

Response to Social Work England consultation on registration guidance for applicants and continuing professional development process

October 2019

1. Introduction

- 1.1 The Professional Standards Authority for Health and Social Care promotes the health, safety and wellbeing of patients, service users and the public by raising standards of regulation and registration of people working in health and care. We are an independent body, accountable to the UK Parliament. More information about our work and the approach we take is available at www.professionalstandards.org.uk
- 1.2 As part of our work we:
- Oversee the nine health and care professional regulators and report annually to Parliament on their performance
 - Accredit registers of healthcare practitioners working in occupations not regulated by law through the Accredited Registers programme
 - Conduct research and advise the four UK governments on improvements in regulation
 - Promote right-touch regulation and publish papers on regulatory policy and practice.
- 1.3 We welcome the opportunity to respond to the consultations from Social Work England on guidance for applicants on registration and the proposed continuing professional development (CPD) process. Within this response we have included comments on the three pieces of draft registration guidance for UK applicants, applicants from the EEA and Switzerland and overseas applicants and on the continuing professional development consultation which seeks comments on the proposed CPD process.

2. Key comments

- 2.1 Overall the three pieces of registration guidance appear clear and written in a straightforward and easy to understand format. However, as an overarching comment, we believe there are some gaps between what is currently covered in the legislation and rules and what is covered in the guidance. We note that whilst certain processes e.g. conditional registration, may not be appropriate to cover in detail in guidance for applicants, it will still be important for applicants to be aware of processes which they may be subject to.
- 2.2 Although the three pieces of registration guidance are aimed at registrants rather than staff who will be operating the relevant processes, this has made it difficult in some areas to assess how certain processes will operate in

practice. It also does not always make it sufficiently clear how Social Work England will ensure processes will operate with sufficient transparency and accountability. We have therefore highlighted any areas where further detail would be helpful, although we recognise that this may not be suitable in guidance for registrants.

- 2.3 As Social Work England will be operating a number of new regulatory powers which are not available to the other regulators we oversee, including powers to permit conditional registration, it is even more important to ensure that it is clear how processes will operate so that the public and registrants can have confidence in Social Work England as a regulator.
- 2.4 We recognise that Social Work England is in the process of developing their CPD process, however we would have welcomed reference to any work undertaken on the risks of the social work profession, both to inform the overall approach and consideration of particular areas which social workers may wish to focus on in their CPD. We would also have liked to see reference to any engagement with service users when developing the approach to CPD.

3. Detailed comments – registration guidance

Conditional registration

- 3.1 We note that there is no reference in the guidance to the process and criteria for granting conditional registration. This is a new power which is not currently held by any of the other regulators we oversee and therefore transparency around how it will be used is important.
- 3.2 We previously highlighted the risks arising from having two parallel processes:
 - one to decide whether a registrant should be subject to conditional registration; and
 - the fitness to practise (FtP) process through which a registrant may have conditions of practice imposed upon them.¹
- 3.3 As outlined in Social Work England’s registration rules, it will be possible to use conditional registration in a range of circumstances including:
 - where a registrant has a health condition which may impact on practice
 - where they have not met the standards for continuing professional development; or
 - where they are subject to ongoing or completed fitness to practise proceedings or other disciplinary proceedings by another regulatory body.
- 3.4 There will be a need to ensure that there are consistent outcomes for registrants who are subject to conditional registration and those who receive conditions of practice through the fitness to practise process. It will be important for Social Work England to ensure that there is not a risk of creating

¹ Professional Standards Authority 2019, *Response to Social Work England consultation on draft rules and standards*. Available at: <https://www.professionalstandards.org.uk/publications/detail/professional-standards-authority-response---social-work-england-consultation-on-draft-rules-and-standards>

false incentive for registrants to seek to be dealt with via a particular route due to a perception of more lenient outcomes.

- 3.5 There is little detail in the rules about how Social Work England would decide whether conditional registration was an appropriate course of action and with no detailed guidance provided, it is difficult for us to see how this process will be operated to ensure coherence with the FtP process. It will be important for Social Work England to set out clearly how it will decide whether it is appropriate to use conditional registration in these circumstances or whether a registrant should be referred into the FtP process.
- 3.6 Whilst we recognise this guidance is for registrants and therefore it may not be appropriate to include detailed operational guidance on use of conditional registration, we would still expect to see a reference to this power as it will be important for registrants to know that they may be subject to conditional registration and the circumstances in which one or other process is likely to be used. It will also be important for the wider public to understand the existence and purpose of conditional registration as we have highlighted the potential for public and employer confusion between conditional registration and conditions of practice imposed as part of an FtP process.
- 3.7 We would also have liked to see further detail about the process for monitoring of conditional registration and when it might be appropriate for a registrant to be transferred into the FtP process if there are concerns arising from non-compliance with conditions or emerging risks to public protection.

Annotations to the register

- 3.8 We note that there is currently no reference to Social Work England's process for agreeing annotations to the register for social workers qualified as best interest assessors and approved mental health practitioners. The rules provide this as a power to Social Work England and we would have expected to see a reference to this in the guidance for registrants. It will be important for registrants and wider stakeholders to be clear on what annotations mean and when they will be permitted.
- 3.9 As we outlined in our response on the SWE registration rules, it is our view that there should only be annotation of the register if it serves a clear public protection purpose. Our paper on maximising the contribution of regulatory bodies' registers to public protection may be useful for Social Work England to refer to.²

Other comments

- 3.10 Professional standards - We suggest that SWE may wish to consider increasing the prominence of the reference to professional standards in the guidance. By seeking registration with Social Work England, a professional is making a binding commitment to comply with the standards and practise in

² Professional Standards Authority 2010, *Maximising the contribution of regulatory bodies' registers to public protection*. Available at: <https://www.professionalstandards.org.uk/publications/detail/maximising-the-contribution-of-regulatory-bodies-registers-to-public-protection>

accordance with them. It may be helpful for this to be placed earlier in the document to signify their importance and to ensure that they are given the appropriate weight by the registrant from the start of their registration.

