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Written evidence reported to the House.
CLAUSES 184 and 193 to 211 agreed to.
CLAUSE 212, as amended, under consideration when the Committee adjourned till this day at Four o’clock.
Members who wish to have copies of the Official Report of Proceedings in General Committees sent to them are requested to give notice to that effect at the Vote Office.

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not later than

Saturday 2 April 2011

STRICT ADHERENCE TO THIS ARRANGEMENT WILL GREATLY FACILITATE THE PROMPT PUBLICATION OF THE BOUND VOLUMES OF PROCEEDINGS IN GENERAL COMMITTEES

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The Committee consisted of the following Members:

**Chairs:** † Mr Jim Hood, Mr Mike Hancock, Mr Roger Gale, Dr William McCrea

† Abrahams, Debbie (Oldham East and Saddleworth) (Lab)
† Barron, Mr Kevin (Rother Valley) (Lab)
† Blenkinsop, Tom (Middlesbrough South and East Cleveland) (Lab)
† Brine, Mr Steve (Winchester) (Con)
† Burns, Mr Simon (Minister of State, Department of Health)
† Burstow, Paul (Minister of State, Department of Health)
† Byles, Dan (North Warwickshire) (Con)
† Crabb, Stephen (Preseli Pembrokeshire) (Con)
† de Bois, Nick (Enfield North) (Con)
† James, Margot (Stourbridge) (Con)
† Kendall, Liz (Leicester West) (Lab)
† Lefroy, Jeremy (Stafford) (Con)
† Morgan, Nicky (Loughborough) (Con)
† Poulter, Dr Daniel (Central Suffolk and North Ipswich) (Con)
† Pugh, John (Southport) (LD)
† Shannon, Jim (Strangford) (DUP)
† Smith, Owen (Pontypridd) (Lab)
† Soubry, Anna (Broxtowe) (Con)
† Sturdy, Julian (York Outer) (Con)
† Thornberry, Emily (Islington South and Finsbury) (Lab)
† Turner, Karl (Kingston upon Hull East) (Lab)
† Twigg, Derek (Halton) (Lab)
† Wilson, Phil (Sedgefield) (Lab)

Chris Stanton, Mark Etherton, Committee Clerks

† attended the Committee
Public Bill Committee

Tuesday 29 March 2011
(Morning)

[Mr Jim Hood in the Chair]

Health and Social Care Bill

Written evidence to be reported to the House

HS 115 Professor Martin McKee and others
HS 116 City of London Corporation
HS 117 Turning Point
HS 118 Chartered Institute of Housing and Northern Housing Consortium
HS 119 Roderick Martin
HS 120 British Acupuncture Council
HS 121 Penelope Jarrett
HS 122 Michael O’Riordan
HS 123 George C A Talbot
HS 124 Julie Partridge

10.30 am

Derek Twigg (Halton) (Lab): On a point of order, Mr Hood. In the press this morning we have again seen reports that there will be significant changes to the Bill. A senior adviser is quoted as saying:

“The report stage of the Health and Social Care Bill has now been delayed until after the Easter recess to make time for an agreement to be reached on reforming the reforms.”

The article goes on to say that the Liberal Democrats and the Conservatives are having a bit of battle about who will bring forward the reforms. One quote says:

“We can’t afford to subcontract niceness.”

Will the Minister be making a statement on the Government’s proposes reforms of the Bill? If he cannot make it today, perhaps he will make it towards the end of the Committee to give us some idea.

The Chair: I hear what the hon. Gentleman is saying, and I understand what he has read out, but, unfortunately, that is not a point of order. I am sure he will find other means to explore his inquiries.

Clause 184

Care Trusts

Question proposed, That the clause stand part of the Bill.

Emily Thornberry (Islington South and Finsbury) (Lab): We come to one of the areas of health policy in which it is universally agreed that there must be further integration of services, particularly between social care and health. Our concern is that the clause will have a number of unintended consequences.

In some areas, although in many ways not enough, there are good integrated arrangements between councils and primary care trusts. As drafted, the clause makes no reference to the existing legal arrangements between councils and PCTs that have integrated council and PCT functions. Herefordshire and Blackburn provide good examples of such integration. On 23 March, Blackburn with Darwen borough council was named council of the year by the Local Government Chronicle, and one of the reasons cited for the award was its joint working arrangements on health. Another example is North East Lincolnshire council. Those two councils have moved towards full integration between local authority and PCT functions. They have taken advantage of the fact that many PCTs and local government organisations have coterminous boundaries, which is not the case under the Government’s new arrangements.

Such integration of social care has been done with the full agreement and full support of the Department of Health. Councils have done such things as integrate research, human resources, finance and management. In Herefordshire there is full integration between the PCT and the local authority with a joint chief executive and backroom staff.

There is a further, lower tier of local authorities—15 or 20 councils—which, although they have not gone as far as Lincolnshire, Herefordshire and Blackburn, have gone some way down the same path. One of them is my local authority of Islington. I have spoken to members of staff at Islington, and they say that they might be sitting next to someone and have no idea whether that person is employed by the primary care trust or by the local authority. All they know is that they are working together for the good of the people of Islington.

The concern is that the Bill is driving a coach and horses through the attempts that local authorities and PCTs have made to develop properly integrated social care and care services for the people they serve. Whether or not there is truth to the rumours that the Bill will be taken apart root and branch by the Government, in the interim people have to operate on the assumption that the Bill will be enacted in its current form. As a result, the clustering of PCTs is being encouraged by the Department of Health. The difficulty is that if there is a clustering of PCTs, how can a PCT, or such staff as are left in a PCT, continue to work alongside the local authority? Many of the arrangements that have been made have been made on the basis that there will be joint management structures between PCTs and local authorities.

Mixed signals are coming from the Department of Health. My hon. Friend the Member for Great Grimsby (Austin Mitchell) asked Sir David Nicholson about this in the Public Accounts Committee and was assured that there would not be disruption, but, frankly, there is. I assure the Minister that Blackburn with Darwen borough council feels strongly about it. I will not necessarily read what it has said, but the council expresses its view in strong language. The council is not alone—it is supported by many other local authorities. It feels that it is facing “a centrally driven initiative which ignores some parts of the Department of Health’s own guidance which will cause disruption to successful models of integration and add cost and uncertainty” to the future of such local authorities.
In many ways, the experience of councils such as Blackburn with Darwen is a lesson for us all. When the Opposition are considering how we would, in a few years time, put back together the damage that this Government has caused, we need to bear in mind such local authorities. When local authorities have taken the initiative and are at the forefront of initiatives that are promoted by politicians, we do not think that it is right that they should suffer as a result of their bravery, their boldness and their vision.

The Minister of State, Department of Health (Paul Burstow): Wow—their braveness, their boldness and their vision. That is all well and good, but under the previous Administration there was an absence of that in too many places, because the Government lacked that boldness, that vision and that desire to see it happen in practice. That is why the hon. Lady is able to refer to only a very small number of places where what she describes actually happened.

I understand the concern that Blackburn with Darwen borough council has expressed, and officials and I will certainly consider the points that she has made on its behalf. In reality, where care trust arrangements already exist we are anxious—indeed, it is the intention behind the clause—to ensure that they can continue, but they need to be set in the context of the overall reforms that the Bill puts in place. What does that mean? It means that a care trust must choose whether to be a commissioning organisation, which brings together health and social care and commissions those activities that it decides should be covered by the care trust; or a provider care trust that provides services to its community across health and social care. That is very clear and straightforward.

The PCT clusters are working through that process in the relevant areas with their colleagues in local authorities and in the emerging GP commissioning consortia, so the picture that the hon. Lady tries to paint is not entirely borne out by the process and the work that is taking place on the ground.

I agree entirely with the hon. Lady’s observation that such collaborative arrangements are most successful when the working relationships on the ground are effective, and her reference to the fact that colleagues working alongside each other on health and social care in Islington would not immediately know whence they had come shows the change of behaviour and culture that we seek to engender through our reforms. She suggests that it is not possible for such things to happen at the moment, because of the “uncertainty”, but let us look at the evidence for that. The royal borough of Kingston upon Thames, for example, where progress is being made on a number of fronts towards a more integrated approach to provision and commissioning, has recently agreed with its PCT cluster the delegation of public health functions to the local authority. That has taken place ahead of the introduction of the Bill, which will give local authorities those responsibilities.

It is a far-sighted approach, which commends itself to other areas, to enable a smooth transition of those responsibilities.

I understand that individual local authorities may encounter some problems on the ground. The Government are determined to ensure that such concerns are examined and properly dealt with, but the clause addresses the hon. Lady’s concern about the need for continuity and a clear route by which care trusts are able to continue. In essence, that is what the clause does, and that is why it should stand part of the Bill.

Question put. That the clause stand part of the Bill.

The Committee divided: Ayes 13, Noes 8.

Division No. 88]

AYES

Brine, Mr Steve
Burns, rh Mr Simon
Burstow, Paul
Byles, Dan
Crabb, Stephen
de Bois, Nick
James, Margot

NOES

Abrahams, Debbie
Barron, rh Mr Kevin
Blenkinsop, Tom
Kendall, Liz

Question accordingly agreed to.

Clause 184 ordered to stand part of the Bill.

Clause 193

POWER TO REGULATE SOCIAL WORKERS ETC. IN ENGLAND

Emily Thornberry: I beg to move amendment 472, in clause 193, page 164, line 20, after ‘England’, insert ‘and meets the international definition of Social Work as follows—

“The social work profession promotes social change, problem solving in human relationships and the empowerment and liberation of people to enhance wellbeing. Utilising theories of human behaviour and social systems, social work intervenes at the points where people interact with their environments. Principles of human rights and social justice are fundamental to social work.”.

The Chair: With this it will be convenient to discuss amendment 473, in clause 193, page 164, line 20, at end insert—

'(5A) After subsection 3ZA insert—

(2ZAA) Social Work in England is that which through the exercise of its statutory functions and/or the employment of its range of skills works to—

(a) promote social justice by helping people to achieve change in their lives;
(b) meet the needs of people and enable their social inclusion and the cohesion of society;
(c) protect those who may be at risk of abuse or harm from others;
(d) reduce the risk of people abusing or harming others;
(e) enhance self respect and respect for others within families, groups and communities; and
(f) reduce conflict and distress in families, groups and communities.

