

## Response to Social Work England strategy for 2023 to 2026

December 2022

### 1. Introduction

1.3 The Professional Standards Authority for Health and Social Care (the Authority) promotes the health, safety, and well-being 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](http://www.professionalstandards.org.uk)

1.4 As part of our work we:

- Oversee the ten 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.

### 2. General comments

2.1 We welcome the opportunity to comment on the Social Work England Draft Corporate Strategy 2023-2026.

2.2 We support and welcome the commitment to equality and diversity in the strategy as well as the commitment to public protection. It is helpful to see the Social Work England values outlined clearly in the document. Whilst we welcome much of the focus of the strategy, ultimately its impact will depend on the effectiveness of the implementation.

### 3. Responses to questions in the consultation

#### Regulation and protection

*What do you think about our ambition to resolve concerns about social workers locally, where it is safe and appropriate to do so? (Question 1)*

3.1 We are broadly supportive of the ambition to resolve concerns locally to address the problem of over-referral, however, this approach can present risks too, and therefore its impact will depend on the detail and implementation. In principle, the strategy to resolve concerns locally provides opportunities for the improvement of public protection. However, in practice, this will depend on the

policy that Social Work England develop to underpin this, and how it is communicated to employers. In the implementation of the local approach, it is important that Social Work England maintains its focus on all three limbs of public protection. The impact of this shift to local resolution on those with protected characteristics and whistle-blowers should be carefully considered and monitored.

- 3.2 A risk we want to guard against is serious cases - where there are public protection concerns or a wider public interest in registrants being taken through the fitness to practise process being dealt with only at the local level. A constituent part of a safe approach should be the readiness of employers to refer an individual again if a concern reemerges or substantially changes.
- 3.3 In line with the focus on the prevention of harms outlined within the strategy, we are supportive of Social Work England's efforts to work locally to identify potentially aggravating factors early and prevent harm from occurring. To address the risks of over- and under-referral there should be total clarity regarding referral thresholds, and the communication of these thresholds will underpin the successful implementation of the strategy

*How could we continue to improve our approach to regulation? (Question 2)*

- 3.4 The Authority sets out its views through its formal oversight roles, reviewing and reporting on the performance of Social Work England as part of its statutory function.
- 3.5 The Authority outlined key challenges to health and care regulation in 'Safer care for all'<sup>1</sup>, two of which we have referred to under question four. In response to question eight, we have outlined suggestions for how Social Work England can tackle inequalities in social work, as per our report. The report sets out our recommendations for how regulators may address the changing landscape of business interests in care, and workforce pressures are detailed below. We also make recommendations relating to clarifying lines of accountability where new technologies are used and considering ways of speeding up workforce supply, which SWE might want to consider.

*Prevention and impact*

*We want to develop our leadership role in addressing risks to public protection. Where should we focus our activity? (Question 3)*

- 3.6 We acknowledge that the different regulators we oversee operate in different environments and that this can justify differences in the way regulators approach external developments and relationships.
- 3.7 Social Work England should focus its leadership activity on areas that affect the conduct and competence of its registrants. This includes, for example ensuring employer practices and the working environment helps rather than hinder registrants to meet Social Work England's Professional Standards and

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<sup>1</sup>Safer care for all, The Professional Standards Authority for Health and Social Care 2022  
[https://www.professionalstandards.org.uk/docs/default-source/publications/thought-paper/safer-care-for-all-solutions-from-professional-regulation-and-beyond.pdf?sfvrsn=9364b20\\_6](https://www.professionalstandards.org.uk/docs/default-source/publications/thought-paper/safer-care-for-all-solutions-from-professional-regulation-and-beyond.pdf?sfvrsn=9364b20_6)

encouraging registrants to promote equality, diversity and inclusion in their practice and tackle discriminatory behaviour.

