

Children and Social Work Bill [HL]

AMENDMENTS
TO BE MOVED
ON REPORT

[Supplementary to the Marshalled List]

Before Clause 34

LORD NASH

Insert the following new Clause—

“Social Work England

- (1) A body corporate called Social Work England is established.
- (2) Social Work England is referred to in this Part as “the regulator”.
- (3) Schedule (*Social Work England*) makes further provision about the regulator.
- (4) The Secretary of State may by regulations rename Social Work England.
- (5) Regulations under subsection (4) may include consequential amendments to any provision contained in or made under this or any other Act.”

Insert the following new Clause—

“Over-arching objective

- (1) The over-arching objective of the regulator in exercising its functions is the protection of the public.
- (2) The pursuit by the regulator of its over-arching objective involves the pursuit of the following objectives—
 - (a) to protect, promote and maintain the health, safety and well-being of the public;
 - (b) to promote and maintain public confidence in social workers in England;
 - (c) to promote and maintain proper professional standards for social workers in England.”

Clause 34

LORD NASH

Leave out Clause 34

Clause 35

LORD NASH

Leave out Clause 35

Clause 36

LORD NASH

Page 23, line 17, leave out subsection (1) and insert –

“(1) The regulator must keep a register of social workers in England.

(1A) The Secretary of State may by regulations require the regulator to keep a register of people who are undertaking education or training in England to become social workers.”

Page 23, line 22, after “The” insert “Secretary of State may by”

Page 23, line 23, leave out paragraph (a) and insert –

“() authorise the regulator to appoint a member of staff as a registrar;

() make provision about the functions of the registrar;”

Page 23, line 24, leave out “may”

Page 23, line 26, at end insert –

“() the combination of the registers mentioned in subsections (1) and (1A);”

Page 23, line 36, leave out “fitness to be or to remain registered” and insert “any matter in connection with the register or registration”

Page 23, line 37, at end insert –

“() evidence in legal proceedings of matters contained in the register (including provision for a certificate to be conclusive proof).”

Clause 37

LORD NASH

Page 24, line 2, leave out “Social worker regulations may” and insert “The Secretary of State may by regulations”

Page 24, line 5, after “use” insert “, in relation to social work in England,”

Clause 38

LORD NASH

Page 24, line 9, leave out subsection (1) and insert –

“(1) The regulator must determine and publish professional standards for social workers in England.

Clause 38 - continued

“(1A) If the regulator is required to keep a register of students, it must determine and publish standards of conduct or ethics for registered students.

- (1B) Before determining a standard under this section the regulator must –
- (a) consult such persons as the regulator considers appropriate, and
 - (b) obtain the Secretary of State’s approval of the standard.”

Page 24, line 13, leave out “Social worker regulations may” and insert “The Secretary of State may by regulations”

Page 24, line 14, after “standard” insert “under subsection (1)”

Page 24, line 21, leave out subsection (4)

Clause 39

LORD NASH

Page 24, line 27, leave out subsection (1) and insert –

“(1) The regulator must, in relation to people who are or who wish to become social workers in England, determine and publish standards of education or training.

- (1A) Before determining a standard under this section the regulator must –
- (a) consult such persons as the regulator considers appropriate, and
 - (b) obtain the Secretary of State’s approval of the standard.”

Page 24, line 30, leave out “Social worker regulations may” and insert “The Secretary of State may by regulations”

Page 24, line 31, leave out “accreditation” and insert “approval”

Page 24, line 36, leave out “accreditation” and insert “approval”

Page 24, line 39, leave out first “accreditation” and insert “approval”

Page 24, line 39, leave out second “accreditation” and insert “approval”

Page 24, line 40, leave out first “accreditation” and insert “approval”

Page 24, line 40, leave out second “accreditation” and insert “approval”

Page 24, line 41, at end insert –

- “() inspections in connection with the approval or continued approval of courses or qualifications (including provision for the appointment of people to carry out inspections);”

Clause 39 - continued

Page 24, line 41, at end insert –

“() appeals against decisions in connection with approval;”

Page 24, line 42, at end insert –

- “() The provision that may be made under the regulations about the appointment of people to carry out inspections includes provision about –
- (a) payments to be made to those appointed;
 - (b) staff, facilities or other assistance.”

