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Moving the river: rethinking regulation in social work:

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Moving the river: rethinking regulation in social work

Abstract

Social work regulation in England has experienced a considerable period of change in recent years. The profession's latest regulator, Social Work England, faces similar challenges to sister professions – and to social work internationally - to improve and focus regulatory activity to better protect the public. In examining activity around poor performance and fitness to practice, the author explores the potential for shifting the emphasis of a regulatory gaze to practice before problems occur, rather than always dealing with the after-effects (known as 'upstreaming'). A case is also made for developing 'formative spaces' - where organisations might construct interventions to address professional performance before recourse to regulatory structures. To examine the readiness of organisational

structures to take on this task, a series of qualitative, semi-structured interviews were undertaken with experienced practitioners. Thematic analysis of the data illustrates a range of current strategies for dealing with these issues. In conclusion, this article promotes the idea of shifting the balance of regulatory activity away from fitness to practice areas to more positive, proactive endeavours that might better protect the public and help the profession manage the challenges faced by the complexity of contemporary practice.

## Teaser Text

Social Work, like many professions, has a regulator appointed by government – whose duties are enshrined in legislation. In recent years, social work in England has experienced an unusual number of changes of regulator leading to uncertainties in the profession. This article looks at why we have professional regulation and the purposes it serves - but it also examines some of its weaknesses, especially around regulating a complex task like social work.

In addressing these weaknesses, the article argues we need to stop focussing all the attention on processing individual bad practice – which is characterised as catching people who have already ‘fallen in the river’. It suggests we ought to spend more time developing locally based interventions that work to stop practitioners from falling in the river in the first place. We do this by working to prevent performance management problems reaching the stage where they must be dealt with by a regulator. This is known as ‘upstreaming’. Using these approaches, regulation can perhaps better protect the public. The article concludes with a reporting of in-depth interviews with experienced practitioners about the extent to which we can ‘move the river’ and what innovations are already happening locally that can capture this activity.

## Introduction.

Arguably the defining characteristic of social work regulation in England in the last ten years has been structural change. Since the inception of the General Social Care Council (GSCC) in 2001, the profession has gone on to be regulated by the Health and Care Professions Council (HCPC) from 2012 to 2019 - and then from December 2019, Social Work England (SWE). In seeking to understand these changes, the author has examined (with others)

various facets of this intriguing but often problematic journey, including policy analysis (McLaughlin *et al.*, 2016), fitness to practice (Worsley *et al.*, 2017), and comparisons at international and interprofessional levels (Worsley *et al.*, 2020a; 2020b). In examining the discourse surrounding these facets of social work regulation, the literature appears to possess two main weaknesses; firstly, it tends to look backwards to form an understanding of regulatory developments, with relatively rare forays into considering how things might change moving forward. Secondly, it tends to form part of academic or policy conversations that seldom consider the experience of practitioners and their practice. This article seeks to address both these weaknesses as it explores a potential new direction for regulation and how it might be received by practising social workers, particularly in the context of supervision and performance management. In exploring a way forward, the paper will draw on two important concepts. The first is ‘upstreaming’, where the regulator shifts its gaze earlier on in the performance timeline and uses its extensive knowledge to take a more preventative (as opposed to reactive) approach to regulatory activity (McKinley, 1979; 1986). The second is of ‘formative spaces’, a concept developed by Fischer (2012) that advocates for the creation of organisational fora that informally manage the turbulence of contemporary professional practice. Although focussed on the example of social work in England, UK, this examination will apply to many parallel structures of sister profession regulation and is keen to draw on a range of international literature examining parallel issues around the globe as it seeks to answer the question: can formative spaces and upstreaming enhance practitioners’ experiences of regulation? This paper will attempt to locate this discussion in contemporary practice with reference to a small number of in-depth interviews with experienced social workers exploring to what extent these new approaches to regulation are, or might be, implemented.

Why do we have regulation?

