



**Health and Community Care Committee**

**4th Meeting, 2001 (Session 1)**

**Tuesday 30 January 2001**

The Committee will meet at 2.00 pm in Committee Room 2

- 1. Subordinate Legislation:** The Committee will consider the following negative instrument—

The Fresh Meat (Beef Controls) (No.2) Amendment (Scotland) Regulations  
**(SSI 2000/449)**

- 2. Regulation of Care (Scotland) Bill:** The Committee will take evidence on the general principles of the Bill at Stage 1 from—

Carer's National Association

Glasgow Council for Voluntary Services

Coalition of Carers

Scottish Consumer Council

Jennifer Smart  
Clerk to the Committee  
Room 2.5

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The following papers are attached for this meeting:

Agenda Item 1

The Fresh Meat (Beef Controls) (No.2) Amendment (Scotland) Regulations **(SSI 2000/449)** (PREVIOUSLY CIRCULATED)

**HC/01/4/1**

HC/01/4/A

Abridged report from the Subordinate Legislation Committee

Agenda Item 2

Submission from Carer's National Association

**HC/01/4/2**

Submission from Submission from Glasgow Council for The Voluntary Sector

**HC/01/4/3**

Submission from Coalition of Carers

**HC/01/4/4**

Submission from Scottish Consumer Council

**HC/01/4/5**

**Agenda item 1**

Health & Community Care  
Committee  
30 January 2001



**Subordinate Legislation Committee**

**1st Report, 2001**

**ABRIDGED**

**Subordinate Legislation**

The Committee reports to the Parliament as follows—

1. The Committee met on 9<sup>th</sup> January 2001 and determined that the attention of the Parliament need not be drawn to the instruments listed at Annexe A.
2. The report is also addressed to the following committees as lead committees for the instruments specified:

Education, Culture and Sport	SSI 2000/444
Health and Community Care	SSI 2000/449

Kenny MacAskill  
Convener  
Subordinate Legislation Committee

Negative Instruments

**The Teachers' Superannuation (Additional Voluntary Contributions) (Scotland) Amendment Regulations 2000, (SSI 2000/444)**

**The Fresh Meat (Beef Controls) (No.2) Amendment (Scotland) Regulations 2000, (SSI 2000/449)**

**Regulation of Care (Scotland) Bill**  
**Submission to the Scottish Parliament's Health & Community Care**  
**Committee from Carers National Association Scotland.**

**1. Introduction**

The Association welcomes the opportunity to give evidence to the Committee in relation to the Regulation of Care (Scotland) Bill. CNA Scotland is a membership organisation, accountable through our Scotland Committee and Board of Trustees to carers. The following comments are based on discussion with carer members on our Policy Committee and Scotland Committee.

We have been involved at both officer and member level in the work on National Care Standards, including membership of the National Care Standards Committee and the sub group on standards in residential care for people with learning disabilities. Two of our members are involved in the work of the TOPSS Operations Sub Group, the functions of which will be subsumed under the proposed Scottish Social Services Council.

Since the publication of Aiming for Excellence, we have recognised the potential of any new regulatory legislation to underpin the development of "a modern and dependable social work service."<sup>i</sup> However, for carers a greater level of expectation is attached to the opportunities arising from the proposed changes. At heart, the Regulation of Care (Scotland) Bill is a key element in a process, which will convert the prevalent dependency model of social work to one where social work is part of a broader social partnership – one in which carers are a key partner. We would, therefore, want to draw the Committee's attention to the view recently established by the Carers Legislation Working Group that carers should be characterised as "key partners in care" and to the implications which flow from this principle.

**2. Carers as partners: the way forward for care**

A recent report prepared for the National Care Standards Committee<sup>ii</sup> itemises the views and opinions of informal carers in relation to care standards. One of the most telling lines in the report is

*'What is our role as carers – (there is) continuing uncertainty about the way that the role of carers is viewed by paid staff'.*

CNA Scotland is fully committed to the characterisation of carers as key partners in the provision of care, i.e. they must be recognised as an unique and key part in the overall provision of care and support to the person they care for. In decision-making, planning and the construction of service packages, carers would have full and equal status with formal providers (social work, health, etc.). We believe, along with other carer organisations, that this concept is the cornerstone of a modern and dependable care system. In support of this we would draw the Committee's attention to the assessment of the current distribution of the costs of long term care:

Informal care	65%
State paid	25%

Privately paid 10%<sup>iii</sup>

We would emphasise that this is a minimum assessment of the percentage of long term care provided by unpaid carers and that the figure can rise to 75%. Therefore, in the regulation of both care services and the social care workforce, considerable attention needs to be paid to the contribution and status of unpaid carers.