Clause 40

LORD NASH

Page 25, line 2, leave out subsection (1) and insert –

- “(1) The regulator must –
- (a) make arrangements for protecting the public from social workers in England whose fitness to practise is impaired, and
 - (b) make arrangements for taking other disciplinary action against social workers in England.
- (1A) The Secretary of State may by regulations require the regulator to make arrangements for taking disciplinary action against registered students.
- (1B) The Secretary of State may by regulations make further provision about –
- (a) fitness to practise as a social worker in England,
 - (b) discipline of social workers in England or registered students, and
 - (c) the arrangements to be made under subsection (1) or (1A).”

Page 25, line 7, at end insert “on behalf of the regulator”

Page 25, line 17, at end insert –

“() publication of decisions.”

Page 25, line 17, at end insert –

- “() The provision that may be made about persons appointed under the regulations includes provision about –
- (a) payments to those persons;
 - (b) staff, facilities or other assistance.”

Clause 41

LORD NASH

Page 25, line 19, leave out “Social worker regulations may” and insert “The Secretary of State may by regulations”

Clause 41 - *continued*

Transpose Clause 41 to before Clause 34

Clause 42

LORD NASH

Page 25, line 31, leave out subsection (1)

Page 25, line 33, leave out from beginning to “give” and insert “The Secretary of State may”

Page 25, line 38, leave out “regulations may” and insert “Secretary of State may by regulations”

Page 26, line 2, leave out “specified person” and insert “Secretary of State”

Page 26, line 5, leave out “specified person” and insert “Secretary of State”

Page 26, line 7, leave out “specified person’s” and insert “Secretary of State’s”

Transpose Clause 42 to after Clause 47

Clause 43

LORD NASH

Page 26, leave out lines 9 and 10 and insert –

- “(1) The regulator may publish or disclose information about any matter relating to its functions or give advice about any matter relating to its functions.
- (2) The Secretary of State may by regulations –
 - (a) make provision requiring the regulator to publish or disclose information, or give advice, under subsection (1);
 - (b) make other provision supplementing subsection (1).”

Transpose Clause 43 to after Clause 47

Clause 44

LORD NASH

Page 26, leave out lines 12 and 13 and insert –

- “(1) The regulator must where appropriate co-operate with the following in the exercise of its functions –
 - (a) Social Care Wales,
 - (b) the Scottish Social Services Council,
 - (c) the Northern Ireland Social Care Council, and

Clause 44 - continued

- (d) any other person specified in regulations made by the Secretary of State.
- (2) Until section 67(3) of the Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2) comes fully into force, the reference in subsection (1)(a) to Social Care Wales is to be read as a reference to the Care Council for Wales.”

Transpose Clause 44 to after Clause 47

Clause 45

LORD NASH

Page 26, line 15, leave out subsections (1) to (3) and insert—

- “() The Secretary of State may make a scheme for the transfer of property, rights and liabilities from the Health and Care Professions Council (the “old regulator”) to Social Work England.
- () The things that may be transferred under a transfer scheme include—
 - (a) property, rights and liabilities that could not otherwise be transferred;
 - (b) property acquired, and rights and liabilities arising, after the making of the scheme.”

Page 26, line 31, leave out “The regulations may provide that”

Page 26, line 45, at end insert—

- “() A transfer scheme may provide—
 - (a) for modification by agreement;
 - (b) for modifications to have effect from the date when the original scheme came into effect.”

Transpose Clause 45 to after Clause 50

Clause 46

LORD NASH

Page 27, line 9, leave out “Social worker regulations may” and insert “The Secretary of State may by regulations”

Page 27, line 15, leave out first “accreditation” and insert “approval”

Page 27, line 15, leave out second “accreditation” and insert “approval”

Page 27, line 17, leave out subsection (2)

Clause 46 - continued

Page 27, line 20, leave out subsection (3) and insert –

- “(3) The regulator is responsible for setting the level of fees in accordance with any provision made by the regulations.
- (3A) Before determining the level of any fee the regulator must –
 - (a) consult any persons they consider appropriate, and
 - (b) obtain the approval of the Secretary of State.”