If one looks to the sociology of professions, we see a well evidenced trajectory of numerous occupations, as they journey towards the status of profession and state legitimised function (e.g. Friedson, 1994; Malin, 2017). The 'award' of protected title will often come hand in hand with oversight by a regulator. However, the global social work profession is not at a single 'place' as far as this journey goes. Hussein (2011) is one of the few authors who have described the view across Europe on social work regulation, finding significant variation in the task and statutory responsibilities of social workers and thus of regulatory frameworks. In England, the social work professional register began in 2001. Elsewhere, New Zealand only introduced mandatory registration for social workers in February 2021, following a process charted by authors such as Beddoe (2014) and Hunt (2017). Not far behind is Australia where long fought for legislation is coming through at state level (see, for example, McCurdy *et al.*, 2020). America's similarly state based system of social work regulation results in a wide variety of approaches across the US (Lightfoot *et al.*, 2016). The metaphor of journey feels apposite in this brief overview, with significant differences between countries, each at different points on their peregrination.

Authors such as Beck (1992) and Harmon *et al.* (2013) have reflected on the 'risk society' that characterises modern life and the perpetual uncertainty we face as individuals.

Correspondingly, governments require various forms of institutionalised mitigation of risk, one of which is regulation. But it is also no coincidence that some degree of congruity exists with central government led changes in social work regulation and high-profile (often child

protection) cases where there appears to be a significant performative element in government strategies to manage risk (Manthorpe and Stanley, 2004; Vogel, 2012). The phrase, 'blame prevention re-engineering' describes how regulatory policy and political responses can be constructed to 'cover the back' of government (Hood, 2001; 2011). New shapes and structures for regulation perform a useful function for government when things go wrong. Systemic failings can be redrawn as failings of practice (and practitioners) and its regulation - rather than central or organisational policy or funding. This tactic is not confined to social work, of course. Rothstein *et al.* (2013), looking at several European professions, concluded that regulation as 'risk management' was not limited to the sense in which regulatory governance protects the public but also how it managed the risk to governments and the avoidance of blame.

### Problems with regulation

Contemporary professional regulation has been critiqued in a number of ways and there have been fundamental questions raised about its effectiveness and credibility. Some authors, such as Parker (2009), writing about psychology, express concern around the normative character of regulation where 'official' moral standards and types of knowledge are in danger of producing an uncritical conformity to prevailing mores. Kiepek *et al.* (2019) looked at drug use amongst Canadian social workers and examined how the regulatory gaze extends beyond the work life into the personal - and how constructions of 'conduct unbecoming' can become focussed in regulatory terms on respectability rather than risk to service users. This extension of remit is highlighted by Hood who notes the growth of complex, costly, 'risk regulation' regimes which arguably have a direct interest in securing

greater numbers of registrants and enhancing their regulatory functions (Hood *et al.*, 2001).

More fundamentally, Postle (2012) warns of the dangers of being reduced to a 'tick box' approach by regulation in essentially unsuitable, complex practice arenas

In broad terms, social work has seen the management of performance largely conducted through the use of professional forms of supervision (Beddoe and Maidment, 2015).

However, as the complexity of contemporary social work increases, supervision's ability to hold a focus on professional development, as well as to ensure responsibilities are managed, is challenged. Yet evidence suggests this challenge can be met. Mo *et al.* (2021) offer a persuasive, global account of the development of knowledge in social work supervision from which can be noted particularly its embrace of organisational change and functions related to the maintenance of standards as far back as the 1970s. Iosim *et al.* (2021), in a large-scale piece of research, noted the efficacy of supervision in ameliorating burnout in Romanian social workers. These ideas are connected in research from New Zealand which underlined the vital role of safe, 'learning communities' and other such 'spaces' for child protection social workers in both skill development and accountable practice (Rankine and Thompson, 2021). These notions are echoed in Beddoe *et al.*'s (2021) 15-month ethnographic study of two English social work teams which highlighted the tension between spaces designed for reflective supervision and accountability:

Ideally, supervision should hold this tension, providing both sanctuary from the seemingly ceaseless demands of busy practice environments and the freedom to hold 'not-knowing', uncertainty, creativity and a safe space where one can be one's authentic self and imagine better practice. (Beddoe *et al.*, 2021, p.4)

But supervision cannot always contain all these demands, practice can fall below professional standards and trigger regulatory intervention. Fitness to Practice (FTP) processes are one of the most significant challenges facing both profession and regulator. Each of SWE's registrant social workers are subject to penalties through a FTP system should their practice or behaviour fall below that indicated by the standards. There are some notable features of this process that warrant mention. Firstly, research has shown the huge personal impact that these proceedings can have, regardless of outcome (see for example, Worsley *et al.*, 2017). Second, there are some aspects of the (English) social worker's experience of regulation that appear to differ from other sister professions. In 2019, the HCPC regulated 16 different professions and carried a total register of around 360,000 practitioners. One of their reports indicated how social workers accounted for 25% of the register, but 55% of the FTP cases and had, by some margin, the highest percentage of its registrants (1.42%) subject to such concerns (HCPC, 2019). Furthermore, this is a hugely costly business where the HCPC spent nearly 50% of its entire income on the processing and prosecution of FTP cases (HCPC, 2019).

