

## EXPLANATORY MEMORANDUM TO

### THE PROFESSIONAL STANDARDS AUTHORITY FOR HEALTH AND SOCIAL CARE (FEES) (SOCIAL WORK ENGLAND) REGULATIONS 2018

2018 No. 655

#### 1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Education and is laid before Parliament by Command of Her Majesty.

#### 2. Purpose of the instrument

- 2.1 Social Work England will be the new regulator of social workers in England, taking over from the Health and Care Professions Council (“HCPC”). Social Work England’s performance of its functions will be subject to oversight by the Professional Standards Authority for Health and Social Care (“PSA”). This instrument obliges Social Work England to pay a periodic fee to the PSA in respect of its oversight functions in relation to Social Work England.

#### 3. Matters of special interest to Parliament

##### *Matters of special interest to the Joint Committee on Statutory Instruments*

- 3.1 None.

##### *Other matters of interest to the House of Commons*

- 3.2 As this instrument is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

#### 4. Legislative Context

- 4.1 This instrument is made under the National Health Service Reform and Health Care Professions Act 2002 (“the 2002 Act”), as amended by Part 2 of the Children and Social Work Act 2017 (“the 2017 Act”).
- 4.2 Part 2 of the 2017 Act made changes to the way in which social workers in England are regulated. In particular, it established a body corporate, Social Work England, as the regulator of social workers in England in place of the HCPC.
- 4.3 The PSA will carry out functions in relation to Social Work England. This instrument requires Social Work England to pay a periodic fee to the PSA in respect of the carrying out of those functions. It prescribes the functions in relation to which a periodic fee is payable, sets out the way in which the amount of the fee is to be determined by the Secretary of State, provides the Secretary of State with the power to request information, and makes provision in relation to payment and re-determinations. This is the first use of the regulation-making power requiring Social Work England to pay a periodic fee to the PSA.
- 4.4 Draft regulations, which set out the detail of Social Work England’s regulatory framework, are being laid at the same time as these regulations.

## **5. Extent and Territorial Application**

5.1 This instrument extends to the United Kingdom.

5.2 This instrument applies only to England.

## **6. European Convention on Human Rights**

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## **7. Policy background**

### *What is being done and why*

7.1 Alongside other health and care regulators, Social Work England will be subject to oversight by the PSA. The PSA's functions include promoting the interests of users of social work services in England in relation to the way that the regulators carry out their work, and to promote best practice, good professional self-regulation and co-operation between the regulators.

7.2 The PSA has already built up relevant experience and expertise through its oversight of other health and care regulators, including the current regulator of social workers in England, the HCPC. The most efficient and effective way to make provision for oversight of the regulatory functions of Social Work England is to bring it within the scope of this framework, which includes being subject to PSA annual performance reporting to Parliament.

7.3 Under this framework, the PSA is partly funded by the regulatory bodies that it oversees. The regulatory bodies are required to pay a periodic fee to the PSA in respect of the PSA's functions in relation to them. This instrument provides for Social Work England to pay a periodic fee to the PSA in respect of the PSA's functions in relation to Social Work England.

## **8. Consultation outcome**

8.1 A public consultation on the proposed regulatory framework for Social Work England ran from 8 February to 21 March 2018. There were 198 responses in total. Of the 180 responses to the question about whether Social Work England should fund the PSA on the same basis as other health and care regulators, a majority (61%) of respondents agreed. A further 32% said they did not know, while 8% disagreed. This level of uncertainty reflects the technical nature of PSA funding.

8.2 Further detail on the public consultation is available in the Explanatory Memorandum accompanying the draft regulations referred to at paragraph 4.4. A full copy of the Government's response to the consultation is available on Gov.uk.

8.3 As required by section 25AA(12) of the 2002 Act, the PSA and Social Work England were consulted before this instrument was made.

## **9. Guidance**

9.1 Additional guidance will not be published for this instrument.

## **10. Impact**

10.1 There is no impact on business, charities or voluntary bodies.

- 10.2 There is no impact on the public sector.
- 10.3 An Impact Assessment has not been prepared for this instrument.

**11. Regulating small business**

- 11.1 The legislation does not apply to activities that are undertaken by small businesses.

**12. Monitoring & review**

- 12.1 The objective of this instrument is to require Social Work England to pay a periodic fee to the PSA based on the formula in the instrument. The formula provides for funding on a per registrant basis.
- 12.2 The operation of the instrument, alongside The Professional Standards Authority for Health and Social Care (Fees) Regulations 2015 will be monitored on an ongoing basis. In addition, section 64 of the Children and Social Work Act 2017 requires the Secretary of State to commission an independent person to review and report on the first five years of the operation of Part 2 of the 2017 Act. The reviewer's report must be laid before Parliament along with the Secretary of State's response to the report.

**13. Contact**

- 13.1 Rob Myers at the Department for Education Telephone: 020 7340 7455 or email: [rob.myers@education.gov.uk](mailto:rob.myers@education.gov.uk) can answer any queries regarding the instrument.