

COMMUNITY CARE PROVIDERS SCOTLAND

REGULATION OF CARE ACT 2001: PROPOSALS FOR MAXIMUM FEES TO BE SET BY SCOTTISH MINISTERS FOR 2002-03

COMMENTS FROM CCPS

Introduction

CCPS, the association for voluntary sector organisations providing care services in Scottish communities, has 31 members (at February 2002), comprising most of Scotland's major care providing charities. CCPS works in partnership with a number of local provider forums across the country, representing the interests of many smaller, local providers.

The Regulation of Care (Scotland) Act 2001 impacts on all CCPS members; proposals relating to the payment of registration fees are of significant interest to members and we welcome the opportunity to comment on the present document. This paper will concentrate on the broad policy issues raised by the 'Impact Assessment'; individual CCPS members may also wish to respond to the Executive in relation to the specific organisational impact of the proposed fee levels.

Earlier consultations

This is not the first time that the Executive has consulted on fee levels: the Registered Establishments (Fees) (Scotland) Orders 1995 and 2000, as well as the consultation paper *Regulating care and the social services workforce* have all mentioned the payment of fees.

On each occasion, CCPS has expressed considerable concern about the raising of fees and in particular, raising them to such a level as to enable the new regulatory body to become self-financing. We are aware that almost all other interest groups consulted have expressed similar concern; during the passage of the legislation through the Scottish Parliament, the Health and Community Care Committee found that there was virtually unanimous opposition to a Commission financed entirely by provider fees.

It is still not clear to us why, in the face of such opposition, the Executive is persisting with its plans in this regard. There is nothing in the present consultation document that would cause us (or, we believe, any other interested party) to change our view that a self-financing Commission is neither desirable nor indeed feasible. The comments we have to make in this paper will, therefore, be very much along the same lines as earlier comments we have made on the subject, chief among which is the view that regulatory fees paid by providers of public services to other public bodies represent an unacceptable 'recycling' of public money.

Detailed comments

- As noted above, CCPS is not convinced that it will be possible for the Care Commission to become entirely self-financing through provider fees without those fees being raised to unacceptable levels. We welcome the present document's commitment to a transparent regulatory system and **we would therefore request the Executive to make public its detailed calculations as to how a self-financing Commission can be made to work, and exactly what the proposed fees relate to in terms of inspector-hours, infrastructure costs and overheads, and so forth.**
- Paragraph 10 of the Impact Assessment states that 'if central government met the full cost of the Care Commission, there would be little incentive for the Commission to keep costs down or ensure that its procedures were seen as value for money by providers'. This may well be true, but the alternative options presented are no better. **It will be a legal requirement for providers to register with the Commission – they cannot shop around for a cheaper regulatory body if they find they are not getting 'value for money' – so the idea that fees provide the Commission with an incentive to keep costs down is a nonsense.**
- In the same paragraph, the document states that 'there is no good reason why the cost of regulating care services which include private doctors and dentists, or home care provided by a large private sector company, should be met by central government.' If this is the case, why then does the Executive not charge fees in relation to private services of this nature, but waive them in respect of providers of public services?
- We note from paragraph 12 of the Impact Assessment that fees payable by local authorities in respect of their directly-provided services 'were taken into account in determining their resources for 2002-03.' It is of considerable concern to voluntary sector providers that whilst local authorities have received resources direct from the Executive to take account of their fee payments, voluntary sector providers have not. The consultation document states that contracted providers will be expected to 'pass on' their additional fee costs to purchasing authorities; however **the Executive is perfectly well aware that authorities will be under no obligation to meet these costs and voluntary sector providers are in no position to demand that they do.**
- Related to the above point, we note from paragraph 25 that the goal is a system where 'the costs of regulation in future continue to be met by those who are regulated'. Yet the Executive has already stated that it expects 'those who are regulated' to pass their costs on to others; **there is therefore an implicit recognition in the paper that the costs of regulation are expected be met from the public purse and from service users.** This, in our view, undermines the argument against direct central funding of the Commission.
- Fees may be a 'tiny proportion' (paragraph 19) of the costs of providing a service, but those costs, however 'tiny', have to be met from somewhere. When the Executive states that providers will have to 'absorb' them (paragraph 19 again), they must be aware that for voluntary sector providers, this can only mean meeting them from charitable resources or reserves. **If the Executive is recommending that providers of public services meet the costs of regulation from charitable resources, then this should be made explicit.**
- We note that there is no fee set out for care at home services. We understand from the Care Commission, however, that regulation of care at home services may be commenced as early as January 2003. **If registration fees are to be payable for care at home**

services during 2002-03, the Executive should let providers know now what the fee levels are likely to be so that they can be budgeted for.

We hope that these comments will be considered carefully by the Executive. We would be more than happy to amplify any of our concerns if this would be helpful.

*CCPS
February 2002*

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