Parallel to these FTP problems, one must note the turbulence in the arena of professional standards for social workers and significant shifts in what we might term the 'soft' regulatory landscape. 'Soft' is used as these standards are not enshrined in legislation but operate in – and influence – the same space (Jacobsson, 2004). For example, in the UK the Department for Education (DfE) led Teaching Partnership programme (which links local Higher Education Institutions with large scale social work providers such as Local Authorities) produced, through its approval process, a set of 'soft' regulation requirements



around entry standards, curriculum and practice learning, before funding would be awarded. Furthermore, we have seen a centrally (largely DfE) driven proliferation of standards linked to areas of post qualifying social work practice which is not regulated by SWE but arguably creates a confusing landscape for the profession. The probationary system of ASYE (Assessed and Supported Year in Employment) was augmented by a range of Knowledge and Skills Statements, (e.g. DfE, 2018). The (recently withdrawn) National Assessment and Accreditation System cost in excess of £24m and yet accredited only 1700 social workers (Community Care, 2021). The resulting picture suggests a devotion to centrally driven innovation and (soft) regulatory activity with an apparently unshakeable belief in the power of both to improve delivery. The sheer cost (and opportunity cost) of these hard regulatory processes and soft central initiatives must give us pause for thought and ask if there might be a better way?

Is there a better way for regulation?

Upstreaming and formative spaces are concepts that perhaps suggest a way forward. The concept of 'upstreaming' has been around since the 1970's, originally linked to public health policy narratives rather than regulation per se. The term was coined by McKinley (1979) who used the analogy of a flowing river to critique health services, which he likened to rescuing people from the river – but never looking upstream to find why they had first fallen in. This attention to 'downstream endeavours' implies short term, case by case interventions that do not engage with fundamental and systemic failings that lie upstream (McKinley, 1986). McKinley argued forcefully that whilst a focus on upstreaming may be more long term and complex it would ultimately lead to better outcomes and reduce the

need for downstream interventions. Looking 'upriver' is one thing but, to extend the metaphor, you need a boat to do so. One avenue to explore here is the concept of formative spaces which stems originally in the work of Fischer (2012) who theorised around organisational 'turbulence' in a longitudinal ethnography of a UK mental health, therapeutic community setting. He argued that turbulence is a natural phenomenon for complex organisations but the management of such 'trouble' can be positive, despite the usual negative characteristic of turbulence. He argued that where organisations are in what he called a 'restorative mode' they can generate 'formative spaces' which could host creative, productive functions whereas 'perverse' spaces were characterised more by organisational dysfunction and crisis. The formative spaces afforded opportunities to reflect on difficult areas of practice:

'... by cultivating a reflective, shared endeavour and 'slowing things down', the (organisation's) methods promote restorative relations. Eliciting alternative perspectives and solutions encourages gradual integration of inner experience and social 'reality', restoring relations and leading to collective learning.' (Fischer, 2012, p. 1167)

## Methodology

Given the problems with regulation we have outlined above it appears valid to examine the potential that new approaches might offer to practice. To that end the author constructed a small-scale research project to examine these possibilities and how they might be implemented around the research question: can formative spaces and upstreaming enhance

practitioners' experiences of regulation? The author gained university ethical approval for a small-scale series of in-depth interviews (n=10) with experienced (defined as 3 or more years into practice) social work practitioners situated in a range of statutory settings including Local Authorities, County Councils and NHS trusts. Recruitment was conducted via an open call email and accompanying information sheet noting the qualities of the respondents sought. The call was circulated through networks of practitioners linked to the 'Teaching Partnerships'. None of the respondents were previously known to the author. The semi-structured interviews were all conducted on-line via Microsoft Teams and transcribed through the Teams software with the recorded video being reviewed to ensure accuracy. The transcriptions were sorted into basic analytic files related to the interview schedule.