(2ZAB) Social Work operates within a wide range of legislative frameworks and with Government guidance and regulations.'
Emily Thornberry: The amendments are intended to clarify what social workers do and what social work is about. It is insufficient for the Bill to state that social work is simply what social workers do. At a time when social workers feel undervalued and somewhat besieged, it is incumbent upon us and the Department of Health to give them support and such assistance as is necessary. It is in that spirit that amendment 472 is intended to define social work. The definition comes from the British Association of Social Workers, which has established a college of social work. I understand that that college is one of two social work colleges, but that is a long tale, which I will not go into today. The definition was developed internationally: it was adopted by the International Federation of Social Workers at its general meeting in July 2000 and approved by the United Nations.

Amendment 473 is another attempt to clarify. Having defined social work, it is important that the Bill sets out the role and function of social work in England.

Paul Burstow: As the hon. Lady says, the amendment is inspired by the BASW, and it is intended to provide a definition and to set out the functions of social work. First, let me make it clear that the Government value the important job that social workers undertake. The definitions proposed in the amendments articulate the high aspirations that the social work profession rightly has; however, they do not have the necessary precision and detail required of legal definitions.

Let me explain our concerns. To ensure that the Health Professions Council—the name of which we propose to change and the Committee will debate later—has the necessary powers to undertake its functions effectively, the definition that we use in clause 193 must reflect what social workers actually do, not what they may be. The definition that we use in clause 193 must ensure that any individuals occupying such posts are appropriately qualified and registered as a social worker. To take the point one step further, by including a list as long as she proposes and protecting the title of social worker by assigning it to those who perform that list of functions and tasks, there would then be a question whether practitioners in the police force or mental health services who discharge some of the same duties could continue to do so. That why we are reluctant to go down the route the hon. Lady proposes and why, when the House has examined other areas of professional regulation, it has not sought to put detailed definitions and functions of professional groups into legislation.

Emily Thornberry: There will be further opportunities for debate under later amendments and new clauses, so I will not go into more detail now, other than to flag up that that is exactly the point. Social workers need to have an idea of what professional skills are recognised as theirs in particular, and some acknowledgment of that. The Minister said the Department has a working definition and he may receive some inspiration shortly and put that on the record.

Paul Burstow: I am not sure that I will receive such inspiration but in terms of clarity about the day-to-day role of social work, we have the report of the social work taskforce, and the social work reform board is progressing work on a range of aspects of the role and contribution of social workers. We also intend later this year to publish a White Paper on the reform of social care. We expect a number of the issues that are of concern to BASW and other social workers, including the recognition of the valuable work they do and the status they should have, to be addressed in those documents. Having a detailed and elaborate list of specified functions has consequences that I am sure were not intended by the hon. Lady. They are not going down that route because that list is aspirational. Also, in having a long list, there is a danger that anything omitted is excluded from the role of social work. To take the point one step further, by including a list as long as she proposes and protecting the title of social worker by assigning it to those who perform that list of functions and tasks, there would then be a question whether practitioners in the police force or mental health services who discharge some of the same duties could continue to do so. That why we are reluctant to go down the route the hon. Lady proposes and why, when the House has examined other areas of professional regulation, it has not sought to put detailed definitions and functions of professional groups into legislation.

Emily Thornberry: I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Question proposed, That the clause stand part of the Bill.

The Chair: With this it will be convenient to discuss the following:

New clause 15—Care standards—

In section 61 of the Care Standards Act 2000, after subsection (1) insert—

(a) Any organisation which employs individuals to undertake the functions and roles of a social worker must ensure that any individuals occupying such posts are appropriately qualified and registered as a social worker.
(b) All qualified and registered social workers should operate at all times within the International Ethical Principles for Social Work.”.

New clause 6—College of social work—

‘(1) There will be statutory guidance and regulation to ensure that Government and Local Government, the Chief Social Worker, the Social Work and Health Professions Council, inspectors and employers consult with and respond to the advice offered by the College of Social Work.

(2) The statutory entitlements of the College of Social Work will be dependent on its ability to demonstrate every four years that it has 51 per cent. of registered social workers in membership; if it fails to do so its statutory role will be suspended for 12 months and thereafter indefinitely until this can be rectified.’.

New clause 5—Chief social worker—

‘There will be a Chief Social Worker—

(a) to report to and advise Ministers,
(b) to make an annual report to Parliament on the state of social work in England,
(c) to work in close co-operation with the College of Social Work, the Social Work and Health Professions Council, the Professional Standards Authority for Health and Social Care, the National Institute for Health and Care Excellence, inspectors and employers.’.

New clause 18—Assessed and supported year in employment for newly qualified social workers—

“In section 60 of the Health Act 1999 (regulation of health care professions etc.), in subsection (1), after paragraph (e) insert—

“(ea) introducing a class of provisional registration to support a requirement for persons who are newly qualified social workers to complete an assessed and supported year in employment.”.”

Emily Thornberry: I hope that I have the right list, Mr Hood. Are we debating clause stand part and new clauses 5, 6, 15, 17 and 18?

The Chair: I have not called new clause 17.

Emily Thornberry: The purpose of new clause 5 is to provide in the Bill for a chief social worker for England. The devolved nations of Scotland, Wales and Northern Ireland have a chief social worker, so why is there not one in England? The Conservatives recently made a commitment to extending that role to England in a document by the Conservative party commission on social workers, “Response to Lord Laming’s Inquiry”. That was published in February 2009, so what is in the Bill may be a broken promise. That long-standing commitment by the Conservative party was not only an important measure to ensure that those who had job titles that include “social worker” are registered and regulated. There are however, myriad job titles in place that include “social worker” are registered and regulated. There are however, myriad job titles in place and under development that relabel work done with the most needy and vulnerable people when such people are at the most needy and vulnerable times in their lives.

The concern is that the regulation of the role of social worker is being bypassed by people simply giving themselves another name, and so not needing to be regulated or to adhere to the high professional standards that are required of social workers. In any circumstances, that would be wrong, but given the kind of job social workers have and the trust that we give them, as well as the fact that they have to work with the most vulnerable, it is very worrying. The new clause seeks to correct that trend. The argument of far too many employers is that if someone is not described as a social worker, they do not need to register, which, therefore, denies the public the protection that Parliament has decided is required. What is the point of regulating and reforming the function of social work if people can flagrantly get around the measures by simply calling themselves something else? I am interested to hear what the Minister has to say about that.

New clause 18 is about a college of social work. As the Minister knows, I am sure, there is a lack of clarity about where the main college of social work rests, and the new clause attempts to rectify that. The social work taskforce recommended the establishment of a college of social work to raise the standing and status of the profession. BASW originally promoted the idea of a college of social work, and the taskforce and a referendum of its members in April 2010 confirmed that social workers require a powerful body to advance their profession. If there is no statutory duty on the Government, local government, regulators and others to consult the college, it will have no power. On the other hand, the college of social work will need to demonstrate its continuing credibility by obtaining and retaining 51% of all social workers in membership.

New clause 15 is about care standards, and it brings us back to the debate we began a few minutes ago about what the role of social workers is, who should be doing it, and how we define it. There is grave concern among social workers that their very profession is being undermined by current trends. Protection of the title of social worker, as established by the Care Standards Act 2000, was an important measure to ensure that those who had job titles that include “social worker” are registered and regulated. There are however, myriad job titles in place and under development that relabel work done with the most needy and vulnerable people when such people are at the most needy and vulnerable times in their lives.

The concern is that the regulation of the role of social worker is being bypassed by people simply giving themselves another name, and so not needing to be regulated or to adhere to the high professional standards that are required of social workers. In any circumstances, that would be wrong, but given the kind of job social workers have and the trust that we give them, as well as the fact that they have to work with the most vulnerable, it is very worrying. The new clause seeks to correct that trend. The argument of far too many employers is that if someone is not described as a social worker, they do not need to register, which, therefore, denies the public the protection that Parliament has decided is required. What is the point of regulating and reforming the function of social work if people can flagrantly get around the measures by simply calling themselves something else? I am interested to hear what the Minister has to say about that.

New clause 18 is about the first year of a newly qualified social worker being assessed and supported. Again, the concern, which I certainly found in my previous profession, is that qualifying is all very well, but a person needs a certain amount of time to practise and be given assistance by others more experienced, to ensure that they develop necessary the level of professionalism. At the Bar, we certainly needed our year’s pupillage, and I am sure that those in many other professions also benefit from a year spent newly qualified and practising but being looked after by others. In social work, the last thing we want is someone inexperienced making mistakes, because the result could be catastrophic.
Given the high turnover of social workers, it is important that newly qualified social workers are supported at the beginning of their careers.

The new clause would set up intermediate, provisional registration for newly qualified social workers, so that someone would become a social worker but on a "provisional licence", if I can put it that way. Newly qualified social workers would complete an assessed and supported year in employment, during which they would have a smaller case load and more experienced social workers would look after them. That would leave them time to develop skills and receive further training when necessary.

An assessed year in employment for new social workers was a recommendation of the social work taskforce in 2009—the minister will be able to find it on page 6, paragraph 4 of the report. I have a spare copy for him if he does not have one by his bedside. The recommendations need to be addressed, but unfortunately they have perhaps been overlooked. They are not addressed in the Bill and the new clause offers an opportunity to put that right. I urge the Committee to agree to accept new clause 18 so that we have provisional social workers who are given the support and training they need.

The Secretary of State for Education told the House:

"The coalition Government will build on"

the initiative of my right hon. Friend the Member for Morley and Outwood (Ed Balls)

"in this area, in particular taking forward the recommendations of the social work taskforce."—[Official Report, 2 June 2010; Vol. 510, c. 456.]"

Again, one of the minister's new friends seems to have promised that the Government would put the recommendations made by the social work taskforce into legislation. Here is his opportunity to deliver on their promises. Will he implement the recommendation of the taskforce? If not today, when? If not at all, why not?

The Chair: I did not call new clause 17, but now that the hon. Member for Strangford has joined the Committee, I should say that with this it will be convenient to discuss new clause 17—Northern Ireland Assembly and Legislative Consent—

"In section 62 of the Health Act 1999 (regulation of health care professions etc.), after subsection (10), insert—"

"(10A) But if any provision made by an Order in Council under that section would, if it were included in an Act of the Northern Ireland Assembly, be within the legislative competence of that Assembly, no recommendation need to be made to Her Majesty to make the Order unless a draft—"

(a) has been laid before, and approved by resolution of, each House of Parliament, and

(b) has been laid before, and approved by resolution of, the Northern Ireland Assembly.""