- 3.11 Continuing professional development – Although we note that CPD is being covered in separate guidance to be developed, in our view it would be helpful to outline in brief the requirements for registrants and cross-reference to the relevant guidance.
- 3.12 Appealing registration decisions – We suggest that Social Work England may wish to include a reference to the process for appealing registration decisions in the guidance. It will be important for registrants to be aware of how to appeal even if this is covered in detail in separate guidance.
- 3.13 Reasonable online applications – On page 4, we note that Social Work England will require applicants to create an online account in order to make a registration application and then to pay the registration fee, record CPD, renew registration and make any changes to personal details. Social Work England may need to add a reference to the ability to make any reasonable adjustments for anyone who may have difficulty submitting an application in this way and any support available from the regulator.
- 3.14 Honesty and integrity – On page 16, the guidance outlines the need for registrants to be honest when applying to join the register and ensure that if circumstances change, Social Work England is provided with updated information. It may be helpful for Social Work England to make a clearer statement to applicants that it is their responsibility to declare any relevant information when applying for registration and at any point during their registration period. This would be best placed earlier in the document, before the guidance goes into detail about the relevant convictions, cautions and penalty notices, health conditions and fitness to practise history.
- 3.15 Protected convictions and cautions – On page 10, when referring to protected offences it may be clearer to highlight in the guidance at this stage that certain offences are listed and therefore not protected and will need to be declared. Although listed offences are covered in detail on the next page it would be helpful to make this clear when describing the process for protected offences.

Guidance for applicants from the EEA and Switzerland

- 3.16 Membership of the European Union – It may be helpful to include in the guidance for applicants from the EEA and Switzerland a reference to the arrangements that will apply if the UK is no longer a member of the European Union. Whilst we recognise that the situation regarding EU membership is fluid and it is challenging for any regulator to provide definitive advice, a number of the other regulators have sought to provide information to registrants on the impact of leaving the EU in a deal and no deal scenario. Whilst we recognise that Social Work England may not wish to include detail in the guidance due to the risk of this dating the document, we suggest a reference to the current situation and a link to a web page for further information may provide a solution. The General Medical Council have a Q&A on Brexit on their website

which may be helpful in demonstrating the kind of information that could be provided.³

Guidance for Overseas Applicants

- 3.17 Periods of adaptation – Whilst we recognise that periods of adaptation are being covered in separate guidance, it would be helpful to understand the criteria that would be applied in deciding whether an applicant is required to undergo a period of adaptation or a test of competence.

4. Detailed comments – Continuing professional development

- 4.1 We welcome Social Work England’s commitment to building an evidence base to inform future requirements for social workers’ CPD and acknowledge that there is further engagement planned with stakeholders. However, we are concerned that the consultation does not suggest there has been any service user involvement in the initial development of the CPD process. Although the document mentions working with all those with an interest in social work, it does not explicitly make reference to the involvement of service users during its ongoing development.
- 4.2 We recognise that Social Work England has already considered findings from previous research, such as the recent study commissioned by the General Dental Council.⁴ However, we would have liked to have seen further detail on how Social Work England will gather information on risks associated with social work practice in order to inform the future approach. As mentioned in our response to Social Work England’s earlier consultation on its rules and standards⁵, regulatory requirements for continuing fitness to practise should be based on a clear assessment of the risks associated with social work practice. As we discuss in our paper on continuing fitness to practise, there is a range of regulatory responses to ensuring continuing fitness to practise which sit on a risk-based continuum, with revalidation at one end, and the auditing of self-reported, input based CPD at the other.⁶ We welcome the reference to our paper in the consultation document. An understanding of risk is also important to establish which specific areas of social work practice may be a focus of CPD activity.
- 4.3 We suggest that it may be helpful for Social Work England to clarify in any guidance produced for registrants the difference between wider learning to develop practice and what will be required by the regulator to ensure registrants remain compliant with standards and fit to practise.

³ General Medical Council, *Brexit – Information for Doctors*. Available at: <https://www.gmc-uk.org/news/news-archive/brexit---information-for-doctors>

⁴ General Dental Council / Association for Dental Education in Europe (ADEE) *A Review of the Literature on Continuing Professional Development (CPD)*. Available at: <https://www.gdc-uk.org/about-us/what-we-do/research/detail/fitness-to-practise/review-of-the-literature-on-cpd---2019>

⁵ Ibid.

⁶ Professional Standards Authority 2012, *An approach to assuring continuing fitness to practise based on right-touch regulation principles*. Available at: https://www.professionalstandards.org.uk/docs/default-source/publications/policy-advice/continuing-fitness-to-practise-based-on-right-touch-regulation-2012.pdf?sfvrsn=68c67f20_6

- 4.4 We note that Social Work England intends to use information gathered over the course of the 2019/2020 cycle to produce guidance for the following year. Given the need to allow time to analyse the evidence from the first year, the schedule appears extremely challenging. Social Work England will also need to take into account that registrants may be submitting more than one piece of evidence in order to meet all eight of the professional standards in relation to CPD.
- 4.5 Further to Paragraph 3.11 above, we welcome Questions 4 and 5 in relation to the potential impact on those with protected characteristics, especially given that the process will be exclusively online.

5. Further information

- 5.1 Please get in touch if you would like to discuss any aspect of this response in further detail. You can contact us at:

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