Broadly, analysis was done within Braun & Clarke's (2021) thematic approach and transcriptions were coded and themed. One of the potential weaknesses of thematic analysis is its flexibility – it is perhaps an overly accommodating approach that can get employed in too many different ways amongst researchers. To address this weakness, it is therefore important to clarify orientations and assumptions (Kiger and Varpio, 2020). Consequently, a deductive approach was pursued, and this led to a mostly semantic process of coding (focusing on what was said) but was also informed by more latent analysis as the author sought to understand some assumptions underpinning the data (Byrne, 2021). Deductive theme development was directed by existing concepts and ideas specifically, in this instance, a paradigm derived from concepts of upstreaming and formative spaces (Braun and Clarke, 2021). Thus, the original data collection tool reflected the relevant

literature already outlined above and analysis is situated within that literature (Aronson, 1995; Tuckett, 2005). It was important to ensure a shared level of understanding around these key concepts and the schedule specifically afforded space for explanation before asking such questions as: Do you think there is a useful function [upstreaming and formative spaces] could serve in social work? What might that be? How do you think these ideas might apply in your setting? Where might they be most/ least useful?

It is important to stress that the questions did not explore any personal experiences of performance management, and this was made clear in the consent process. The respondents were well positioned to answer these structural questions, but inhabited slightly different roles, including Local Authority Designated Officer (n=1), Senior and Advanced Practitioner (5), Professional Lead (2) and Consultant Social Worker (2). Broadly speaking, all the respondents held senior professional roles that held significant shared elements of (high) levels of experience, with a majority possessing functions related to performance management, practice development and professional standards. Roles are not differentiated in the analysis due to the identifiability of these high-profile posts, but it is noted that there were no discernible significant differences between the clusters of roles. The findings of this small sample are presented simply as illustrative of some current senior practitioner experiences and opinions. Unless otherwise stated, quotes broadly reflect a commonly expressed view.

Findings: Performance management and Social Work England

Findings are presented under three thematic headings: performance management, upstreaming and formative spaces to report respondent's experiences and opinions about these issues. As discussed above, supervision is a key element in the broad 'management' of practice. It is interesting to note that all those interviewed recounted broadly positive experiences of supervision but not of appraisal which, in this small sample, was almost universally absent. It was generally reported that supervision tended to benefit from encouraging balances between instrumental and expressive elements (Kadushin and Harkness, 2014) ensuring, perhaps, a deeper quality of supervision – and firmer platform for one-to-one debate around complex and challenging issues:

*I feel that my manager manages my performance adequately through supervision anyway, and so you know, we don't have a formal appraisal. We haven't had a formal annual review as such, but I feel like I'm... you know, we're on track.*

Regarding SWE, from this small sample, its penetration into the working lives of social workers appeared largely limited to the renewal of registration process - unless there was a direct link through the worker's role. A typical comment was:

*We never really discuss Social Work England...*

Even so, from this sample, there were some quite negative comments about the regulator, such as this comment regarding the experience of registration renewal:

*Social Work England is very much on my table and to be honest with you I really don't have much faith in them. I ... well, I found everything about them, even from the inception of them to be quite threatening...*

Furthermore, even in roles that involved ongoing (FTP) interactions with the regulator, they had not always been perceived positively:

*... in terms of experience of engagement with them as a regulator, have to say it's not been the greatest...*

These comments (and those around appraisal) suggest a certain distance from the regulatory body that might prove a hinderance to actions designed to bring regulatory function ('from' the regulator) into the workplace. However, it may be that using a more localised starting point, such as the positive experiences of supervision, might be a better place to look for more formative, upstreaming actions.

Moving to more problematic areas of practice, unless directly related to role, practitioners had limited awareness of performance management, although it was clearly something of which respondents were wary and thought might lead to dismissal:

*... so, I know colleagues who have been on performance management. But again, it's quite secretive and it's something..., and it's something to be kind of feared really, (...). It's not seen as a positive thing. It's seen as very much like you're likely to be going.*

A related issue which arose for some was the competing 'soft' regulatory elements discussed above, that affect practice:

*Now what we do in regard to performance management is we continue to use the standards, (...) we've had to come to an agreement 'cause of the turf war that goes on between the PCF\*, the KSS and Social Work England standards.*

[\*Professional Capabilities Framework]

This statement, although representing a view only shared between two respondents, offers a helpful illustration of how localised reflection might be needed to process competing regulatory demands and their complex structures – where centralised (hard and soft) standards are developed in seeming isolation from each other – and from the professional workers they seek to influence and guide. The interviews then moved into more solution orientated areas.