Jim Shannon (Strangford) (DUP): Thank you, Mr. Hood. May I first apologise to the Committee for not being here earlier? I was next door in another Committee. I put forward the new clause as an amendment to clause 194. I understand that all Committee members are aware of it, and I certainly wrote to the Ministers to make them personally aware of it. [Interruption.]

The Chair: Order. Jim Shannon.
“This would allow the Northern Ireland Assembly to scrutinise any proposal before it becomes an Order in Council to ensure it will be sensitive to local needs while maintaining a UK wide approach on appropriate health policies.”—[Official Report, House of Lords, 24 June 2008; Vol. 702, c. 1372.]

Lastly—and this is the third part of the so-called Presbyterian sermon—would the new clause present any difficulties? Evidence presented to the Scottish Parliament Scotland Bill Committee suggests not. It has been done through the Scottish Parliament without any difficulties. Committee members there have recently been investigating the operation of section 60 order approvals in that legislation since 1999, and have taken evidence from many stakeholders. Duncan Rudkin, chief executive of the General Pharmaceutical Council for Great Britain, remarked:

“Our experience so far is that, in our set-up phase during 2010, the section 60 order under the Health Act 1999 that created the General Pharmaceutical Council and set our framework, and the subsequent subsidiary instruments that needed parliamentary approval in Westminster and the Scottish Parliament, were handled efficiently and did not cause us any practical problems. We are perfectly content to work within the current system.”—[Scottish Parliament Official Report, 25 January 2011; c. 270.]

Referencing the wider benefits of section 60 order approval by the Scottish Parliament, the Scottish Government representative said:

“The devolved competence of the Scottish Parliament ensures that the Scottish Government has a formal and robust position in the inter-Governmental negotiations. It also ensures that the final result is satisfactory to the democratic representatives of the Scottish people…Devolved regulation has clear benefits for Scotland, enabling regulation to be tailored to the needs and circumstances of the Scottish health service. It also ensures that Scotland has a voice in wider decisions taken at a UK level which have implications on devolved health matters.”

The new clause corrects a mistake, or perhaps an oversight, in the Health Act 1999, and I believe it is entirely within the spirit and purpose of devolution, helping to ensure that health professional regulation is fit for purpose across the whole United Kingdom. We in Northern Ireland are very proud to be part of the United Kingdom. The amendment guarantees the Northern Ireland Assembly a formal say in all major changes to health professional regulations that impact upon the Northern Ireland health service, patients, and professionals.

Paul Burstow: The new clauses cover a number of issues. I hope that, in discussing them, we will debate whether the clause should stand part of the Bill.

We are indebted to the British Association of Social Workers for some of the issues that have been brought to the Committee’s attention today and perhaps for some of the words that have formed the new clauses. I will be straightforward with the Committee: the Government understand and are sympathetic towards the intentions behind the new clauses. However, the exception is the measures around section 60 orders, which we will come to in the context of the new clauses of both the hon. Member for Islington South and Finsbury and the hon. Member for Strangford.

The Government propose to give further consideration to the role of a chief social worker, which the hon. Member for Islington South and Finsbury raised on behalf of BASW and other social workers. I must say that I have not avidly read all the documents that the hon. Lady listed in her opening remarks, but they undoubtedly set out important issues that parties have given consideration to and that should be considered by the Government.

We are also clear that a college of social work can and should and will, in future, play a critical role. For too long, the voice of social work has not had such a powerful representative body, and, for perhaps too long, there has been an expectation that the General Social Care Council would somehow fulfil that role on the behalf of the profession. That was always a misguided understanding of the role of that body, but now, by having a social work college, we can begin to see that being put right. That is something that the Government are putting their full weight and support behind.

With regard to the chief social worker and the further development of the status of the college, it is our intention to address in greater detail the Government’s policy and agenda for legislation in the next Session in the White Paper that we intend to publish later this year. The reason for that is quite simply that the Law Commission will shortly publish its report on social care law reform, and it seems that the opportunity to look at all aspects of social care law and the role of social workers is not in the Bill, which has a primary focus on health reform.

Emily Thornberry: What the Minister says is worrying on several levels. First, the Bill, as its name implies, is a health and social care Bill. I appreciate that there is little social care in it, but health and social care must always go hand in hand. Secondly, the role of social workers is not just in social care and health. Social workers also work in crime and other areas, so it will always be difficult, when looking at legislation, to know where reform of the social work profession sits neatly. It strikes me that this is as good a place as anywhere else.

Paul Burstow: I am sorry to have worried the hon. Lady. My remarks were intended to reassure her about the direction of travel that the Government are taking, which involves seeing the value of the office of the chief social worker and backing the development of a college of social work with hard cash. That work is proceeding, and I am merely suggesting an orderly way to do it that will result in the best possible outcome for social workers and others.

New clause 5 would create the office of the chief social worker. There is already a significant programme of work, as I have described, to address issues around how we can reform and strengthen the social work profession. In particular, Professor Eileen Munro has been charged with reviewing the child protection system in England, and, as part of her review, she has been asked to consider the merits of there being a chief social worker in England. To be clear, that post would cover not only children’s services, but all social workers.

In addition, we are currently considering the wider framework for adult social care. We would certainly not rule out the possibility of creating an office of the chief social worker in the future. If the findings of these reviews indicate that the creation of such an office should be part of the reform of the social care system, we will need to give careful consideration as to how the office would be established, what duties and powers the office holder should be given, the costs and so on.
The hon. Lady suggested a role that seemed insufficient in a sense; it seemed to be one of looking for good examples and promoting them. I think the role is far more important than that. We need to make sure that we fully capture the range and responsibilities of such a post.

Emily Thornberry: The illustration of what the chief social worker would do came from the Conservative party document; I was simply quoting from that.

Paul Burstow: The coalition Government have asked Eileen Munro to conduct this piece of work so that we have a rounded proposal that we can consider in government and we can come forward with a White Paper that sets out many of those issues later this year.

New clause 6 would require statutory guidance to be issued and regulations to be made which would require a range of bodies to consult with and respond to the advice of the college of social work. The Government strongly support the establishment of the college of social work, and not just with words; we are backing it with practical resources and support. We believe that the social work profession needs a body that can provide leadership for the profession.

The Health Professions Council is already under a general duty of co-operation with certain bodies and persons representing, or otherwise concerned with, registrants that will, as a result of the changes made in the Bill, include social workers in England in future. We would not rule out requiring specific bodies or organisations to consult with and respond to the advice provided by the college of social work, once it has been properly established. But as the hon. Lady has alluded to on a couple of occasions, it is on a bumpy path to its establishment and we are doing all we can to make sure that it attains the critical mass of membership to be genuinely the voice of the profession.

We will give further consideration to ways to enhance and strengthen the college as we take forward development of the forthcoming social care White Paper. However, we think that it would be premature to place specific duties in the Bill as suggested by the hon. Lady. She asked me about definitions earlier, and let me say one other thing about that. I was hoping to convey the fact that we do not disagree with BASW about the definition it has come up with in concert with others. While those definitions set out in amendments 472 and 473 are good, they are not suitable for the legal purpose of that part of the Bill. That was why we were concerned with the drafting.

New clause 15 seeks to protect the functions as well as the title of social work. I have touched on this a bit already. We have covered the issue of protecting functions in legislation and the unintended consequences of doing that. Indeed, in regulating social workers in England, we need to ensure that the legislature is flexible enough to enable the regulation of all activities that a social worker may undertake. Indeed, the whole issue of protection of title is the approach that successive Governments have generally taken to the regulation of individuals in both the health and social care sectors. It has ensured that the regulation of professionals can readily adapt to changing roles over time.

On a technical point, the Bill amends section 61 of the Care Standards Act 2000 so that an offence under that section applies only to a person in Wales. The protection of title for social workers in England is provided for in article 39 of the Health Professions Order 2001. So it makes little sense for the new clause to be inserted into section 61, as it would apply only to Wales. From a technical point of view, it probably does not do what the hon. Lady intended.

In reference to new clause 18, the hon. Lady asked whether the Government were resiling from their commitment to the recommendations from the taskforce. The answer is no. We are very clear, as she has said, that the work that the social work taskforce has done is critical to the future of social work. We support it. We continue to work with the board and very much support its work. So new clause 18 would enable the introduction of provisional registration for newly qualified social workers under section 60 of the 1999 Act.

We expect the reform board to develop proposals for an assessed and supported year in employment for newly qualified social workers. We would not rule out making changes to the regulation of social workers in England to implement the assessed and supported year in employment if there was a clear case for doing so. We are asking the board to do that work and make such a case if it thinks it appropriate. If regulatory changes are necessary, however, section 60 of the 1999 Act, as amended by clause 193, would give us the necessary powers to make such changes.

11.15 am

The hon. Member for Strangford spoke to new clause 17, and I want to address his points. The new clause would require an order made under section 60 of the 1999 Act to be laid before and approved by the Northern Ireland Assembly where the order includes provision on devolved matters. Legislative competence on the regulation of health professionals and other health care workers is fully devolved to Northern Ireland, so the Northern Ireland Assembly is free to legislate on such matters through an Act of the Northern Ireland Assembly, should it wish to do so.

As the hon. Gentleman told us, at present there is a similar provision that provides for section 60 orders on matters devolved to Scotland to be laid before and approved by resolution of the Scottish Parliament. New clause 17 would create a similar approach.

I think the hon. Gentleman’s issue is with parity of treatment in how devolution works. In the coalition agreement, however, the Government set out their intention to implement the recommendations of the Calman commission on Scottish devolution. We are seeking, through the Scotland Bill, to make the regulation of all health professions a matter reserved for the Westminster Parliament. We oppose the amendment because it would introduce an unnecessary delay to a system that needs to be responsive and flexible in dealing with emerging risks to public protection and because it would create a situation similar to the one that has been criticised by the Calman commission.

The Calman commission has stated that the current situation, whereby section 60 orders that contain provisions that fall within the legislative competence of the Scottish Parliament are required to be laid before and approved
by the Scottish Parliament, is unnecessarily time-consuming and cumbersome. That is why the Scotland Bill would in effect prevent section 60 orders from needing to be laid before and approved by the Scottish Parliament in future.

