

**NORTH LANARKSHIRE COUNCIL
REPORT**

TO: Social Work Committee	Subject: THE REGULATION OF CARE (SCOTLAND) BILL
FROM: J Dickie, Director of Social Work	
DATE OF COMMITTEE: 25 January 2001	
REPORT AUTHOR: Dennis O'Donnell	
REF: DOD/EOC	

1 CONTENT AND PURPOSE OF REPORT

- 1.1 The Regulation of Care Bill was introduced in the Scottish Parliament on 20 December 2000. The Bill aims to improve care standards by modernising the regulation of care services and education for under fives, and ensure that Scotland has a competent social services workforce. The Bill will cover care at home, care homes for adults and children, day care for adults, early education and childcare, independent healthcare and a range of other related services. The Bill also updates a number of general provisions in related policy areas
- 1.2 The Bill provides for two main developments. Firstly, a Scottish Commission for the Regulation of Care, and secondly, for a Scottish Social Services Council for the regulation of the social services workforce.

2 BACKGROUND

Care Regulation

- 2.1 Arrangements for regulation of care have been subject to long-standing criticisms on the basis of responsibility being vested in several lead agencies; some key services being unregulated, and that nationally, arrangements lacked independence and consistency.

Workforce Regulation

- 2.2 As distinct from teaching, nursing and medicine, in personal social services there is no comprehensive workforce regulation, nor framework to provide it. This has been a long-standing concern and has not required employers to employ staff with particular qualifications nor to track people in the workforce who have been deemed unsuitable for the jobs they are doing. Codes of conduct have not been widely applied and there has been growing public disquiet over incidents of bad practice and gross misconduct.
- 2.3 The policy objectives of the Regulation of Care (Scotland) Bill 2000 are to address the concerns outlined above through the establishment of the two national independent bodies for regulation of care and the social services workforce.

- 2.4 The Scottish Executive issued a series of publications between 1998 and 2000 in line with their aspirations to modernise social work services in Scotland. Separate consultations have taken place on publications on the regulation of the workforce and education; early education and childcare; care and the social services workforce, and, the independent healthcare sector.
- 2.5 In July 2000 a policy position statement entitled “The Way Forward for Care” was issued. This set out the Executive’s broad intentions for future regulation of the care and the social services workforce, pending drafting of the Bill. Consultation illustrated widespread support for legislative change and modernisation and for the proposal of national regulatory bodies to be established both for the regulation of care and the workforce.

3 OVERVIEW OF THE BILL (THE BILL IS SET OUT IN 5 PARTS)

3.1 Part 1 - The Scottish Commission for Regulation of Care

The Commission will:

- ◆ be accountable to Scottish Ministers
- ◆ take over regulatory responsibilities for residential and day services which hitherto lay with local authorities, and for nursing homes, hitherto the responsibility of health boards
- ◆ over time, be responsible regulation of a wider range of services, including care at home services, housing support services and nurse agencies
- ◆ allow for local authorities to employ nurses within residential homes
- ◆ focus its regulatory approach on outcomes for service users measured against nationally agreed standards
- ◆ take a strategic overview of national care services, encourage service improvements and provide information to the public about service quality.

- 3.2 The Bill defines the range of services which will fall within the scope of the Commission, gives Scottish Ministers powers to issue national care standards and requires that a robust system is in place for investigating complaints about care services. Legal measures are included which should improve enforcement and help deal promptly with problem establishments. Key requirements relating to management, building, staffing, policies and procedures and conduct are included within regulations so allowing weightier enforcement. The Bill defines inspection frequency as a minimum of once yearly. Protection of staff interests in transferring to the Commission - through TUPE principles - is referred to.