Page 27, line 26, leave out “whoever is setting the fees to do so” and insert “the level of any fees to be set”

Page 27, line 28, at end insert –

- “(6) Regulations under this section may include provision about the collection and recovery of fees.
- (7) The regulations must require the regulator to pay any fee income to the Secretary of State unless the Secretary of State, with the consent of the Treasury, directs otherwise.”

Clause 47

LORD NASH

Page 27, leave out lines 30 to 32 at end insert –

- “(1) The Secretary of State may make grants to the regulator.
- (2) A grant under this section may be made subject to any conditions the Secretary of State thinks are appropriate.”

After Clause 47

LORD NASH

Insert the following new Clause –

“Information for Secretary of State

The regulator must provide any information that the Secretary of State requests in relation to the exercise of the regulator’s functions.”

Insert the following new Clause –

“Oversight by the Professional Standards Authority for Health and Social Care

Schedule (*Oversight by the Professional Standards Authority for Health and Social Care*) contains amendments to give the Professional Standards Authority for Health and Social Care functions to oversee the regulator.”

Clause 48

LORD NASH

Page 27, line 35, leave out from beginning to “create” and insert “The Secretary of State may by regulations”

Page 27, line 41, leave out “the regulations” and insert “regulations under section 36 or 40”

Page 28, line 2, leave out “the regulations” and insert “regulations under section 36 or 40”

Page 28, line 3, leave out “If social worker regulations create an offence,”

Transpose Clause 48 to after Clause 40

Clause 49

LORD NASH

Page 28, line 7, leave out “Social worker regulations” and insert “Regulations under this Part”

Page 28, line 9, leave out “Social worker regulations” and insert “Regulations under this Part”

Page 28, line 10, leave out from “Crown” to end of line 11

Page 28, line 12, leave out subsection (3) and insert –

- “() Regulations under this Part may –
 - (a) confer power on the regulator to make rules;
 - (b) make provision in connection with the procedure for making those rules (including provision requiring the regulator to obtain the Secretary of State’s approval before making rules of a specified description).”

Page 28, line 14, leave out “social worker regulations” and insert “regulations under this Part”

Clause 50

LORD NASH

Page 28, line 20, leave out “social worker regulations” and insert “regulations under this Part”

Page 28, line 22, leave out “social worker regulations” and insert “regulations under this Part”

Clause 50 - continued

Page 28, line 24, at end insert –

- “() The duties imposed by subsections (1) and (2) do not apply –
- (a) to regulations under section (*Social Work England*) (renaming of Social Work England), or
 - (b) where the regulations amend other regulations and, in the opinion of the Secretary of State, they do not make any substantial change.”

After Clause 50

LORD NASH

Insert the following new Clause –

“Parliamentary procedure for regulations

- (1) Regulations under section (*Social Work England*) (renaming of Social Work England) are subject to the negative resolution procedure.
- (2) Any other regulations under this Part are subject to the affirmative resolution procedure.”

Clause 52

LORD NASH

Page 29, line 10, at end insert –

““professional standards” includes standards relating to –
 proficiency;
 performance;
 conduct and ethics;
 continuing professional training and development;”

Page 29, leave out lines 11 and 12 and insert –

““register” means a register mentioned in section 36(1) or (1A) (and related expressions are to be read accordingly);
 “register of students” means a register mentioned in section 36(1A)(and related expressions are to be read accordingly);”

Page 29, leave out lines 16 and 17 and insert –

““the regulator” has the meaning given by section (*Social Work England*);”

Clause 53

LORD NASH

Page 29, line 30, leave out “of social workers”

Page 29, line 31, leave out “of social workers”

Clause 53 - continued

Page 29, line 33, after “include” insert “further”

Page 29, line 39, at end insert –

“() make provision about inspections in connection with the approval or continued approval of courses (including provision for the appointment of people to carry out inspections);”

Page 29, line 42, at end insert –

“() make provision about appeals against decisions in connection with approval;”

Page 29, line 42, at end insert –

“() make provision limiting the regulator’s power to approve courses run outside the United Kingdom to those run by institutions approved by the regulator or approved by a person with whom the regulator has made arrangements.”