It is worth noting that, although the power proposed in respect of the Northern Ireland Assembly would be similar to the one that currently exists in Scotland, it will not be consistent with the one that will exist in the near future because of other legislation that is currently passing through the House. For that reason, I urge the hon. Gentleman not to press his new clause. I would also add that the Department of Health, Social Services and Public Safety in Northern Ireland does not believe the amendment to be necessary. He might want to take that into account.

I also urge the hon. Member for Islington South and Finsbury not to press her amendments. If she does, I urge my hon. Friends to oppose them.

Emily Thornberry: I cannot see why the Minister needed to take quite so long, because the arguments seem to be very strong. However, in light of his comments and of the reassurances that he has given to the profession this morning, it would seem churlish to press the amendments to a vote. We are watching, however.

Jim Shannon: Does the Minister have any indication of the time scale for the changes in Scotland? Obviously, Scotland will become more like Northern Ireland, rather than Northern Ireland getting the advantages that Scotland has.

Secondly, I have a point to make about the Northern Ireland Assembly and the Department of Health, Social Services and Public Safety. I understand from my discussions with the Minister in Northern Ireland, who as of last week is in purdah, that he and his Department are sympathetic to my amendment. I am keen for the Minister to respond to both my points.

Paul Burstow: On the first question, which was on the timings, the Scotland Bill is obviously still going through the House. It is slightly further along the road than our Bill. I will write to the hon. Gentleman in more detail about the commencement once the Bill is enacted, so that he has the necessary details.

On the other point, all I can say is that officials in the Department of Health have consulted colleagues in the Department of Health, Social Services and Public Safety who are responsible for health and social care. I have shared with the hon. Gentleman the advice that they gave us. If there is any doubt about that, and if his colleague, the Minister in Northern Ireland, has any further representations, I would be pleased to entertain them.

Question put and agreed to.

Clause 193 accordingly ordered to stand part of the Bill.

Clause 194 ordered to stand part of the Bill.

Jim Shannon: On a point of order, Mr Hood. I am not trying to be awkward, but I and those who have contacted me are of the opinion that new clause 17 should be put to the vote. Can I do that?

The Chair: The answer to the hon. Gentleman’s question is yes and no. At present, no, but when we reach the new clauses at the end of the Bill he will have the right to put new clause 17 to a vote.

Clauses 195 and 196 ordered to stand part of the Bill.

Clause 197

REGULATION OF SOCIAL WORKERS IN ENGLAND

Question proposed, That the clause stand part of the Bill.

Emily Thornberry: I want to raise a number of concerns about this clause. Concerns have been expressed in the social work sector that moving social work regulation to the Health Professions Council—soon, perhaps, to be called the Health and Care Professions Council, although we will discuss that later—which has no experience of social work or social care, risks damaging the distinct role of social work and losing it in an organisation that is dominated by other professions.

A considerable amount of debate has taken place in the sector about that, and the Minister may be aware of an article from Community Care on 3 August 2010, in which a number of people were interviewed about the matter. One of those was Des Kelly, the executive director of the national care forum, who said:

“There is a real risk that merging improvement bodies will lose the distinctive contribution of social care. Social care provision, although still largely a publicly-funded service, is different from the NHS, with more than 40,000 employers and with even greater diversity as personalisation develops new services and employers.”

David N. Jones, who was an Ofsted inspector from 2007 to 2010, and who was general secretary of the British Association of Social Workers, said in the article:

Some social workers are in healthcare settings, others are in, say, criminal justice and children’s services, so there has to be a huge change in the healthcare body to engage with the whole spectrum.”

Indeed, I have made that point in relation to an earlier clause. Although some social workers work within the social care spectrum, not all of them do. The expertise that it is necessary to develop as a social worker means that people sometimes work in criminal justice or sometimes work in children’s services, each of which has a distinct ethos and is an important part of the profession; it is recognised that social workers are engaged in a whole spectrum of work. Huge change is required in the health care body if it is to engage with that spectrum.

In the article from Community Care, Mr Jones continued:

“Social work is crucial to supporting health and education but, because social work is a small profession, has fewer people involved and only deals with some of the most difficult cases that come before universal services, there’s a risk that it becomes dominated by other professions.”

Social workers are concerned that they will be swallowed up by the Health Professions Council and that other professions will dominate the body. At a time when we should be building on the professionalism of social workers and increasingly recognising them, the arguments made by the profession are valid and they deserve some clear answers from the Minister.

Will the Minister also explain the benefits of abolishing the General Social Care Council and transferring social workers to the Health Professions Council? What criticisms
does the Minister have of the General Social Care Council? In what way was it not fulfilling its role properly, and why does he expect the Health Professions Council to do a better job? Does he agree that there is a real risk of resources being wasted in rearranging those structures? There is concern about the future of social care reform. As the Minister knows, the Social Work Reform Board has been tasked with putting in place recommendations made by the social care taskforce, and it is in the process of doing that. However, the reorganisation caused by the legislation could prevent the recommendations from being put into place as quickly as they should be. The concern, therefore, is that the legislation could get in the way.

In a letter to Ministers in the Department for Education and in the Department of Health, as well as to the Minister for Universities and Science, members of the Social Work Reform Board expressed their disappointment at the decision of the review of arm's length bodies. The chair of the reform board, Moira Gibb, wrote:

“While we note the rationale for such a change we were disappointed that the contribution GSCC has recently been making to our work was not recognised. We would advocate for the GSCC changes to be timed to maximise their contribution to the development. The point that is being made seems sensible, as there are worries about where the change will take us.

The concerns that have been raised about this part of the clause are legitimate and we need a detailed answer, because there are worries about where the change will take us.

Concerns have also been expressed about fees. Previously, social workers had paid a fee of £30 to the GSCC for registration, but they are now being asked to pay £76 to the Health Professions Council. Social workers joining the college of social workers will also be asked to pay a fee. Comparisons have been made with teachers, because their annual registration fee will rise to £36, and for permanent teachers in the state sector, that cost is usually met by the employer. Has the Minister considered how those higher costs to a profession that is hardly the most highly paid can be phased in?

Another area of concern is students. The GSCC currently registers students on a voluntary basis, and student registration is at very high levels—around 95%. The GSCC argues that students should continue to be registered as they are now. Moving away from registration at this time would give the wrong message to people aspiring to become social workers and to the public, whose trust and confidence in social work requires development. The point that is being made seems sensible, and we urge the Minister to provide a considered answer. The Health Professions Council does not currently register students, suggesting that there is insufficient evidence to say that it is necessary to protect the public. Simply, we respectfully disagree with that.

Registering students is an important part of the GSCC’s remit, because social work students, within weeks of beginning a course, can be placed in front-line teams with access to vulnerable children and adults. As a representative of an inner London constituency, I do not think that I should overestimate the importance of that point. The Minister represents a London constituency, too, and he knows that social work departments are under considerable strain. Far too often, students are given too much responsibility, too early. The idea that they will not even be registered is a cause of legitimate concern. Will social work students continue to be regulated, and if so, how?

Paul Burstow: I am grateful to the hon. Lady for making those points. It is useful to put such issues on the record. I have discussed them with many people in the field of social work and social care over the last nine or 10 months, as I have worked with colleagues on the oversight groups that are dealing with the transition from the General Social Care Council to the new Health and Care Professions Council, which will take on social work in the future. I have also met Moira Gibb and her colleagues on the Social Work Reform Board.

Public confidence in health and social care professionals is underpinned by a system of regulation, which ensures high-quality education and training, controls entry into the profession and enforces codes of conduct and ethics, which help to foster, develop and sustain professional values and individual accountability. Currently, social workers in England are regulated by the General Social Care Council, which is an arm’s length body subsidised by and answerable to Government and, as far as discipline is concerned, it is limited to looking at individual conduct when concerns are raised about someone’s suitability to continue to undertake social work. That model contrasts with the one adopted by health regulators, which are self-funded and answerable to Parliament through the Privy Council. They operate full fitness-to-practise systems that enable them to consider an individual’s conduct and competence in the round.

11.30 am

An independent review by the Council for Healthcare Regulatory Excellence of the conduct functions of the General Social Care Council in 2009 recommended that the regulation of social workers in England follow the model of health regulators. The previous Government accepted those recommendations. We considered these issues when looking at the GSCC as part of the Department of Health’s review of arm’s length bodies. In “Liberating the NHS: Report of the arms-length bodies review”, we concluded that the regulation of social workers in England should be transferred to the Health Professions Council, which is an existing health regulatory body, and that the GSCC should be abolished. To reflect the HPC’s new remit across social care, the Bill will rename it the Health and Care Professions Council—we will come back to the name a little later.

The clause makes provision to abolish the GSCC. Before coming to a view on abolition, we looked at all the options for making the GSCC independent of Government, as per the recommendation of the CHRE. Figures provided by the GSCC at the time suggested that to become fully self-funded, it would need to raise the fees of registered social workers in England to between £250 and £300 a year. In the same way that the hon. Lady is concerned about the costs of registering with the HPC, we believed that it would be unrealistic to expect individual social workers in England to meet those costs. By contrast, the HPC charges its registrants
an annual fee of £76. It is an experienced and effective regulator of 15 health professions, including some, such as occupational therapists, who work across health and social care. It operates a well-established fitness-to-practise system and has experience of taking on the regulation of new groups of professionals, the latest being psychologists in 2009.

The hon. Lady asked about transition, and I shall be brief in responding to her concerns. As part of the transition work, we established a social work regulation oversight group. Its role is to advise the Government on planned, cost-effective action to transfer the regulation of social workers to the HPC. The group provides assurance on the work to maintain the safety and well-being of children and vulnerable adults through a smooth transfer of statutory functions, and it provides support to the programme. It includes Moira Gibb, chair of the Social Work Reform Board, and senior members of the GSCC, the HPC and the Department of Health and the Department for Education, and it is chaired by the chief executive of the CHRE. It has made good progress in addressing the issues of transfer, and it has enabled us to be confident that the transfer will progress successfully.

The hon. Lady also asked about the HPC’s knowledge and expertise of social work. The HPC has long experience of working with a range of professions and developing its knowledge and skills as necessary to be an effective regulator. Its standards of proficiency for professions are developed by a professional liaison group, which includes representatives of the professions, employers and educators. In addition, to ensure that it has good professional input into what it does, it uses contracted partners to provide the expertise it needs for its decision making. Partners will take on roles including assessing continuing professional development and sitting on fitness-to-practise panels. That goes some way to addressing the concerns.