3.1 Part 2 - The Scottish Council for the Regulation of the Workforce

The Council will:

- ◆ replace the Central Council for Education and Training in Social Work (CCETSW) and the Training Organisation for the Personal Social Services (TOPSS)

- ◆ regulate the training and education of social care workers
 - ◆ promote education and training and regulate professional social work training and post-qualifying training
 - ◆ Visit and report on training establishments
 - ◆ publish codes of conduct and practice
 - ◆ maintain registers for different types of service workers
 - ◆ grant or refuse registration
- 3.2 The Bill deals with conditions to be satisfied for inclusion on register; decision-making about qualifications gained elsewhere in the UK or overseas; links with other regulatory bodies; removal/appeals procedures; payments of grants and allowances. Ministers are given strategic responsibility for ascertaining size of the required social services workforce and its training needs.
- 3.3 Part 3 - Issues Common to both the Commission and the Council.
- 3.4 The Bill gives Ministers the authority to make grants to both bodies for the purpose of start up, this within a context that longer term costs will predominantly be met through fees. Liaison in areas of joint interest, such as management difficulties in registered services, is expected. Both the Council and Commission are expected to have internal systems for dealing with concerns about their own services or registered care services - there will be the legal authority for inquiries to be undertaken in the event of serious concerns being identified.
- 3.5 Part 4 - Miscellaneous policy issues not all directly related to the Commission or Council
- 3.6 CCETSW to be abolished; allows Section 10 grant monies to be passed onto secondary providers in a wide range of service provision, research etc.; amends regulations to allow disabled children aged 16 & 17 years to fall within the scope of current arrangements for activities; allows local authorities to employ nurses and develop single care home concept; builds upon and removes doubt about definition of place of safety in Childrens (Scotland) Act 1995 - now categorically includes "home of a relative, friend or foster carer, as appropriate"; places a duty on local authorities to provide training for safeguarders and clarifies arrangements for costs incurred to be met by the Executive.
- 3.7 Part 5 - General
- 3.8 Allows for Ministers to decide on implementation details. for example, home care services are not expected to be regulated until 2003; Council expected to assume responsibilities from October 2001 and transfer CCETSW funding. Predict registration costs of £20 per annum plus workers contribution to lifelong learning costs. Also, outlines financial considerations re implementation. Indicates initial costs will be borne by the Commission and Council but expected to move towards

self-funding by 2005. Forecasts an increase in fees by 10% year on year until 2005 with projected net increase in service users fees of 1% adequately covering costs of registration.

4 IMPLICATIONS FOR SOCIAL WORK DEPARTMENT

- 4.1 There are no unforeseen implications arising from the Bill. It sets out a framework for regulation of care services and social care staff which is to be broadly welcomed and to which all local authorities will be expected to adhere.
- 4.2 Regulatory responsibilities will transfer from the local authority to the Commission, and local authority services will themselves be subject to registration.
- 4.3 Local authorities were aware of forthcoming changes and the work of the officer member group, outlined in "A Home For the Future", anticipated these changes and the impact upon funding and resources that will arise. National standards are in the process of being devised and will further inform that process.
- 4.4 Transfer of staffing and other resources set aside by the local authority for registration and inspection purposes are currently under consideration and subject to negotiation via COSLA and individual local authorities.
- 4.5 Implications may arise should the Scottish Social Services Council require specific qualifications for certain positions, where current post-holders do not meet these requirements. The Department will require to identify such individuals and decide upon any action necessary.

5 WIDER CONSIDERATIONS

- 5.1 The Bill will be subject to consideration by the various Parliamentary Committees.
- 5.2 Whilst the Bill is welcome, it there remain areas within the proposed reforms upon which local authorities will continue to seek to influence. These include:
- ◆ clearer reference to implementation time-scales for achieving national standards
 - ◆ clearer distinction between supported living and supported accommodation definitions
 - ◆ better specification of time-scales for dealing with provider representations against notices to apply conditions/cancel registrations
 - ◆ failure to develop local systems of accountability, akin to Advisory Committees on Inspection
 - ◆ reduction in inspection frequency/safeguards
 - ◆ persistence with the concept that regulation can be self-funding through fees
- 5.3 Representation on these and other areas of concerns will be progressed through Cosla and ADSW links.

6 RECOMMENDATIONS

6.1 Committee is asked to:

- (i) note the content of this report
- (ii) request the Director of Social Work routinely bring forward reports outlining the implications for this Council during the transition towards new regulatory arrangements.



Jim Dickie
Director of Social Work
15 January 2001

For further information on this report please contact ,Dennis O'Donnell, Principal Officer (Registration and Inspection) (TEL: 01698 332058)