#### Findings: Upstreaming

How professionals gain understanding from various forms of knowledge to improve practice is obviously a broad issue and respondents underlined in various ways the importance of the matter (*'we can't not learn'*). Here we were focusing specifically on upstreaming in the sense of learning from fitness to practice data. This was generally seen as the right and obvious thing to do,

*... the regulator should be highlighting that, picking that up and thinking, well, there's something going on here...*

There was a generally shared perception that whilst not all 'data' was 'information', useful knowledge applicable to each area could be fed locally into various organisational processes to reflect upon:

*So, it might be a good idea to have this information, but it needs to be useful information and not just based on, you know, the odd case here and there that's not relevant to employers... but if there's not themes, I think you're going to struggle...*

There was a largely uniform view that a more localised approach to performance management worked better for practitioners, often because it was able to situate the 'issue' in the local context and home organisation:

*There's a balance between having it done in house where people will probably have better knowledge of the local area and of the context of what happens in [the organisation].*

For respondents whose roles linked closely to the regulator there was a consistent concern around the threshold criteria (and timing) that might be used to inform the decision as to whether to refer to the regulator or not...

*... I said at what point do you refer into [the regulator]? And there was a mixed response, and these are people who were kind of, you know, leading the organisation. And it was one person that said, well, actually, I think you only refer when it's safeguarding. So, I think whether you're an employer or whether you're a member of the public, it's not clear at what point you make the referral...*

Guidance for employers does exist and is stated on the SWE website but does not make specific reference to safeguarding when it defines seriousness (SWE, 2021). One could certainly argue that the guidance is quite detailed and, for example, checks are noted around ensuring concerns are fair and not biased. It would appear from this small sample that the message is simply not getting through;

*people don't know where that line is, and they don't know that they've crossed it.*

Findings: Formative space



Universally supported in the sample was the notion of some kind of internal, formative spaces with all respondents seeing the case for some structure to support this activity. This was often couched in an understanding of the complexity of the contemporary social work role:

*What I'm really keen for when we come out of this blooming children's social care review is just do away with 20 processes please, because that's not helping us. And you know, if somebody is really stressed and pressured and trying to understand [internal processes] ... [they are] more likely to go into, you know, adverse coping mechanisms because they're just overrun with info.*

There was general support for a localised process that understood the local context but was partly removed from it too:

*... having somebody who's not involved in all that, who doesn't have all that contextual information, doesn't understand the complexity and all that. Knowing how all the things feedback, the kind of personalities and the culture of the area, but a bit more kind of potentially objective. They can kind of sit outside it.*

In the final section of the interviews with practitioners, I examined how one might implement practices related to upstreaming and formative spaces. I had expected to find nascent forms of organisational structures and processes that might possess capacity to develop these elements. In fact, in most cases, respondents were able to point to positive systems and processes that already existed within their organisations that might house or, indeed, currently carried both upstreaming and formative functions.

*Obviously, we don't want staff to end up in fitness to practice, but that doesn't mean it will never happen. It just means we try and learn from it... (...) as a regulator, they are quite sort of distant and don't have a place in the sort of day-to-day professional role.*

The researcher was informed, by most respondents, of a promising range of activity: internal training sessions, Human Resources groups, 'learning circles', development meetings and the like that were already in operation and apparently performing well in supporting and developing staff. In one practitioner's organisation, efforts to address these broader issues has resulted in the creation of a significant intervention that encapsulated notions of upstreaming and formative space:

*[...we are] trying to create a climate where it's OK to make mistakes, but it's how we learn and how we move forward from that...how we can see that change rather than just always staying the same and always doing things the same way...*

The organisation had developed a relatively new system of support for social workers, a strengths-based approach to staff development which supports staff subject to 'pre' and formal capability proceedings by providing developmental opportunities to address performance issues *before* they become problematic. It was set up, in part, to deal with the lack of guidance for managers dealing with these issues. Working in conjunction with HR and linked learning development roles whilst utilising research in practice resources, the scheme aims to recognise the support needs of social workers, understand any contributory factors affecting performance and 'see the wider perspective' with a focus on support and guidance. This positive outlook and 'starting on the right foot' follows a process which

supports and encourages engagement. The team delivering this intervention do not sit within the line structures.