To ensure that there will be no gap in the assurance of the standards of social work students, we intend to provide for the transfer of the voluntary register of social work students to the Health and Care Professions Council, pending full consideration of the best approach to assuring the safety and standards of student social workers. In other words, we have a voluntary arrangement in the GSCC and we intend to transfer that lock, stock and barrel to the HCPC in future. The HPC wrote to me following a meeting I had with it last week, and it committed to undertake a review of the risks in relation to students of all the professions that it regulates, including student social workers. That process will result in it setting out the risks and issues relating to social work students.

The HPC has assured me that it will continue to make every effort to maintain current close working relationships with the field and to ensure that social work expertise and evidence inform all decisions. With those assurances I hope that the hon. Lady will accept that the clause should stand part of the Bill.

Question put and agreed to.

Clause 197 accordingly ordered to stand part of the Bill.
changing the name of the General Social Care Council to reflect the fact that it predominantly regulated social workers.

It is curious to suggest that the name should be such a touchstone, as the reality should be how we ensure that the measure delivers what the profession needs, which is certainty, consistency and greater status and standing. However, the issue of the name is not unimportant, and over the past few months I have spent many meetings discussing those concerns. The name of the new organisation has been a matter of considerable debate, and we have made it absolutely clear that the name of the Health Professions Council will change to reflect its wider remit across both health and social care. The Government sought advice on a preferred new name from the social work regulation oversight group to which I referred in an earlier debate, and which is there to advise Ministers on the smooth transition. The oversight group proposed two options: the “Care Professions Council”, which I suspect falls foul of the concerns that the hon. Lady has just described, and the “Health and Care Professions Council”. The Government’s view was that the latter name would reflect the functions of the council as a whole more accurately.

The Health Professions Council regulates 15 professions, each of which makes important contributions to the well-being of people in England and the wider UK. None of those professions are specially mentioned in the name of the Health Professions Council, as it would not be right to single out one profession and place it above all others. However, the Health Professions Council has acknowledged that, given the increasing breadth of professions that it will regulate, greater public clarity of its role is needed. It has confirmed to me that its new name will be supported by a very clear strap line, “Regulating health, psychological and social work professions”. If the hon. Lady has not been reassured by my comments, I urge my hon. Friends to vote against this alternative name change and support the change by my comments, I urge my hon. Friends to vote against the amendment.

Emily Thornberry: I will try not to rise to the Minister’s challenge as to my bona fide when I express the anger that social workers have told me that they feel about this issue. I read him part of my briefing note, and I assure him that people do feel very strongly about it. I am surprised that he challenged my truthfulness in relation to this. I do not intend to withdraw the amendment.

Question put, That the amendment be made.

The Committee divided: Ayes 10, Noes 13.

Division No. 89]

AYES

Abrahams, Debbie
Barron, rh Mr Kevin
Blenkinsop, Tom
Kendall, Liz
Shannon, Jim

Smith, Owen
Thornberry, Emily
Turner, Karl
Twigg, Derek
Wilson, Phil

NOES

Brine, Mr Steve
Burns, rh Mr Simon
Burstow, Paul

Byles, Dan
Crabb, Stephen
de Bois, Nick
There seems to be a benefit in having consistency throughout the UK, so I hope the Minister will tell us how the Health and Care Professions Council will work with the other care councils to align their approaches to registration as far as possible.

Paul Burstow: Let me deal first with the broad point about there being a difference between the arrangements in England and in the devolved Administrations. It is perhaps worth reflecting on the fact that when the Council for Healthcare Regulatory Excellence reported on the performance of the General Social Care Council in 2009, one of its recommendations was that we should move to full cost recovery with the GSCC, while another was that we should move to a fitness-to-practise regime of the sort already adopted by the Health Professions Council. Both those recommendations were accepted by the previous Government. They have also been accepted by this Government, and we are giving effect to them through the Bill. The difference that the hon. Lady describes would therefore have emerged as a result of the changes that the previous Government were putting in place following their acceptance of the recommendations.

The hon. Lady asked how the care councils will co-operate, and the clause actually provides for issues around co-operation in the future. She also asked about the definition of “temporary”, which I shall explain. There are many reasons why a social work registrant in Scotland, Wales or Northern Ireland may work in England on a short-term basis. For example, they might work in England occasionally to carry out urgent social work interventions when necessary. We do not want inadvertently to create a situation in which a social worker registered in Scotland, Wales or Northern Ireland would be committing an offence when undertaking legitimate and necessary temporary work in England. It is therefore not right to define “temporary” in the Bill, as the hon. Lady suggests.

The hon. Lady also asked how we will ensure that the Health and Care Professions Council will work with its colleagues in the care councils in Scotland, Wales and Northern Ireland. It is important that that takes place, so we have included in the Bill a new duty on the Health and Care Professions Council to co-operate with the care councils in Scotland, Wales and Northern Ireland. We would expect them to work together to ensure that issues around information sharing are properly dealt with. The remit of the social work regulation oversight group, which I described earlier, includes consideration of the four-country aspect of social work regulation, and we would expect the group to advise Ministers on the actions that it thinks are necessary to ensure that the transfer is developed with regard to these crucial relationships, which will be an important part of the work that will be taken forward over the next period. With those reassurances, I hope that the hon. Lady will feel able to support the clause.

Question put and agreed to.
Clause 199 accordingly ordered to stand part of the Bill.

Clause 200

Appeals in cases involving social workers in England

Emily Thornberry: I beg to move amendment 647, in clause 200, page 171, line 34, leave out ‘High Court of Justice in England and Wales’ and insert ‘First Tier Tribunal (Care Standards).’

The Chair: With this it will be convenient to discuss amendment 648, in clause 207, page 177, line 40, leave out ‘High Court of Justice in England and Wales’ and insert ‘First Tier Tribunal (Care Standards).’

Emily Thornberry: Amendments 647 and 648 deal with the same concern. As Committee Members are presumably aware, given our debates this morning, the Bill heralds a significant change for social workers who are presently registered under the GSCC but will in future have to register under the Health and Care Professions Council. The question is about the right of appeal. The change is that the right of appeal will be only to the High Court, rather than to the first-tier tribunal for care standards. Such a detrimental change is causing great disquiet among social workers because the permissible grounds for appeal will be narrower and less responsive to the complexities of social work cases. It will be more difficult to appeal, and pursuing an appeal will be more expensive and risky.

The Bill seems to have been drafted without a proper understanding of the real nature of social work. Unlike other health professionals, social workers often work with people who do not want to work with them. Such people can be hostile and resistant to social workers’ interventions into their lives. They do not want to be seen with social workers, and feel that social workers are doing things to them and their family that they do not want. Social workers must therefore exercise fine judgment in complex situations. There can be either deliberate or real misunderstandings between social workers and those whom they are attempting to look after.

To make life even more difficult, there are well-established staff shortages, excessive case loads, chaotic systems and widespread use of agency staff in many social work departments. It is the experience of Unison and many others that social workers frequently do not receive the necessary supervision and support from their employer to be able to practise safely and effectively. Given the cuts that are now taking place as a result of this Government’s reckless behaviour towards the economy, it appears that there will be even greater pressure on social workers over the coming years, so things can only get worse—[Interruption.]

The Chair: Order. Hon. Members should calm down.

Emily Thornberry: Thank you, Mr Hood.

There is great concern that the new system will reduce access to justice, as parties have to instruct barristers and solicitors, which involves higher costs, and social workers who pursue appeals run the risk of having costs awarded against them. That will act as a deterrent to social workers. The care standards tribunal has proved itself to be accessible, efficient and cost-effective in ensuring fair outcomes for social workers. Does not the Minister agree with that? What has he got against the existing system? If he does not agree with it, will he please give a full critique of the perceived problems? In the opinion of many staff, the system is not broken and certainly does not need fixing.
I have a couple of examples of first-tier tribunal decisions for the edification of the Committee. They demonstrate decisions that could not have been made by the High Court, and yet are just and fair decisions for the social worker involved. Given that appeals to the High Court may be brought only on very narrow points of law, or on a finding of fact, it will be difficult in some circumstances for social workers to appeal at all, leaving aside the cost, difficulty and, frankly, intimidation of needing to go to the High Court. The existing first-tier tribunal on care standards provides a valuable service. If I may cite my two examples, I believe that I will persuade the Committee that the changes are unfair.

The tribunal accepted the factual basis of an incident in the case of Forbes v. General Social Care Council, but it formed the view that the sanction imposed was too severe. The tribunal was concerned by the “apparent chaos within the team; a suspended manager, an interim manager and an apprentice deputy team manager should have triggered higher management action to ameliorate the inevitable pressures bearing upon the front-line staff... In terms of public protection we accept that the Appellant has learnt her lesson and that there is very little risk of her acting in such a way again. With respect to public confidence in the services we find that in the context of what happened and the Appellant’s role in it, that an alternative sanction would have been appropriate and proportionate.”

The tribunal can step in to say that a penalty is too far and set aside an appeal. Instead of a social worker losing their job, there are alternative ways of dealing with circumstances in which they are overworked, under-helped, undermanaged and given insufficient support.

May I give the further example of LA v. General Social Care Council, which is case 985.SW from 2007? The tribunal had to bear in mind the professional environment in which the social worker was operating. The department was chaotic, she had no detailed supervision and there was no obvious benchmark against which she could self-assess. The tribunal assumed that there was no appraisal scheme in place. The tribunal decided that the case against Ms A’s good conduct was not made out. On issues of competence, the tribunal arrived at a similar conclusion in favour of Ms A. For instance, on failing to challenge a medical opinion, the tribunal said:

“Casting our minds back to 1999 we wonder whether it would have been accepted as appropriate for a junior social worker to question the opinion of at least 2 consultant paediatricians”.

On other poor practices, the tribunal found that there was a lack of “supportive and competent managers giving LA the guidance she needed.”

Again, Ms A’s appeal was allowed, and I am sure that the Committee will agree that the result was just. However, such an appeal would not be available if the tribunal was abolished, as under the Bill, and people instead had to go to the High Court with representation from a barrister and solicitors, and the attendant costs and difficulties associated with that.

It is for those reasons that I have tabled the amendments, and I shall be interested to hear the Minister’s reply. If he is not able to reassure me sufficiently, I shall press amendment 647 to a Division.

