device to avoid the necessity of registration and regulation. BASW has the experience that because regulation of title is relatively newly applied to social work that employers may not fully understand or be aware of the role of the regulator in social work practice. BASW would welcome a review of the powers of the regulator to explore the issue of ensuring that qualified social workers who are working in a role that has another title, but where there is a significant social work element, are required to be registered with the regulator. Again we feel that this would better protect the public, (and also reduce the impact of employers avoiding registration requirements).

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BASW would like to thank the Law Commission, The Scottish Law Commission and the Northern Ireland Law Commission for the opportunity to comment on the consultation document. We deliberately have not commented line by line on the extensive document and have restricted our thoughts mainly to the regulation of social workers in England. We thought it more appropriate to give broad approval to the consultation proposals and processes and to highlight areas of concern within BASW about aspects of the current regulation of social workers. BASW would be happy to contribute in more detail in the next and subsequent consultation processes.

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On behalf of the British Association of Social Workers

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