



**The professional association for
social work and social workers**

The British Association of Social Workers (BASW) is the professional association for social work in the UK with offices in England, Northern Ireland, Scotland and Wales. With over 22,000 members we exist to promote the best possible social work services for all people who may need them, while also securing the well-being of social workers working in all health and social care settings.

The Social Workers Union (SWU) is the only trade union to offer representation by qualified social workers who understand the complexities of the profession. With officers working across the UK, SWU provides representation at internal hearings for disciplinary and grievance procedures, and employer investigations into practice and misconduct allegations.

This is a joint consultation response from both organisations prepared by the BASW England team and the **BASW/SWU UK Advice and Representation service (A&R)**. A&R represents members of BASW and SWU in employment and regulatory matters in all nations of the UK.

The Social Workers Regulations 2018 and the Children Act 2017 set out the broad regulatory framework for Social Work England's rules and operational efficiency. They cover the registration of professionals, education standards, professional standards and the fitness to practise regime for registered social workers. The regulations aim to protect, promote and maintain the health, safety and wellbeing of the public through promoting and maintaining professional standards for social workers and ensuring there is public confidence in the profession.

BASW England welcomes an evaluation of the regulatory framework and the proposed technical changes. We believe Social Work England's rules and operational efficiency should align with the values and principles in our [Code of Ethics](#).

This consultation response was completed jointly between BASW and SWU and representatives of both memberships. SWU is the only UK trade union run for and run by registered social workers. BASW and SWU work in partnership to protect social work professionals in their workplace. This response reflects the views of some of both organisations' members.

The responses to this consultation were captured through an online survey running for 8 weeks. This is a small snapshot from our membership as engagement was less than expected, but we hope the qualitative comments are helpful to the consultation process overall. It is surprising that engagement with the survey was not higher despite promotion. The balance of responses and free text comments are interesting and convey some key issues for our members.

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Having considered the proposed amendments and technical changes, our members have the following comments, concerns and queries:

1. Do you think the changes to the rules we have proposed will streamline our processes and are proportionate?

83% of respondents agreed that the changes to the rules proposed will streamline processes and are proportionate. 17% of respondents disagreed.

2. Do you think there are any other amendments to Social Work England's rules (which do not also require amendments to our regulations) that could be made to better support our regulatory processes?

Member responses included:

"I refer to the phrase 'Fitness to practice'. In statutory social work, students, newly qualified, social workers and maybe senior practitioners actually practice social work. However, those at manager level or above only practice arms-length state control. They should lose their social work title unless they actually visit children or adults."

"No."

"Social Workers are the group who pays their registration to you. You seem anti-social worker in the way you treat social workers. Whilst I fully understand that some people need to be removed from the register you are not as supportive as other regulatory bodies eg. GMC or NMC."

3. To what extent do you agree that using legally qualified chairs will streamline and better support our fitness to practise meetings and hearings?

Member responses included:

"If they have social work experience."

"As long as it does not take away the specialism of having a Social Worker in the panels and other enquiries, after all you are a social work body not a legal body."

"Legal expertise is good, but we need a cross section of social work practitioners who understand the job."

"In theory yes, as long as the views and experiences of the social work representatives and a lay person, presumably a person with lived social work experience are fully represented."

"Yes, I agree it's more robust."

4. Do you think we should appoint legally qualified chairs for all meeting or hearings, or should this be reserved for certain types of meeting/hearings?

83% of respondents disagreed that Social Work England should appoint legally qualified chairs for all meeting or hearings. 17% of respondents agreed.

5. Do you think there is anything else we should consider when using our power under rule 33?

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Member responses included:

"This rule is hard to understand and needs to be clearer so we can make an informed decision."

"The question above is unclear. My view is that legally qualified chairs are not required for all meetings and hearings."

"No."

"Unsure."

6. Do you think that the changes to the rules could impact any persons with a protected characteristic? If so, is it positively, or negatively, and how? The Equality Act (2010) lists nine protected characteristics: age, disability, gender reassignment, race, religion or belief, sex, sexual orientation, marriage and civil partnership and pregnancy and maternity.

Member responses included:

"Knowing the structure of my local authority - it is very white, heterosexual and outside of social care it is very male and upper class. It really reflects in the view the public have of the council and social care - very badly."

"No change."

"I believe that reducing the time people have to respond will affect those with a disability particularly if this impacts on their ability to complete paperwork or get their thoughts into order ie. having dyslexia for example."

"Negatively. Black and ethnic minority social workers are disproportionately subjected to fitness to practise investigations. Why is this? Have you got a cross-section of people on the Board? Is it employers who are responsible for this disproportionality? As the regulator for Social Work what are you doing about this and what have your investigations found? What action do you plan to take?"

There is the potential for a person with a protected characteristic to be marginalised whether the rules are changed or not. Legal guidance changing to legal decision-making should be a strength if the decisions are fair and impartial."

"No, I don't."

7. Any other comments you might have.

Member responses included:

"Any change is good, as long as the perspective is informed from the viewpoint of helping people in poverty, with disabilities, who are unsafe - much of "this is structural so too much time thinking about redesigns is time missing focusing on the rife inequality in the UK."

"I strongly disagree with the notification changing from 7 days to 14 days when alerting a social work they have been made subject of a concern."

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“I would like to have some further discussion on this as the information provided on the changes to regulations is very limited.”

“None.”

Our members have expressed concerns about SWE’s attempt to get access to medical records. There is not sufficient awareness among social workers of the fact that they can deny permission for a type of record. We have had to inform many members of this with regards to the SWE consent forms coming through.

Consent feels like coercion if a social worker agrees to the process because it feels like they’re causing a problem by denying access to certain records – like medical or police records. The pressure to “not create a fuss” should not be a factor in someone’s consent.

Members are concerned that since remote hearings and appeals are speedier, that people might be more willing to hand over personal data to make the process move along more quickly. How can SWE make this process both smooth and fair?

The proposal to increase the time for SWE to take action and at the same time decrease the time that social workers have to respond to procedural requests is problematic because social workers are already waiting years for their cases to be processed. There are no repercussions for delays caused by SWE, but delays can have devastating consequences for social workers who remain unable to practice. If SWE processes are delayed beyond the current and proposed processing times, it would be a show of good faith to the social work community for the regulator to take responsibility for the financial impact this has on social workers in the form of recompense.

Long waiting times are an equality issue. Not being able to practice for long periods of time diminishes the finances of those least able to afford it, including social workers who do not have a financial buffer to rely on whilst unable to practice and those without a support network.

BASW England feedback & recommendations:

Recent Community Care articles revealed that “less than 1% of social workers reported to regulator referred to hearing or found to have fitness to practise issues” and additional financial resources have been provided by the Department of Education to clear backlogs. BASW England hopes the new proposed amendments will streamline the Fitness to Practise process and address the disproportionate outcomes experienced by social workers from Black and ethnic minority backgrounds and other inequalities. We also request that the revised rules incorporate and embody anti-racist, anti-oppressive and anti-discriminatory values and ethics explicitly in accordance with equality, diversity and inclusion.

We believe SWE should be obliged to collate EDI data to address the known issues of inequality without delay and to take swift and appropriate action in relation to known issues of inequality. For example, the over-representation of Black and ethnic minority social workers in fitness to practise cases and disproportionately white adjudication panels.

Our recommendation is for an equality impact assessment to be undertaken following the implementation of any changes and/or new provisions.

We hope this feedback is helpful and received in the constructive spirit with which it is intended.

For further information please contact:

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