

To: SOCIAL WORK COMMITTEE		Subject: CONSULTATION – SCOTTISH COMMISSION FOR THE REGULATION OF CARE: PROPOSALS FOR MAXIMUM FEES
From: JIM DICKIE DIRECTOR OF SOCIAL WORK		
Date: 27 FEBRUARY 2003	Ref: DOD/EOC	

1. PURPOSE OF REPORT

- 1.1. To inform Committee of the Social Work Department's response to the Scottish Executive's consultation paper on charges for registration to be applied by the Care Commission in the year 2003/2004.

2. BACKGROUND

- 2.1. The Care Commission was set up by the Regulation of Care (Scotland) Act 2001 and has, since April 2002, regulated those services previously regulated by local authorities and health boards. From 1 April 2003 other services will fall within the scope of regulation: housing support, certain childcare agencies and limited services for adults with incapacity.
- 2.2. The Regulation of Care (Fees) (Scotland) Order 2002 set fees for applications for initial registration, cancellation of registration, annual continuation and variation of registration.
- 2.3. This current consultation paper relates to proposed uprating of regulatory costs for existing services and fee setting for services new to regulation.

3. KEY ELEMENTS OF RESPONSE

- 3.1. The full response is set out as Appendix One. Key comments include:

- rejection of the Executive's proposal that by 2005 the full costs of regulation can realistically be met from fees
- this Council's assertion that charges amount to a redistribution of government funds as fee costs are likely to be passed onto either the service user or the Council as service purchaser
- criticism that if housing support services are regulated that costs will be prohibitive to large national providers with sub-services and to small local providers whose housing support services are contracted to provide low levels of housing support

- alerting the Executive to the possibility that levels of charging for “partial registration” under the terms of the Adults with Incapacity (Scotland) Act 2000, may serve as a disincentive to seek registration and potentially prove an additional workload burden to the Social Work Department
 - criticism that proposals set fees without specifying the regulatory process which will be implemented or take account of existing mechanism for monitoring of services new to regulation.
- 3.2. In its first 8 months of operation the Care Commission has not achieved national inspection targets. Many day care and care home services have yet to be subject to initial inspection and registration. The accumulative effects of poor Care Commission performance, last years substantial increases in registration charges being invoiced and of further proposed increases is indicative that proposals are neither well timed nor likely to be well received by providers.
- 3.3. The response to the consultation has reiterated previous concerns about charges. It proposes that increases in existing charges for current registered providers are held at 2002/03 levels for one year and that new providers are afforded the same opportunity as existing registered services of having registration charges phased-in between now and 2005.

4. RESOURCE IMPLICATIONS

- 4.1. North Lanarkshire Council Social Work Department runs 13 residential and 15 day care services. The Department’s residential care homes for older people and adults with learning disabilities accommodate up to 409 people. The proposed increase in annual charges of £10 per person (from £85 - £95) would mean an additional cost for residential services of £4090 bringing annual registration costs of £34765. The Department’s day services attracted an initial registration fee of £900 per service annually in 2002/03. This would rise to £990 in 2003/04. The proposed increase in the cost of continuations for registration of day services would be £1350 bringing annual registration costs to £14 850.
- 4.2. The total cost to the Department for registration of its own services will be a minimum of £49 615. Additional costs would be incurred where any changes in management or variations to registrations take place. That these costs will be taken into account in GAE funding, serves to support the argument that regulation charges amount to recycled government funding.
- 4.3. It can be anticipated that a proportion of additional registration costs incurred by existing independent sector care home providers and by housing support and other providers new to registration will be factored into care costs and transfer onto the Department. At this stage these are impossible to quantify.

5. RECOMMENDATION

- 5.1. Committee is asked to:
note and endorse the views outlined in attached response to the consultation.



Director of Social Work
1 February 2003

For further information on this report please contact Dennis O'Donnell, Monitoring and Standards Manager TEL: (01698 332058)

NORTH LANARKSHIRE COUNCIL

COMMENTS ON CONSULTATION PAPER ENTITLED:

SCOTTISH COMMISSION FOR THE REGULATION OF CARE – PROPOSALS FOR MAXIMUM FEES

Previous related comment and decisions

North Lanarkshire Council has previously expressed reservations over whether the true costs of effective regulation can be met through registration fees and indicated that in many instances the proposed application of fees amounts to redistribution of monies being paid by the Executive to providers. The consultation paper acknowledges that the costs of regulation will often transfer to the individual purchasing services or to the purchasing authority. At the outset this Council would wish to re-state that general and over-riding concern.