*... the managers tend to like it because we don't sit within the management structure, they tend to ask us to be involved when it's at learning and development plan stage. You know, like so we've got an issue. Can you help us put in something for a defined period of time which can help support this worker?*

These findings, limited as they are, demonstrate a perceived weakness in the relationship with the regulator, but clear strengths in localised interventions building on positive outlooks. They portray social work organisations looking to develop innovative interventions to proactively engage with performance issues.

## Discussion

One of the features of regulation is its largely reactive function – it responds to a stimulus. At its heart, social work regulation is to *protect the public* through the maintenance of a register (SWE, 2021). This is essentially a reactive function, focussing solely on the individual, their ‘offence’, and its punishment. There is also a passivity, in that any resultant action (and learning) is limited to the individual and not, for example, to an organisation or wider profession. Might it be better to divert attention more to measures aimed at prevention? Extending McKinley’s analogy, might it be that we should not simply focus on moving upstream in a regulatory river, but rather move the river itself – localising the discourse around standards of professional practice into those venues where it takes place and is best understood?

I want to present two initial underpinning suggestions where a more upstreaming mindset could be developed within such an environment. The first is to develop a more rigorous, data driven, research-mindedness in regulatory activity. If we consider, for example, a recent FTP report (HCPC, 2019) we find all manner of descriptive statistics regarding FTP numbers, where referrals emanate, types of issues, disposals and so on - yet the regulator seemingly devotes little effort to moving this data beyond its descriptive reporting. There is a certain irony in the fact that the owners of the biggest repositories of data on professional malpractice in this field do not, as far as one can see, harness that information effectively to turn it into knowledge that might improve services and better protect the public. At the time of writing SWE had not published a similar report.

The second suggestion for upstreaming is around qualifying curricula. I have noted above the range of standards surrounding qualifying education, but there is surprisingly little guidance on what social work students should be taught - nor how they should be taught it. Social Work England's standards do not directly relate to curriculum content. Section 4.1 of the current Education and Training Standards, relates to curriculum and assessment but says only that programmes must 'ensure that the content, structure and delivery of the training is in accordance with relevant guidance and frameworks' (SWE, 2020). The 2019 Quality Assurance Agency Benchmarking Statements for Social Work offer by far the most complete guidance on curricula (QAA, 2019) but are curiously not referred to in the SWE guidance. The Benchmarking Statements reflect a range of research-based evidence of 'what works', almost exclusively generated by the (international) academic sector. Similar

arguments accrue around pedagogical research and which methods of teaching might create the best outcomes for professional students. I argue strongly that a regulator needs to bring an 'upstreaming' research mindedness to inform and shape a new curriculum for social work education, one which simply reflects the best current evidence to create the best social workers.

The qualifying curriculum is, of course, only one element of regulation and we need to consider how we might make positive steps forward to address the issues raised upstream *in practice* – somewhere we might channel the learning from a more research minded approach to regulation. I have noted the inevitability of turbulence in practice and how the regulatory landscape affects practitioners and hence the need for some mechanisms on the ground to help the profession manage these challenges. If the approach is entirely 'formal' then it may well be that we are creating perverse, unproductive spaces whereas, if we can focus more on restorative actions, we can improve delivery (Fischer, 2012). One of the reasons Fisher's excellent, but relatively modest, research is noted is that these concepts were transferred into a more overtly regulatory frame by the Professional Standards Authority (PSA) and were promoted in their report, 'Right Touch Reform' (PSA, 2017). The PSA oversee and monitor the performance of ten different Health and Social Care regulatory bodies in the UK, such as those relating to doctors, nurses, dentists and social workers. As such they are an important element of the regulatory framework underpinning the sector. The PSA has recognised and promoted the use of formative spaces– where 'regulator-sanctioned confidential discussions between colleagues about problematic areas of practice... (could be held) ...', even though these discussions may be outside the direct

control of regulators' (PSA, 2017, p.27). As the PSA notes, this is not without its challenges especially where the regulator might be concerned that important information may not appropriately reach the regulator. However, the opportunity formative spaces present to create positive organisational (and professional) development appears considerable.