- 3.8 We recognise that there is a need for leadership in the sector to encourage collaboration to help identify and act on risks of harm. However, there remains a risk of conflating the role of representing the profession with that of regulating it. Therefore, we suggest that some basic criteria are considered before Social Work England engages in any issue that might be considered to go beyond its core remit:
- The activity should reduce the probability of harm (see *Right-touch regulation*)<sup>2</sup>
  - Engaging with the issue should not conflict with or undermine the core purpose of the regulator as set out in its legislation
  - Engagement with the issue should not detract or distract the regulator from its core tasks.
- 3.9 The Authority retains its commitment to review the performance of Social Work England in line with our standards and the core function of the regulator. Through this review, we will monitor any impacts of Social Work England developing its leadership role on the performance of its core functions.

### ***Delivery and improvement***

*What could the barriers to us achieving our aims over the next 3 years be? Please give reasons for your answer. (Question 4)*

- 3.10 The Professional Standards Authority's report 'Safer Care for All' identifies persistent and emerging barriers to public protection, and how professional regulation could contribute to improvements across the health and care sector. The pressing workforce challenges and shifting landscape of models of care delivery and funding are outlined in 'Safer Care for All', and are highly relevant to ongoing challenges within social work specifically. We are aware of the increasing use of agency social workers in children's social work and the reported upcoming DfE proposals on restricting agency staff use<sup>3</sup>. At the same time, over the next three years, technology will continue to transform how we deliver care across the sector. Developments in technology, data analytics and artificial intelligence offer opportunities for improvements in care, whilst also posing new risks.
- 3.11 As the workforce pressures remain pressing across the sector, we are mindful of the impact this may have on standards. Additionally, with Social Work England looking to engage with registrants in order to deliver its strategic priorities of harm prevention, this may prove challenging with social workers under pressure to provide care.

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<sup>2</sup> [https://www.professionalstandards.org.uk/docs/default-source/publications/thought-paper/right-touch-regulation-2015.pdf?sfvrsn=eaf77f20\\_20](https://www.professionalstandards.org.uk/docs/default-source/publications/thought-paper/right-touch-regulation-2015.pdf?sfvrsn=eaf77f20_20)

<sup>3</sup> [DfE working on plan to restrict use of agency social workers, says ADCS president - Community Care](#)

- 3.12 We note that Social Work England is in the process of seeking relatively minor changes to its regulations which should help it to operate more efficiently.

*How could we share data and insight to drive positive change in the sector and profession? Please give reasons for your answer. (Question 5)*

- 3.13 Data and insight are central to Social Work England's strategic intention to prevent harm, and in ensuring regulation is fair and inclusive.
- 3.14 Data should be at the heart of Social Work England's evaluation of changes that result from this strategy. For example, appropriate metrics should be devised and measured to ensure a focus on resolving complaints locally does not have a disproportionate impact on any demographic groups or whistle-blowers. The detail of how the strategy is implemented, measured, and evaluated will be central.
- 3.15 Social Work England has an opportunity to drive change by using data to provide evidence for regulatory action. By pooling data and sharing learning with others in the sector and beyond, the evidence base for action can become more robust.
- 3.16 Data is a key tool for harm prevention, it can inform ways regulators can reduce the instances of noncompliance with their standards through their interventions and influence. As outlined in Right-touch reform<sup>4</sup> The Australian Health Practitioner Regulation Agency provides an example of a data-based approach to harm in the context of risk-based regulation. They aim to 'collect information on harm in a systematic manner and then identify hotspots of risk that are amendable to a regulatory response. This approach entails:
- 'A focus on identifying and reducing risks and harms
  - Selective action based on identified risks
  - Evidence-based regulatory action and policy
  - Using a wider range of practice to prevent harm
  - Reducing unneeded regulatory interventions.<sup>5</sup>
- 3.17 Data and analysis of the impact of Social Work England's policies on demographics are also needed for Social Work England to achieve its strategic priority of equality, diversity and inclusion. Across many of the statutory regulators we oversee, there continues to be a disparity in the outcomes of fitness to practise cases by protected characteristics. To drive change in this area, the Professional Standards Authority provided policy recommendations to use data to tackle inequalities in Chapter one of 'Safer care for all. The relevant recommendations (2-4) for regulators from that chapter are as follows:

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<sup>4</sup> [https://www.professionalstandards.org.uk/docs/default-source/publications/thought-paper/right-touch-reform-2017.pdf?sfvrsn=2e517320\\_7](https://www.professionalstandards.org.uk/docs/default-source/publications/thought-paper/right-touch-reform-2017.pdf?sfvrsn=2e517320_7)

<sup>5</sup> 18 AHPRA working definition of risk-based regulation, and following bullet points, were presented to the International Society for Quality in Healthcare International Conference, London, October 2017, by Martin Fletcher, Chief Executive.

- ‘Regulators and registers work collaboratively to improve the diversity of fitness to practise panels, other decision-makers, and senior leadership to ensure they reflect the diversity of the community more closely.
- Regulators and registers work with other health and care bodies to gain a better understanding of the demographic profile of complainants and reduce barriers to raising complaints for particular groups.
- Regulators and registers review how their fitness to practise processes and guidance address allegations of racist and discriminatory behaviour.’<sup>6</sup>

*What do you most need from the regulator of social work and is this reflected in the strategy? Please give reasons for your answer. (Question 6)*

- 3.18 Social Work England’s role is to ensure public protection by promoting and maintaining professional standards, promoting and maintaining public health, safety and wellbeing, and ensuring public confidence in the profession. It should ensure that it remains focused on this duty. We believe this strategy addresses the duty through the guiding theme – maintaining standards through regulatory activity, whilst focusing on prevention and impact to minimise the probability of harm and deliver safe care.

#### **Questions across all themes**

*Do you think that the strategy could impact any persons with a protected characteristic? If so, is it positively, or negatively? Please give reasons for your answer. The Equality Act (2010) lists 9 protected characteristics: age, disability, gender reassignment, race, religion or belief, sex, sexual orientation, marriage and civil partnership and pregnancy and maternity. (Question 7)*

- 3.19 We welcome the focus on commitment to equality, diversity, and inclusion. The reference to anti-oppressive practise and anti-racism in all aspects of practice is particularly welcomed. We would like to see an equality impact assessment from Social Work England published alongside the strategy in this consultation.
- 3.20 The strategy has not outlined the metrics by which success will be measured and judged, and how Social Work England will monitor the impact of the strategy through its implementation. To understand the equality impact of the strategy, appropriate metrics should be developed and monitored, to monitor all demographics and protected categories.
- 3.21 An example of an area that may need careful monitoring is the proposal for concerns to be resolved locally. This has the potential to impact persons with protected characteristics, as discrimination and bias at the local level may remain unchecked. To mitigate this, Social Work England could develop and measure metrics to evaluate the impacts of changes, particularly concerning data that can illustrate the impact of the changes to equality, diversity, and inclusion.

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<sup>6</sup> Safer care for all, The Professional Standards Authority for Health and Social Care 2022  
[https://www.professionalstandards.org.uk/docs/default-source/publications/thought-paper/safer-care-for-all-solutions-from-professional-regulation-and-beyond.pdf?sfvrsn=9364b20\\_6](https://www.professionalstandards.org.uk/docs/default-source/publications/thought-paper/safer-care-for-all-solutions-from-professional-regulation-and-beyond.pdf?sfvrsn=9364b20_6)

- 3.22 Overall, whilst we cannot comment on the impact of the strategy on particular groups without further detail, we would like to underline the importance of data collection and analysis to understand any impacts upon demographics across protected characteristics.

*Do you have any other comments that you would like to share with us?  
(Question 8)*

- 3.23 No.

#### **4. Further information**

- 4.1 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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