Page 29, line 42, at end insert –

“() The provision that may be made under the regulations about the appointment of people to carry out inspections includes provision about –
(a) payments to be made to those appointed;
(b) staff, facilities or other assistance.”

Page 29, line 43, leave out from “section 46” to end of line 44 and insert “(3) to (7) apply for the purposes of this section as they apply for the purposes of that section”

Page 30, line 1, leave out subsections (5) to (7)

Transpose Clause 53 to after Clause 40

Clause 54

LORD NASH

Page 30, line 18, leave out “the regulator of social workers” and insert “Social Work England”

Page 30, line 24, leave out “the regulator of social workers” and insert “Social Work England”

Page 30, line 27, leave out “the regulator of social workers” and insert “Social Work England”

Clause 54 - continued

Page 30, line 28, leave out from “section 46” to end of line 33 and insert “(3) to (7) of the Children and Social Work Act 2016 apply for the purposes of sub-paragraph (2B) as they apply for the purposes of that section.”

Transpose Clause 54 to after Clause 40

Clause 59

LORD NASH

Page 31, line 34, at end insert –

“() Sections 56, 57 and 58 extend to England and Wales and Scotland.”

After Clause 61

LORD NASH

Insert the following new Schedule –

“SCHEDULE

SOCIAL WORK ENGLAND

Status

- 1 (1) The regulator is not to be regarded –
 - (a) as a servant or agent of the Crown, or
 - (b) as enjoying any status, immunity or privilege of the Crown.
- (2) The members and staff of the regulator are not to be regarded as Crown servants.

Members

- 2 The regulator is to consist of –
 - (a) a chair appointed by the Secretary of State, and
 - (b) such other members as the Secretary of State may appoint.

Term of office

- 3 A member holds and vacates office in accordance with the terms of the member’s appointment (subject as follows).
- 4 A member may resign by giving written notice to the Secretary of State.
- 5 The Secretary of State may by notice in writing remove a member who –
 - (a) has without reasonable excuse failed to discharge the functions of his or her office, or
 - (b) in the opinion of the Secretary of State is otherwise unable or unfit to carry out his or her duties.

Remuneration and pensions

- 6 The regulator may pay to the members such remuneration, allowances and expenses as the Secretary of State may decide.
- 7 If required to do so by the Secretary of State, the regulator must –

After Clause 61 - continued

- (a) pay such pensions or gratuities to or in respect of any member as the Secretary of State may decide;
- (b) pay such sums as the Secretary of State may decide towards provision for the payment of pensions or gratuities to or in respect of any member.

Staff

- 8 (1) The regulator must appoint a person to be chief executive, but may only appoint a person who has been approved by the Secretary of State.
- (2) The chief executive is an employee of the regulator.
 - (3) The Secretary of State may appoint the first chief executive.
- 9 The regulator may appoint other staff.
- 10 (1) The regulator's staff may be appointed on such terms, including relating to remuneration and pension arrangements, as the regulator may decide.
- (2) The regulator must obtain the Secretary of State's approval for any terms relating to remuneration or pension arrangements.

Procedure

- 11 The regulator may determine its own procedure (including quorum).
- 12 No proceeding is invalidated by –
- (a) a vacancy in the office of chair, or
 - (b) a defect in the appointment of any member.

Delegation

- 13 (1) The regulator may delegate functions to a committee, sub-committee, member or member of staff.
- (2) The functions that may be delegated under sub-paragraph (1) –
 - (a) include the power conferred by that sub-paragraph, but
 - (b) do not include any power or duty to make rules.
- 14 (1) The regulator may delegate functions to any other person if –
- (a) the regulator considers that the delegation is likely to lead to an improvement in the exercise of its functions, and
 - (b) the person has agreed to the terms of the delegation.
- (2) The functions that may be delegated under sub-paragraph (1) do not include –
 - (a) the power conferred by that sub-paragraph, or
 - (b) any power or duty to make rules.
 - (3) The terms of a delegation under sub-paragraph (1) may include terms requiring payments by the regulator.
- 15 (1) A function may be delegated under paragraph 13 or 14 –
- (a) wholly or partly;
 - (b) generally or only in specified circumstances;
 - (c) unconditionally or subject to specified conditions.

