SMOKING, HEALTH AND SOCIAL CARE (SCOTLAND) BILL

The association of
voluntary sector organisations
providing care in Scottish communities

PROPOSED AMENDMENT ON THE FREQUENCY OF CARE COMMISSION INSPECTIONS

WRITTEN SUBMISSION

CCPS represents 57 of Scotland's most substantial voluntary sector providers of care services. Our members support approximately 50,000 older people, adults, children and their families with a range of services including care at home, housing support and care homes.

CCPS members have mixed views about the proposed amendment. On the one hand, pre-inspection returns and post-inspection action plans entail a great deal of paperwork for service providers and a reduction in the frequency of inspections will clearly mean a corresponding reduction in the 'burden' of regulation.

On the other hand, inspections provide a degree of protection and reassurance for service users, parents and families, by checking the extent to which services are meeting the national care standards and complying with the associated regulations, and taking enforcement action where necessary. A reduction in the frequency of inspections may therefore reduce the capacity of the Care Commission to fulfil these important regulatory functions.

CCPS's understanding of the proposed amendment is that it is intended is to enable the Care Commission to move towards a more proportionate, targeted and risk-based form of regulation. We understand that the amendment relates to a reduction in the *minimum* frequency of inspections, meaning that good quality services may only be inspected (say) once every eighteen months, whilst poorer quality services will receive inspections more frequently than at present. If this understanding is correct, then CCPS would on balance be broadly in favour of the proposed amendment. However, we believe that in order to mitigate the possible unintended consequences of the amendment, a number of additional provisions should be put in place. These are as follows:

- **A system of validated self-audit and quality assurance**. When CCPS gave evidence to the Health Committee during the passage of the Regulation of Care (Scotland) Act 2001, we expressed the hope that the new regulatory system would work in harmony with service providers' own quality assurance systems, to the effect that providers would systematically measure their own performance and the inspection process would validate, monitor and review their methods for doing so. We would hope that the amendment might allow us to move more closely towards this kind of regulation, at least for the higher quality providers. This might help to deal with some of the anxieties relating to the reduction in frequency of inspections, since Care Commission-validated quality monitoring would in effect be taking place continuously, not just every six or twelve or eighteen months. This may also address a related issue, which is that the Care Commission does not inspect against all the national care standards at each visit: it takes several years of inspections to cover all the standards for a service.

  We would also hope that local authorities, many of whom have begun to introduce monitoring systems in relation to purchased services that largely duplicate the Care Commission's own regulatory processes, might take a similar approach based on providers' quality assurance

systems. Our fear, however, is that if the Care Commission reduces its regulatory activity in relation to specific services in the voluntary sector, then the relevant local authority will simply step up its own activity to compensate. This would be in direct opposition to the policy objectives of the Regulation of Care (Scotland) Act 2001, and we would encourage the Health Committee to explore this area with local government representatives and the Scottish Executive.

- **Abandonment of Scottish Executive policy in relation to Care Commission fees**. Committee members will know that Scottish Executive policy in relation to the Care Commission's operating costs is that it will be self-financing through charging fees to providers for its regulatory services, on a 'full cost recovery' basis. CCPS has consistently opposed this policy and continues to press for the Care Commission to be centrally funded. If this cannot be achieved, then CCPS maintains that the level of fee paid should be directly linked to the regulatory service provided, on a value-for-money basis.[1]

  It is already the case that the Care Commission spends more time with some providers than with others, whilst all services continue to pay a uniform fee regardless of how much scrutiny they undergo – in other words, providers of good quality services are already subsidising regulatory activity in relation to providers of poorer quality services, in direct opposition to the Executive's 'value for money' argument. The proposed amendment is likely to exacerbate this situation, with providers paying a significant annual fee whilst potentially receiving no service of any kind from the Care Commission during the period for which that fee is paid. In our view then, the amendment considerably strengthens the case either for proportionality in relation to fees as well as to inspection activity, or alternatively (and preferably) for abandonment of the full-cost-recovery policy and the establishment of central funding for the Care Commission. We would encourage the Health Committee to pursue this with the Executive; it would certainly be a matter of some considerable concern if the amendment is being introduced purely because the Care Commission cannot maintain current inspection levels within its existing budget.

- **Agreement with providers on how to determine the frequency of inspections**. As noted above, we support the intention to move towards greater proportionality in regulatory activity, but we are bound to ask how the Care Commission will differentiate between those services requiring more attention and those requiring less. The implication is that services may have to be 'rated' in some way, and whilst we are aware that the Care Commission has been looking at ways in which this might be taken forward, we have some concerns firstly about its capacity to implement such a system, and secondly which elements of service quality would be included in any eventual judgement about what 'rating' to award.

  Moreover, this problem exposes once again the problems inherent in a full-cost-recovery uniform fee system. For if the Care Commission is in effect intending to work more intensively with some services to improve their quality, whilst leaving others alone for lengthy periods – as opposed to engaging in enforcement activity with all services equally – then it becomes even more unacceptable for the already good to be subsidising the improvement of the poor.

CCPS has been invited to give oral evidence to the Health Committee on 17 May; we look forward to meeting committee members then to discuss these and other issues arising from the proposed amendment.

CCPS
May 2005

---

[1] Note that the Executive's regulatory impact assessments state 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*." (our italics)