Emily Thornberry: Given what the Minister says, I would be interested to know what the appeal process is for probation officers, for example. Having gone through a first-instance hearing, do they have to take any appeal to the High Court? Is it not the case that other layers of appeal are available to probation officers? Part of my argument is that social workers will have to proceed too quickly to the High Court, which will involve attendant costs, time wasting and intimidation. That is unnecessary if we can keep the first-tier tribunal available.

Paul Burstow: Let me come to the hon. Lady’s central argument, which is at the heart of these amendments. Amendment 647 would provide for all appeals against fitness-to-practise decisions that are made by the Health and Care Professions Council, or certain of its committees, in relation to social workers who are registered with it to lie with the first-tier tribunal. Amendment 648 would make changes to the Council for Healthcare Regulatory Excellence’s powers to refer final fitness-to-practise decisions of the regulatory bodies that it oversees to the appropriate court, so decisions relating to social workers in England would instead be referred to the first-tier tribunal.

The Government oppose the amendments because we believe that a flawed understanding lies behind their drafting. Amendment 647 would retain the current position whereby all appeals for social workers would go to the first-tier tribunal. Accepting the amendment would be contrary to two recommendations of the Council for Healthcare Regulatory Excellence’s independent review of the General Social Care Council’s conduct processes, which was published in 2009. That review recommended that the relevant legislation should be amended so that appeals against decisions made by the conduct committee are heard by the High Court rather than the Care Standards Tribunal.”

The review further recommended that “the GSCC and DH should review the current primary and secondary legislation relating to the conduct process and replace it with a fitness to practise process which allows it to assess both competence and conduct.”
The hon. Lady describes the change that I have just set out, which was recommended by the CHRE, as detrimental, but that prompts the question of why Ministers in the previous Labour Government accepted that recommendation. I think that they did so for good reasons, and I want to explain what those reasons are and why we intend to carry through that policy intention in the Bill.

The Health and Care Professions Council’s fitness-to-practise appeal process is, in fact, more flexible in its operation than the General Social Care Council’s conduct appeal process. The Health and Care Professions Council will internally review all appeals to determine whether they should be defended in the High Court. It will also have internal mechanisms to deal with review of suspension orders, conditions on practice orders and striking off orders. The important point to remember is that the Health and Care Professions Council, unlike the General Social Care Council, will be able to give full consideration to the range of social work practice in relation to both conduct and competence. At the moment it can deal only with matters relating to competence.

The Health and Care Professions Council will also not be limited to removing, suspending or admonishing a social worker, as the General Social Care Council currently is. Instead, the Health and Care Professions Council will be able, when appropriate, to support social workers in England to improve their practice, for example through the use of conditions on registration. Under the Health and Care Professions Council’s fitness-to-practise regime, social workers can therefore be confident that their cases will be fully considered and that suitable sanction can be imposed without a frequent recurrence of the need to go to court.

The appeals to the High Court need to be seen as part of the Health and Care Professions Council’s overall fitness-to-practise system, which will look at social workers’ conduct and competence in the round, and include a wide range of sanctions of the sort that I have described. In addition, the council has a number of internal systems to resolve such concerns before any need to go before a court arises. Indeed, in 2009-10, only five appeals were made to the High Court—or the equivalent in the relevant UK country—by registrants of the Health Professions Council following a fitness-to-practise decision. The number of people going to court is relatively small as a result of the process that the Health Professions Council has in place, which was recommended by the CHRE.

Taken as a whole, we accept that the costs of a small number of social workers who appeal to the High Court will increase as a result of the new appeals process. At the same time, however, the cost of appeals for other social workers is likely to decrease. In making this change, it is clear to us that the Health and Care Professions Council processes offer many more advantages than those that are under the General Social Care Council. For those reasons, we do not accept amendment 647.

Finally, I turn to amendment 648. If the Committee accepts that the High Court is the most appropriate court to hear appeals against fitness-to-practise decisions relating to social workers in England made by the Health and Care Professions Council, it follows that the High Court is also the appropriate place to hear referrals by the CHRE of such decisions. For those reasons, and given the reassurances and explanation of the extended process that will exist in the future, I urge the hon. Lady to agree with the decisions that her colleagues took in government.

Emily Thornberry: I have listened carefully to what the Minister has said, but I do not intend to withdraw the amendment.

Question put, That the amendment be made.
The Committee divided: Ayes 10, Noes 13.

Division No. 90]

AYES
Abrahams, Debbie
Barron, rh Mr Kevin
Blenkinsop, Tom
Kendall, Liz
Shannon, Jim

NOES
Brine, Mr Steve
Burns, rh Mr Simon
Burstow, Paul
Byles, Dan
Crabb, Stephen
de Bois, Nick
James, Margot

Question accordingly negatived.

Division No. 91]

AYES
Brine, Mr Steve
Burns, rh Mr Simon
Burstow, Paul
Byles, Dan
Crabb, Stephen
de Bois, Nick
James, Margot

NOES
Abrahams, Debbie
Barron, rh Mr Kevin
Blenkinsop, Tom
Kendall, Liz
Shannon, Jim

Question accordingly agreed to.

Clause 200 ordered to stand part of the Bill.
Clauses 201 to 206 ordered to stand part of the Bill.

Clause 207

FUNCTIONS OF THE AUTHORITY

Question proposed, That the clause stand part of the Bill.

Emily Thornberry: Amendment 648 was debated under clause 200 but relates to clause 207. It would remove the reference to the High Court and allow people to appeal to the first-tier tribunal. I urge my colleagues to vote against the clause standing part of the Bill.
[Emily Thornberry]

**Question put.** That the clause stand part of the Bill.

The Committee divided: Ayes 13, Noes 10.

Division No. 92]

**AYES**

Brine, Mr Steve
Burns, rh Mr Simon
Burstow, Paul
Byles, Dan
Crabb, Stephen
de Bois, Nick
James, Margot

**NOES**

Abrahams, Debbie
Barron, rh Mr Kevin
Blenkinsop, Tom
Kendall, Liz
Shannon, Jim

**Question accordingly agreed to.**

Clause 207 ordered to stand part of the Bill.

Clause 208

**FUNDING OF THE AUTHORITY**

Emily Thornberry: I beg to move amendment 649, in clause 208, page 178, line 20, at end insert

‘and representatives of the professions’.

The Chair: With this it will be convenient to discuss amendment 650, in clause 212, page 185, line 1, at end insert

‘including representatives of affected workers’.

Emily Thornberry: The amendments provide for staff consultation on fees and voluntary registration. They extend the requirement to consult to representatives of the relevant professions and professional groups.

The Bill renames an existing body the Professional Standards Authority for Health and Social Care. It is what I would call the regulator of the regulators. Clause 208 states that the authority must consult the first-level regulators before it decides what its charges will be, which is fine and we certainly do not disagree with that, but those who are ultimately to be regulated should be consulted as well. Amendment 649 proposes consulting representatives of the professions regulated by the authority on the fees paid by their groups. Where a voluntary register is being established, amendment 650 provides that representatives of workers must also be consulted.

Paul Burstow: Amendment 649 seeks to impose a new duty on the CHRE, which the Bill renames the Professional Standards Authority for Health and Social Care, as we have heard. The intention is that the authority should have a duty to consult representatives of the regulated health and care professions before making a proposal to the Privy Council on the funding that it considers is required to discharge its functions.

By adding a specific duty to consult, amendment 650 elaborates on the proposed duty on the health and care professions regulatory bodies to consult such persons as they consider appropriate before establishing voluntary registers. Although the Government certainly agree with the principle behind the amendments—that the views of relevant regulated professionals should be taken into account on matters regarding the funding of the authority—I will explain why we do not believe that the amendments are necessary and why, if the hon. Lady presses them to Division, we will oppose them.

12.15 pm

As a first step in the levy-setting process, the authority will be required to make a proposal to the Privy Council on the funding that it considers it requires. Before doing so, it is required to consult with the regulatory bodies. However, nothing in the clause prevents the authority from consulting more widely on its funding proposals to the Privy Council. The authority will have the power to consult the public and regulated professionals on its proposals under its existing powers to do anything that it considers necessary or expedient in connection with the performance of its functions. The Government’s view is that it should be for the authority, as an independent statutory body, to determine with whom it should consult, other than the regulatory bodies. For that reason we oppose the amendment.

We also oppose amendment 650, which is entirely unnecessary as clause 212 already imposes a duty on the regulatory bodies to consult appropriate persons before establishing a voluntary register. Representatives of persons eligible for inclusion on a proposed new voluntary register would undoubtedly be considered appropriate persons to consult by the regulatory bodies. As it would not strengthen the duty on the regulatory bodies to consult appropriate persons before establishing a voluntary register, I urge the hon. Lady to withdraw the amendment. The provision she is attempting to probe and, I hope, improve is already dealt with in the Bill.

Emily Thornberry: Having heard what the Minister says, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 208 ordered to stand part of the Bill.

Clauses 209 to 211 ordered to stand part of the Bill.

Clause 212

**ESTABLISHMENT OF VOLUNTARY REGISTERS**

Emily Thornberry: I beg to move amendment 655, in clause 212, page 182, line 36, at end insert—

‘(2A) Subsection (2) does not apply to professions regulated under the Medical Act 1983’.

The amendment arises from concerns expressed by the British Medical Association. It is designed to remove medical students from the provisions of the clause, which allow regulatory bodies to establish voluntary registers for health care students and unregulated health professionals. Clauses 212 and 213 take forward the Government’s intentions as outlined in the Command Paper, “Enabling Excellence: Autonomy and Accountability for Healthcare Workers, Social Workers and Social
The provision is enabling; no regulatory body would be likely to consider the matter later this year. To be clear, to establish and maintain voluntary registers, and it is GMC has welcomed the inclusion of an enabling power amendment should be supported. I understand that the power to establish and maintain a voluntary register would mean that the General Medical Council would have its intended effect, in practice it is concern that it would be inappropriate for medical students to be on the register and that they are an exception to the usual need to register students. Although there is sympathy for the idea that students should be allowed on a voluntary register could offer someone the opportunity to practise medicine. In the worst-case scenario, being on a voluntary register could offer someone the opportunity to misrepresent themselves to the public, deliberately or otherwise, as being qualified to practise medicine. There is therefore no public risk that makes a compelling case for a register of medical students.