After Clause 61 - continued

- (2) A delegation does not prevent the regulator (or the person making the delegation, if different) from exercising the function or making other arrangements for its exercise.
- (3) A delegation does not affect any liability or responsibility of the regulator for the exercise of its functions.

Membership of committees and sub-committees

- 16 (1) A committee or sub-committee of the regulator may include persons who are not members of the regulator.
- (2) The regulator may pay such remuneration and allowances as the Secretary of State may determine to any person who—
 - (a) is a member of a committee or sub-committee, but
 - (b) is not a member or member of staff of the regulator.

Annual reports and accounts

- 17 As soon as possible after the end of each financial year, the regulator must send the Secretary of State a report on the exercise of its functions during the year.
- 18 (1) The regulator must keep proper accounts and proper records in relation to the accounts.
 - (2) The regulator must prepare a statement of accounts for each financial year.
 - (3) The statement must be in such form as the Secretary of State may direct.
 - (4) The regulator must send a copy of the statement to —
 - (a) the Secretary of State, and
 - (b) the Comptroller and Auditor General,within the time period directed by the Secretary of State.
 - (5) The Comptroller and Auditor General must—
 - (a) examine, certify and report on the statement of accounts, and
 - (b) send a copy of the certified statement and of the report to the Secretary of State as soon as possible.
- 19 The Secretary of State must, in respect of each financial year, lay before Parliament a document consisting of—
 - (a) the annual report sent under paragraph 17, and
 - (b) the certified statement of accounts and report sent under paragraph 18(5)(b).
- 20 In paragraphs 17 to 19 “financial year” means—
 - (a) the period beginning with the day on which this Schedule comes fully into force and ending with the following 31 March, and
 - (b) every subsequent period of 12 months ending with 31 March.

Application of seal and evidence

- 21 The application of the regulator’s seal must be authenticated by the signature of—
 - (a) a member of the regulator, or

After Clause 61 - continued

- (b) any other person who is authorised (generally or specially) for that purpose.
- 22 A document purporting to be duly executed under the seal of the regulator—
- (a) is to be received in evidence, and
 - (b) is to be treated as so executed unless the contrary is shown.

Disqualification

- 23 In Part 2 of Schedule 1 to the House of Commons Disqualification Act 1975 (bodies of which all members are disqualified), at the appropriate place insert—
- “Social Work England.”

Freedom of information

- 24 In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (other public bodies and offices: general), at the appropriate place insert—
- “Social Work England.””

Insert the following new Schedule—

“SCHEDULE

OVERSIGHT BY THE PROFESSIONAL STANDARDS AUTHORITY FOR HEALTH AND SOCIAL CARE

- 1 The National Health Service Reform and Health Care Professions Act 2002 is amended as follows.
 - 2 In section 25 (the Professional Standards Authority for Health and Social Care), in subsection (3), after paragraph (gb) (but before the “and” at the end) insert—
 - “(gc) Social Work England”.
 - 3 (1) Section 25A (funding of the Authority) is amended as follows.
 - (2) In subsection (1), after “regulatory body” insert “, other than Social Work England,”.
 - (3) At the end of the heading insert “by bodies other than Social Work England”.
 - 4 After section 25A insert—
- “25AA **Funding of the Authority by Social Work England**
- (1) The Secretary of State must by regulations require Social Work England to pay the Authority periodic fees of such amount as the Secretary of State determines in respect of such of the Authority’s functions in relation to Social Work England as are specified in the regulations.
 - (2) A reference in this section to the Authority’s functions does not include a reference to its functions under section 26A.
 - (3) The regulations must, in particular, provide for the method of determining the amount of a fee under the regulations.
 - (4) Before determining the amount of a fee under the regulations, the Secretary of State must request the Authority to make a proposal as to the amount of funding that it considers it requires in order to perform for the period to which the fee would apply such of its functions in relation to Social Work England as are specified in the regulations.