We have seen from the respondent's data that many organisations have already developed a range of interventions that provide direct evidence of the social work workplace operating within what Fisher (2012) termed a 'restorative mode': finding space for thoughtful, creative responses to practice turbulence and enabling collective learning. Clearly, the respondents indicated a certain level of disconnect from the regulator and one might infer from their comments that whilst SWE is not (yet) the vehicle to drive the development of formative spaces it may well have an important role in facilitating them. The notion from the PSA (2017) of 'regulator sanctioned' spaces for these difficult discussions seems especially helpful. Such developments might also include the management of this standards 'turf war'. Finding professional spaces to process issues relating to hard and soft regulatory standards would seem useful and it is important to acknowledge the potential that good supervision provides in this regard.

I noted above the respondent's positive experiences of supervision, and it seems appropriate to consider the opportunity that space offers (both within and outside line management) as a receptacle for upstreaming and research mindedness. Research previously mentioned has shown the importance of supervision as a place capable of holding the tension between reflection and accountability. Exactly how these spaces are

constructed within the local setting has, according to Beddoe *et al.* (2021) enormous bearing on their efficacy in managing the different functions expected of them. One of the interesting findings from the interviews was the general view that removing supervision from the immediate line management/ supervisory relationship, where performance issues had arisen, was seen as a positive step. Such an approach retains the expertise in professional support, supervision *and* the local knowledge of organisational conditions, whilst allowing a certain distance from the immediate line management arrangements.

How such activity relates to the regulator seems to be problematic as the link between frontline practice and regulator appears relatively weak at this juncture. This may be linked to the succession of 'hard' regulators, together with the complexity of soft regulation that we outlined above. But England is not alone in experiencing such a dissonance. Looking once more at the European experience, Tier *et al.* (2021) examine social work supervision in the Netherlands, Belgium and Germany – focussing on those working with the homeless. Albeit from a relatively small sample, their evidence supported the notion that localised understanding was vital for effective, supportive supervision, but also of the limits of the respondent's professional obligations to government, which was seen more as a strategic mechanism often to secure funding for their services. Lightfoot *et al.* (2016), considering social workers in the US, add to this complexity noting a certain sense of ambivalence around the relationship with regulation, identifying that many social workers held concerns around the 'clinical' orientation of the licensing system not representing the community orientation of their social work role. Finally, Taylor and Campbell (2011) examined issues around social care governance in Northern Ireland and present strong evidence that it is

practice development processes that engage professionals -rather than didactic forms of teaching around governance and regulation.

Perhaps here we begin to see how the gap between professional regulation and performance management might be mended – and provide a platform for upstreaming and formative spaces. Evidence considered here suggests the need is for locally developed processes to adopt these kinds of functions, which are sensitive to those located in line supervision and where they might better be displaced to different strands of organisational activity. And this, I argue, is an important distinction – organisations need to understand the limits to what can be achieved in performance management within the supervisory relationship and to develop different, detached (but localised) systems to support workers so as to develop their practice into more overt alignment with the standards expected in the profession. In this way, we don't simply follow the river upstream – but rather move the river itself, adjusting the current balance of managing performance more into social work organisations and away from the regulator.

## Limitations

This paper offers a largely theoretically driven approach to the subject of regulation, with a strand of primary data designed to reveal insight and inform. Limitations include a relatively narrow range of roles inhabited mostly, but not exclusively, within Local Authority structures. Demographic data of respondents was not collected for this study. Deliberately removed from this study was the personal experiences social workers may have had of



fitness to practice procedures (although this is captured elsewhere by the author (Worsley *et. al.*, 2017, Worsley *et al.*, 2021a). As is often the case in qualitative research, data saturation was a significant consideration in recruitment of respondents and after the interview element of design was completed data saturation was felt to be achieved.

## Conclusion

Clearly, there is some evidence that positive, proactive spaces are being developed in organisations and they have great potential to support upstreaming and formative actions. These spaces might also act as destinations for knowledge gained by the development of a more research orientated, localised approach to regulation and the dissemination of the regulator's largely untapped knowledge. This article has outlined a turbulent period for social work in England – involving major shifts in regulation and increasing 'soft' regulatory activity. There is little evidence that the stream of centrally driven policy initiatives will slow, so it is reassuring to see that constructive ways forward are already being shaped in the sector in response - and evidence is growing that Social Work England should work with others to consider shifting the balance of its activities, working more with employers and practitioners to foster such developments. Helping stop practitioners from 'falling in the river' is likely to improve services more than reactive downstream endeavours. Moving the river in a way that is sensitive to the local terrain may better protect the public and the profession.

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