Furthermore, introducing an accredited voluntary register for medical students in addition to the statutory register of all doctors has the potential to increase public risk by confusing the public about who is entitled to practise medicine. In the worst-case scenario, being on a voluntary register could offer someone the opportunity to misrepresent themselves to the public, deliberately or otherwise, as being qualified to practise medicine. There is concern that it would be inappropriate for medical students to be on the register and that they are an exception to the usual need to register students. Although there is sympathy for the idea that students should be registered, it is inappropriate for medical students in the circumstances. For those reasons, we have tabled the amendment.

The Chair: Before I call the Minister to respond, I should say that I have had a request to suspend the Committee for five minutes, which I have agreed to. The Committee will reconvene at 12.25 pm.

12.20 pm

Sitting suspended.

12.25 pm

On resuming—

Paul Burstow: Amendment 655 aims to prevent the health and care professions regulatory bodies having the power to establish and maintain a voluntary register for persons studying to become members of professions regulated under the Medical Act 1983. Although the amendment’s drafting is not sufficiently clear to ensure that it would have its intended effect, in practice it would mean that the General Medical Council would be unable to establish and maintain a voluntary register of medical students.

Let me set out the reasons why we do not believe the amendment should be supported. I understand that the GMC has welcomed the inclusion of an enabling power to establish and maintain voluntary registers, and it is likely to consider the matter later this year. To be clear, the provision is enabling; no regulatory body would be compelled to establish a voluntary register under the clause. The Government view is that there is no reason to deny the GMC the same opportunities to establish voluntary registers as are afforded to other regulatory bodies. We want to establish parity of treatment between regulators in the Bill. It will be for the GMC to decide whether, and if so how, to exercise the powers the Bill grants.

We have already touched upon this and we will discuss it again later, but I stress that in making use of such powers, the GMC would have to consult appropriate parties and individuals, and it would have to conduct and publish an impact assessment. For those reasons I urge the hon. Lady, who I hope is reassured, to withdraw the amendment. If she does not then I urge my hon. Friends to oppose it.

Emily Thornberry: I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Amendment made: 593, in clause 212, page 184, line 9, leave out from beginning to ‘imposes’ and insert—

‘The reference in subsection (2) to an enactment does not include a reference to an enactment in so far as it’.—[Paul Burstow.]

Emily Thornberry: I beg to move amendment 546, in clause 212, page 185, line 16, at end insert—

‘(6) An assessment under this section must have particular regard to the level of engagement with patients and the level of potential harm posed to patients of each health profession under consideration.

(7) If, following the impact assessment, the regulatory body identifies that statutory regulation is more proportionate to the level of risk posed to users of health care, users of social care in England and users of social work services in England by a certain group of health or social care professionals, then there will be a duty on the Secretary of State to introduce statutory regulation for such groups.’.

Clause 212 is about the establishment of voluntary registers. I intend to speak more generally in the stand part debate about such registers, how appropriate it is for employees of the NHS or in social care to be on a purely voluntary register, and whether we should go further than that in the modern age. In amendment 546, however, I focus on concerns that have been raised by physiologists, and the amendment speaks for itself.

12.30 pm

The main purpose of clause 212 is to introduce new powers for the Council for Healthcare Regulatory Excellence, which will be renamed the Professional Standards Authority for Health and Social Care, to set standards for voluntary registers and for quality assuring them. The Department of Health claims that voluntary registers will encourage the development of professional conduct and ethical practice. They will also set high standards of performance in groups providing services associated with or affiliated to the delivery of health and social care, where statutory regulation is deemed not necessary to protect the public.

New section 25F of the National Health Service Reform and Health Care Professions Act 2002, which is inserted by clause 212, imposes a duty on each regulatory body to carry out an impact assessment before establishing a voluntary register under new section 25D of that Act. It provides that the regulatory body must consider in
particular the likely impact on potential registrants, the employees of potential registrants and users of health care, English social care and English social work services. It seems to me that the Department of Health, English social care and English social work services. It seems to me that the Department of Health, the body must publish its impact assessment and that it must have regard to the impact assessment in deciding whether to establish a voluntary register.

A duty is therefore placed on the Professional Standards Authority for Health and Social Care and other regulators specifically to take into consideration the risk to patient safety posed by the various health care professions and whether, following such an assessment, voluntary regulation is deemed sufficient in protecting patient safety. A duty is put on the Secretary of State to take forward statutory regulation where the regulator’s impact assessment ruled out voluntary regulation.

There is a risk to patient safety. Where patients are put at high risk, because of the sensitive nature of certain health care professions, a voluntary register is simply not adequate to protect patient safety. There are clinical physiologists who develop and deliver a wide range of sensitive diagnostic and therapeutic procedures directly to patients in disciplines such as audiology, cardiology, gastrointestinal physiology, neurophysiology and respiratory physiology.

I was thinking about that in advance of the sitting today, Mr Hood, and I wondered whether I should make a confession to the Committee. [HON. MEMBERS: “Go on!”] Actually, I should. I am one of those who have been asked to swallow a camera, and, when I have met clinical physiologists in the past, I thought that they were doctors. Many members of the public think that such people, who put cameras up them and down them and who run all kinds of horrible and intrusive tests, are doctors, but they are not. Furthermore, they are on a voluntary register only. That is quite extraordinary, and that is what the amendment is intended to address.

All clinical physiologists work independently, and while the overall standard of practice is high, there is a high level of risk posed to patients due to the close one-to-one work that is often undertaken in sensitive situations. A statutory system is much better placed to safeguard patient safety, because only clinical physiologists who are registered with the relevant statutory regulatory authority would legally be eligible to practise. The provision would make it easy for the public to determine who is a properly qualified practitioner and would give the relevant professional body the power to determine who is eligible to practise.

The measure is also in line with the recommendation from the Health Professions Council in 2004 that clinical physiologists should be included in its regulatory regime, and the Secretary of State subsequently accepted that recommendation. In other words, physiologists have been waiting a long time to be put on a compulsory register. They thought that it was coming; they were working with the Department of Health to make it happen; but it seems to have been snatched from their grasp at the last moment once again. The amendment is intended to address that. It seems only fair, not only for physiologists, but for the public that that is changed, and we should ensure that some form of risk assessment is done before deciding whether there is a voluntary register. I am not stating that, at the moment, there is any risk to the public, but given the changes that are happening and the fracturing of the health service that is an obvious consequence of those changes, there may be an increased risk to the public. Frankly, the amendment is something that good sense dictates should happen.

There are shortcomings to voluntary registration. The CHRE scheme is intended to focus on the promotion of good quality care, rather than on the avoidance of harm. That suggests that the voluntary scheme is therefore only adequate for those health professionals who do not pose a significant risk to patients when not doing their job properly. The system is clearly designed for professions where people do not undertake risky, sensitive procedures, which is highlighted by the fact that entry to the scheme is not dependent on the level of harm posed to patients. Although the voluntary scheme may not be deemed to be problematic for those health professionals who are not a high risk to patients—those involved in diagnosing and treating patients, or those involved in the close, one-to-one work that clinical physiologists undertake, which often involves sensitive situations—it is insufficient for certain professions where patient safety is a concern.

The voluntary registration scheme will not provide an adequate safeguard. Therefore, when deciding whether the scheme should be inclusive and encompass a broad range of occupations, or whether it should be exclusive, serving a defined minority, the CHRE should give a great deal of thought to the protection that can be offered to patients by the voluntary scheme. It should measure adequately the specific health occupations that are best suited to a voluntary system of regulation, based on the level of engagement with patients and the level of harm posed to them.

Paul Burstow: I will start by ensuring that, in the record of our proceedings, it is clear that we do not propose the deregulation of any currently regulated groups. It is important to say that at the beginning of this debate, because there may be a misunderstanding that, in some way, there is hidden intent. There is not, and I want to make that point clear. I am sure that the hon. Lady welcomes that.

Emily Thornberry: The point of concern particularly relates to physiologists, who have been working towards a compulsory system of registration for, I believe, more than 10 years. They thought that they were getting there, but instead of having a compulsory system of registration, the Bill shows that there will continue to be a voluntary register. Given that their work becomes increasingly intrusive, personal and developed as a body of work, it seems to us that there is an increasingly strong case for physiologists to be on a compulsory register. There are those people who, over the years, have been working towards such a register. They have been moving towards it, and the shame of the Bill is that it is a slap in the face to them.

Paul Burstow: I am grateful for that clarification. It was possible to construct a wider concern out of the hon. Lady’s remarks introducing her amendment, so I wanted to ensure that our intentions were on the record up front.

Let me deal directly with the secret that she shared with the Committee—we were looking forward to a better secret, but none the less. I appreciate her candour. We expect any decision on extending compulsory statutory
regulation to a profession, including clinical physiologists, to be the subject of a solid body of evidence demonstrating the benefits of compulsory statutory regulation, on the basis that mitigating a public safety risk outweighs the potential costs across the system. That is why the clause provides for requirements for consultation with affected groups, and why it also requires an impact assessment. Such issues will be addressed through the process that we are putting in place, in a way that hitherto has not been the case.

Although the Government agree with the hon. Lady that the risks to patients or service users should be considered as part of the impact assessment, we do not accept the amendment for two reasons. First, the clause, as drafted, already imposes a duty on a relevant regulatory body to perform an impact assessment before establishing a voluntary register, and it requires the regulator to have regard to that assessment when deciding whether to establish a voluntary register. That would ensure that the relevant regulatory body considers whether the costs of establishing and operating a voluntary register are justified by the benefits in terms of improved standards to workers, employers and, importantly, people who use the services. That would ensure that the relevant regulatory body considers whether the costs of establishing and operating a voluntary register are justified by the benefits in terms of improved standards to workers, employers and, importantly, people who use the services.

Emily Thornberry: Surely, however, the point is that those who are up to a certain standard, and who do not mind being regulated and having their work inspected, will have no problem at all joining a voluntary register. It is those who might think twice about joining a voluntary register who are the ones we should be concerned about. When they carry out functions such as those carried out by physiologists, it is entirely sensible that they should be on a compulsory register.

Paul Burstow: That is why I have also indicated that we are not ruling out at this point further compulsory statutory regulation of professional and occupational groups.

Emily Thornberry: Physiologists, in particular, believe that a compulsory register has been ruled out for them—that is the point. Having put as many people as they can on a voluntary register for the time that they have, and having worked on the basis that they would get a compulsory register, they have been told at the last minute that they will not. That is a concern, which is why they have addressed the issue and why I have had conversations with them. I welcome the opportunity to raise the issue again with the Minister, because he should and, I am sure, will re-examine it. Perhaps we will see some improvements to this corner of the Bill at another point.