After Clause 61 - continued

- (5) The Authority must—
 - (a) comply with a request under section (4), but
 - (b) before doing so, consult Social Work England.
 - (6) Having received a proposal under subsection (5), the Secretary of State may consult Social Work England.
 - (7) Having taken into account any representations from Social Work England, the Secretary of State must—
 - (a) make a proposal as to the amount of funding that the Secretary of State considers the Authority requires in order to perform for the period to which the fee would apply such of its functions in relation to Social Work England as are specified in the regulations, and
 - (b) determine in accordance with the method provided for under subsection (3) the amount of the fee that Social Work England would be required to pay.
 - (8) The Secretary of State must—
 - (a) consult the Authority about the proposal under subsection (7)(a) and the determinations under subsection (7)(b), and
 - (b) consult Social Work England about the determination under subsection (7)(b) of the amount it would be required to pay.
 - (9) Having taken into account such representations as it receives from consultees, the Secretary of State must—
 - (a) determine the amount of funding that the Authority requires in order to perform for the period to which the fee would apply such of its functions in relation to Social Work England as are specified in the regulations, and
 - (b) determine in accordance with the method provided for under subsection (3) the amount of the fee that Social Work England is to be required to pay.
 - (10) Regulations under this section requiring payment of a fee may make provision—
 - (a) requiring the fee to be paid within such period as is specified;
 - (b) requiring interest at such rate as is specified to be paid if the fee is not paid within the period specified under paragraph (a);
 - (c) for the recovery of unpaid fees or interest.
 - (11) The regulations may enable the Secretary of State to redetermine the amount of a fee provided for under the regulations, on a request by the Authority or Social Work England or on the Secretary of State's own initiative.
 - (12) Before making regulations under this section, the Secretary of State must consult—
 - (a) the Authority,
 - (b) Social Work England, and
 - (c) such other persons as the Secretary of State considers appropriate.”
- 5 In section 25C (appointments to regulatory bodies) is amended as follows, in subsection (7), after “Northern Ireland” insert “or Social Work England”.

After Clause 61 - continued

- 6 (1) Section 25D (power of regulatory bodies to establish voluntary registers) is amended as follows.
- (2) In subsection (1), after “regulatory body” insert “other than Social Work England”.
- (3) In subsection (2), omit paragraph (b) and the “or” before it.
- 7 In section 25E (section 25D: interpretation), omit subsections (10) and (11).
- 8 In section 25F (establishment of voluntary register: impact assessment), in subsection (3)(c), for “, users of social care in England and users of social work services in England” substitute “and users of social care in England”.
- 9 In section 25G (power of the Authority to accredit voluntary registers), after subsection (9) insert—
- “(10) In this section “regulatory body” does not include Social Work England.”
- 10 In section 25H (accreditation of voluntary register: impact assessment), in subsection (3)(c), for “, users of social care in England and users of social work services in England” substitute “and users of social care in England”.
- 11 In section 25I (functions of the Authority in relation to accredited voluntary registers), in subsection (1)(a), omit “, users of social work services in England”.
- 12 (1) Section 26A (powers of Secretary of State and devolved administrations) is amended as follows.
- (2) In subsection (1D), omit paragraph (b).
- (3) For subsection (1E) substitute—
- “(1E) In subsection (1D), “unregulated social care worker in England” has the meaning given in section 25E.”
- 13 In section 27 (regulatory bodies and the Authority), in subsection (2), after “regulatory body” insert “other than Social Work England”.
- 14 In section 28 (complaints), in subsection (1), after “regulatory body” insert “other than Social Work England”.
- 15 (1) Section 29 (reference to disciplinary cases by the Authority to court) is amended as follows.
- (2) After subsection (2) insert—
- “(2A) This section also applies to any steps or decisions which are taken by Social Work England (or any of its committees or officers) in connection with fitness to practise or discipline and which are of a description specified in regulations made by the Secretary of State.”
- (3) For subsection (5A) substitute—
- “(5A) In relation to something that is a relevant decision as a result of subsection (2A), “the relevant court” means the High Court of Justice in England and Wales.”
- 16 (1) Section 38 (regulations and orders) is amended as follows.
- (2) In subsection (2), after “other than” insert “regulations under 29(2A) or”.

(3) In subsection (3), after “28” insert “or 29(2A)”.

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TO BE MOVED
ON REPORT

1 November 2016