A decision on an annual phased increase to fee rates, up until 2005, for services previously subject to regulation was previously taken. Central to the current consultation is setting of fee levels for services new to regulation. Comments below focus upon the main proposals but also refer to the timing and context of this consultation paper.

Housing Support

It is accepted that the task of the Care Commission in setting a registration baseline for dealing with new applications for registration will be considerable. However, many of the services about to fall within the framework of regulation are small in scale or will be sub-services of much larger organisations, such as, in the case of housing support services, national housing associations. The proposed basis for charging will in many instances be prohibitive, both for small local housing support providers, encouraged by the Executive to develop their services further under the Supporting People initiative, and for national housing associations whose many localised schemes appear likely to be regulated individually. In general terms it is expected that regulatory cost often passes onto local authorities. In the case of housing support costs where many service users will be exempted or protected through benefit rules, that likelihood is substantially increased. As Supporting People grant applications have not factored regulatory costs into submissions, regulatory costs in the housing support field appear likely to become an additional burden on local authorities.

It is a shortcoming that the paper does not make reference to the many hybrid services that provide housing support alongside other care services. For example, it is not clear whether home care providers who are registered for housing support in April 2003 will be subject to additional registration charges when, in the future, these services fall within the scope of registration by the Commission.

Adults with Incapacity Act (limited registrations)

Limited registrations in applying terms of the Adults with Incapacity (Scotland) Act are based on organisational size. In fact the main regulatory focus is likely to be upon the fitness of the manager and upon the relevance of their practice and about policies and procedures relevant to the terms of the Act. In the event that charge differentials were justified it should only be in the basis number of clients supported under that legislation.

The substantial cost of partial registration may serve as a deterrent to organisations from registering and subsequently place an additional burden on local authorities. Comments already made in relation to hybrid organisations equally apply to this proposal.

Removal of Conditions and cancellation

The intention to reduce costs attached to removal of conditions and cancellation of registration is welcomed. The current context of cancellation largely relates to either service closures or service reconfiguration. The Commission has yet to finalise its processes for dealing with service reconfigurations. It is clear that the workload in cancelling a registration largely lies with the service

provider, the onus on the regulatory body largely being that of confirming whether or not service reconfiguration encroaches upon a separate regulatory criterion.

It is disappointing that the consultation paper makes no reference to seeking recovery of legal costs where cancellation of a registration is initiated by the Care Commission. Such a proposal would redress the position of those services that place greatest demand on the regulator being more liable for regulatory costs.

Regulatory context and approach

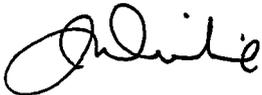
It appears that charges for regulation are being set without clarification of the regulatory approach to be taken with housing support services, small child care agencies and organisations seeking partial registration. Many of these services will already be or shortly become subject to service review and monitoring under contractual arrangements in place with local authorities. In the case of housing support services, Supporting People requirements to review services will be in place and Communities Scotland already regulates administrative, legal and procedural components of housing services. Any regulatory approach adopted by the Care Commission must take the wider regulatory framework into account.

Context of Care Commission Performance 2002/03

Many providers, including local authorities, have already faced new or substantially increased bills for registration costs during 2002/03. The timing of being asked to pay further increases in charges in the following year will be perceived by many as ill-timed and ill-considered given that many will have had no contact or very limited contact during the Commission's difficult eight month transition period. In acknowledgement of the Commission's performance during its first year of operation and in the context of general disquiet over exceptional costs being incurred by it due to transitional staff undertakings, it is suggested that consideration costs for the year 2003/04 regulatory costs are held at their current level. Similarly, in anticipation that new service areas subject to registration will place a substantial burden upon the Commission's resources, this Council would support the principle previously applied that of charges being phased in for newly registered services.

Conclusion

Whilst the opportunity to comment upon proposed charging is welcomed, North Lanarkshire Council has continuing reservations regarding charging mechanisms for regulation. The timing of the expansion of that charging policy, into housing support services in particular, where national policy initiatives have yet to be concluded, is of specific concern. Similarly it is concerning that charges appear to be specified without there being clarity over processes of regulation which the Commission intend to apply. In seeking to make increased charges service providers' perceptions of the Care Commission's performance in its first year of operation is an important consideration. Hence, in the event that charging for regulation continues, the proposal for deferral this year of annual increases for existing registered services and for phasing-in of charges for new services.



16 January 2003