Paul Burstow: The point has been made, and I will take it away. I am sure, as the hon. Lady has said, that we will come back to it at a later stage.

Let me come to the second reason why we oppose the amendment, which relates to the proposal to remove responsibility from the Secretary of State for a decision to extend compulsory statutory regulation to new groups of workers. That would effectively fetter the Secretary of State’s discretion, which is entirely inappropriate. It is for the Secretary of State, who is, in turn, directly accountable to Parliament, to consider whether compulsory statutory regulation should be proposed to Parliament for any new group of workers.

In making such decisions, the Secretary of State cannot be bound by the outcomes of a single impact assessment performed by a single regulatory body. The Secretary of State may wish to take account of the views of a wider range of individuals or of other policy factors, such as the costs to that part of the economy, Government resources or the impact that over-regulation might have on economic growth more generally. Such a provision would also create a potential conflict of interests for the relevant health profession’s regulatory body, given that it could be argued in some cases that that body had an interest in extending compulsory statutory regulation, because that would generate income for it.

For those reasons, and because of an express duty on regulators to assess risk in their impact assessments, it is unnecessary to include the amendment and urge the hon. Lady to withdraw it.

12.45 pm

Emily Thornberry: I have listened to what the Minister has said, and I suspect that we will revisit this issue, but I will not push it to a vote now. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Question proposed, That the clause, as amended, stand part of the Bill.

Emily Thornberry: I would like to widen the debate on voluntary registers a little and touch again on a point that I raised momentarily in the debate on the previous amendment. How appropriate is it for there to be only voluntary registers of people who we expect to fulfil some of the most intimate tasks?

There is some concern about this issue. There is a suggestion that those who are the most professional, reliable and confident in their abilities will have no problem with going on to a voluntary register and that it is the others about whom we are concerned. The concern is how we will regulate those whom we do not
even necessarily know about, particularly in relation to social care, given how fractured the service has become, the development of personal budgets and so on. The number of people working in social care increases, but they do not necessarily stay there for very long—it is the Cinderella end of the business. People are not necessarily very well trained, and they may not have a great deal of experience. The level of management is sometimes not always what it should be, yet we expect those women—largely women—to fulfil some of the most personal tasks on the most vulnerable, at the most vulnerable stage of their life. I would strongly argue that there is a very strong case for ensuring that all those who fulfil a role within social care should be on a register, so that we know who is fulfilling those tasks, and that if they are not on a register, they simply cannot do that job.

There needs to be some form of regulation. The Minister might not like that as an argument, but I would like to know what other form of regulation is available if we are not going to have everyone on a compulsory register. It may be that the Minister will say that the Care Quality Commission can play a role, and that an old people’s home would not be accredited by it if the staff were not on a register. It may be that that is part of the Minister’s argument. As I understand it, however, not everyone who works in a home needs to be on the voluntary register, and I seek the assurance of the Minister that they will be.

How will this work? The Government have expressed their intentions on regulated health and social care workers joining the voluntary registers, which will be overseen by the Health and Care Professions Council. I have already spoken in relation to the case of physiologists, but there are number of other health professionals who also want compulsory registration in order to have some pride in the work that they do, so that not anyone and everyone can just roll of the street and claim that they share the professionalism of those who have worked in one particular area of care for many years. I have spoken to many people who are on compulsory registers at the moment. They work with other colleagues in the health service who are not on compulsory registers, and they feel that their colleagues do not have sufficient recognition as a result of not being on a compulsory register.

The Government are going in completely the wrong direction. Instead of increasing the registration of people working in the health service and in social care, increasing the recognition of the professionalism of those people and focusing policy to ensure that we raise standards of care, they are moving towards voluntary registration and are not pushing for compulsory registration, which, as I understand it, was the policy push until recently. That seems counter-intuitive and it is of concern, particularly when it is embedded in the Bill that will definitely—there is no argument about it—lead to a fracturing of the health service. We will, as I understand it, be getting more providers—we will be getting a wider choice. In those circumstances, if there is going to be wider choice, we wish to have a wider of choice of good quality. In the end, quality of care comes from the quality of staff and ensuring that we are properly able to regulate our staff and not simply employ anyone and everyone in the health service and in social care without proper controls. That is a self-evident truth. [Interjection.] The Minister titters. I am surprised: perhaps he is not tittering; perhaps he is simply expiring in front of us.

I would be grateful if the Minister were to put on the record his response to concerns expressed by the UK Council for Psychotherapy that the Bill allows statutory regulators to establish voluntary registers in competition with existing professional voluntary registers. In other words, the UK Council for Psychotherapy already has a voluntary register. Is it likely that the legislation will result in another register being established in competition with that, which will also be a voluntary register? Will the Minister explain how that will work?

I also want to raise concerns about the approach to social care workers, which I have mentioned in earlier debates. It is right to pray in aid that the Governments in Scotland and Northern Ireland are moving towards a mandatory system of registration for those involved in social care. The experience in Wales, where there was a voluntary register of those involved in social care, shows that it simply did not work. Those involved with that register have said that it does not offer the clarity and simplicity that service users and carers require. As a result, the Welsh Government have also decided to close their voluntary registers and move towards a compulsory register. The rest of the UK is moving towards a compulsory register for care workers. Why is England being left behind? Will the Minister explain why there are particular circumstances in relation to England that mean we only have voluntary registers of those who perform the most intimate tasks? Why is it that other countries in the United Kingdom have a compulsory register?

In addition to adding confusion, voluntary registration is not going to drive up standards in social care. Skills in the care sector can be improved through compulsory registration or through requirements on the employer. I have asked the Minister if, instead of there being a compulsory register, any rules will be imposed on employers to ensure that those whom they employ are at least those on the register. Social care workers are in favour of mandatory regulation, but it is unfair on social care workers, who are on very low wages, to pay a fee when it is not mandatory and might not be a condition of their job. There may be voluntary registers, and the Minister may be allowing for social care workers to move on to a voluntary register, but if there is a fee and the people concerned are earning hardly anything and hardly making ends meet in, as I have said, this Cinderella end of the profession, are they even likely to join a voluntary register if they do not need to?

The public want us to professionalise social care and this aspect of work with the most vulnerable. If the Minister does not ensure that registration is compulsory within the legislation—as it is in Wales, Scotland and Northern Ireland for social care workers—what other levers, if he has any, is he going to use to ensure that there is a compulsory registration of those who look after our elderly and our most vulnerable? Why are the Government not listening to the views of workers and learning from the recent experience of the other Governments of the devolved countries in the United Kingdom?

Paul Burstow: As we consider the hon. Lady’s various points, it is worth reflecting on what the past few years teaches us in terms of how one translates well-intentioned
commitments into reality. When it comes to the regulation of various parts of the health and social care workforce, the previous Government, of whom the hon. Lady was a supporter, were certainly full of good intentions. However, they had a tendency to over-promise and under-deliver when it came to getting regulation to take place. In fact, if all the commitments of the previous Administration to extend regulation to new groups of workers had been delivered on time or, indeed, at all, an additional 1.3 million workers, many of whom are in relatively low-paid support roles, would be obliged by law to pay registration fees. That is the very point that the hon. Lady has raised.

It is worth noting that in 2000 the NHS plan gave a commitment to the introduction of proposals for regulation of health support workers, which did not happen. In 2001, there was a reference to herbal medicine. In 2005, there was a reference to social care workers. In 2007, there were references to health care scientists and practitioners, psychologists, counsellors and so on. The previous Government entered into commitments for all those groups, but they did not follow through on them. It is one thing to come to this Committee and raise concerns about the introduction of voluntary assured registration. What we are trying to do and intend to do is to have a proportionate response to risk, to have a mechanism that can properly assess, in a transparent and open way, the level of that risk and to put in place, where it is appropriate, voluntary assured registers.

The hon. Lady also asked how that might sit in the context of other changes to the environment in which social care in particular is delivered. There are a number of relevant factors that she should take into account. She mentioned herself the role of the Care Quality Commission. It will shortly be consulting on a scheme for a new excellence rating in the social care sector. One possibility—the commission will consult on this as a matter for consideration—is that the excellence rating scheme would include having regard to the fact that an organisation was employing staff who had been included on the voluntary assured register for social care workers.

**Emily Thornberry:** Do the Government therefore envisage that there will be old people’s homes that are not deemed excellent by the Care Quality Commission, where there will be people dealing with the most vulnerable who are not on any register?

**Paul Burstow:** I do not accept the proposition that the hon. Lady has put to me, because of course all care homes that are registered with the CQC can be registered to provide care only, if they meet the standards set out in the legislation that established the CQC on its current basis, which was passed by the Administration whom she supported. If she has concerns about those standards, they could have been addressed in the past. I do not share the concerns that she has tried to advance today.

**Emily Thornberry:** May I ask a more direct question? Perhaps I am just not asking my question sufficiently clearly. Is the Minister in favour of care homes providing services for the elderly and the vulnerable where there are staff who are not on any register? Would his legislation stop that if it were a possibility?

**Paul Burstow:** I find that question truly breathtaking, because in 2005 the previous Administration committed themselves to introducing changes but they never did. There was never a sense of urgency or drive, and the General Social Care Council did not deliver on that. If the hon. Lady now feels that to be an issue, why did not the Ministers who were responsible for it feel that it should have been addressed at that time?

We are moving from a situation in which there is no regulation whatever to a situation in which there will be assured, accredited voluntary registration of care workers in all settings. That is a change from the current arrangements, which we inherited from the previous Administration.

**Emily Thornberry:** As the Minister asked me a question, may I take the opportunity to say this to him? For anyone working in an old people’s home not to be on a register seems to me to be entirely wrong. If the Minister is using the Bill to develop levers that are made of foam and will do nothing and will not stop people who are not on a register working in old people’s homes, that is wrong. That is my opinion. This is a golden opportunity to put that wrong right. Never mind about the previous Government or whether the new Government should be building on the achievements of the previous Government. We are scrutinising this Bill now and a situation now in which elderly and vulnerable people may be being looked after by people who are not on any register. If that is correct and the Minister anticipates that it will continue under this legislation, it is his responsibility, I respectfully suggest, to ensure that he changes the Bill to stop it happening.

1 pm

The Chairman adjourned the Committee without Question put (Standing Order No. 88).

Adjourned till this day at Four o’clock.