### **3. The Scottish Commission for the Regulation of Care**

While it is the stated intention<sup>iv</sup> that the proposed Commission fulfils the recommendation of the Royal Commission on Long Term Care that it should steward the interests of older people, the reality is that the Royal Commission's view did not include the function of day to day regulation. As such, it is open to question whether the proposed Commission, although independent, can genuinely represent the interests of care users and their carers. The proposed Commission can, of course, establish strong links with consumer bodies, including the proposed Scottish Centre for Older People's Services and the Scottish Centre for Learning Disabilities. However, the Health & Community Care Committee should consider further the capacity of the proposed Commission to provide a stewarding role.

### **4. Definitions**

**Carer:** The Bill offers a definition of what we would understand as a carer, "someone who cares for" (or a "person who cares for") a person, means someone who, being an individual, provides on a regular basis a substantial amount of care for the person, not having been contracted to do so and not doing so for payment or in the course of providing a care service [Part 1, Section 2 (20)].

We would point out that this dilutes the definition established in the Carers (Recognition & Services) Act 1995, which includes people who are "intending" to provide care. This provision was established in order to address the needs of individuals who, for example, are planning for care at home when a relative is being discharged from hospital or who are moving location in order to care for a relative, usually an elderly parent. We would not want to labour this point as the Bill is not in itself dealing with carers' rights. However, the Committee should in principle note the point.

If practical, we would like to see the Bill incorporate a full definition of carer, using the term "carer" directly and differentiating this term from others such as "home care worker". For unpaid carers the use of their hard won title to describe paid staff is problematic, particularly when the media highlights the actions of an abusive "carer", when in fact the given case relates to a care worker. The introduction of "carer" in this way would be a prelude to the possibility of proposals for new carer legislation being introduced within the next year.

**Personal care:** We would commend the definition offered in Part 1 Section 2(20) as being at least equivalent in application to that used by the Royal Commission on Long Term Care.

## **5. Quality standards in carer support**

A key element of the National Carers Strategy, which seems to have bypassed Scotland, is the development and introduction of quality standards for local carer support services. It has been argued that, once agreed, these quality standards would be monitored through contracting rather than independent inspection.<sup>v</sup> We would agree with this approach. However, we are using this opportunity to bring attention to the absence of such common standards in Scotland. Quality of carer support is implicit to the setting and maintenance of standards of formal personal care services.

## **6. National Care Standards**

CNA Scotland represents carers who look after others at home. As such, our particular focus is on standards for home care services. For obvious reasons standards will be applied to home care agencies rather than to service settings. In effect, this can mean setting the standards at one remove from the service experience itself. It is critical, therefore, that greater emphasis is placed on user and carer feedback and involvement in this area of standard compliance.

## **7. Consultation prior to introduction of the Bill**

As mentioned earlier, CNA Scotland has been involved at a number of levels in work related to introduction of the Bill. We would commend the openness of this process. In particular, we would emphasise the experience of one of our Committee member who serves on the National Care Standards Committee sub group on Residential Care for People with Learning Difficulties. This particular carer has spoken with real enthusiasm and respect for the work of that group. Concern has been expressed, however, about possible tokenism in TOPSS related work and the carers involved there fear that the training agenda for social workers and social care workers will have no significant carer content. Given what we said earlier about the partnership model of care, this is a serious concern. The re-professionalised workforce arising from the new regulatory system must have the value and knowledge base required to embrace the role of unpaid carers.

## **8. Conclusion**

CNA Scotland welcomes the introduction of the Bill. Broadly, the Bill as drafted will underpin the development of a modern and dependable social work service. We see standards-setting and compliance as the critical edge of the proposed new arrangements and we see the concept of carers as key partners in care as the critical edge which needs to be added to the proposals.

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<sup>i</sup> Aiming for Excellence, Modernising Social Work Services in Scotland. The Scottish Office, March 1999.

<sup>ii</sup> Discovering the Views of Service Users, Informal Carers and the General Public, report for the National Care Standards Committee. The Mosaic Partnership. November 2000.

<sup>iii</sup> Desmond Le Grys, Research Director, Continuing Care Conference, 2001

<sup>iv</sup> Regulation of Care (Scotland) Bill, Explanatory Notes, para 11.

<sup>v</sup> Caring about Carers, A National Strategy for Carers. H.M. Government 1999

**Agenda item 2**

Health & Community Care  
Committee  
30 January 2001

**GLASGOW COUNCIL FOR  
THE VOLUNTARY SECTOR**

**THE REGULATION OF CARE (SCOTLAND) BILL**

**SUBMISSION TO THE  
HEALTH AND COMMUNITY CARE COMMITTEE**

**30/1/01**

**Introduction**

Glasgow Council for the Voluntary Sector (GCVS), appreciates the opportunity to offer our insights on the Bill to the Committee.

GCVS is the representative body for all voluntary organisations in the Greater Glasgow area, with over 400 members, many of whom are direct providers of care services. We facilitate, and run a multi-agency Scottish Vocational Qualification (SVQ) Assessment Centre offering awards in Care and other occupational areas. This centre currently has seventeen agency members. We also host the Development Unit of the West of Scotland Voluntary Agencies Training Forum which has a membership of over sixty care providers covering all service areas and settings. It is through membership of the Forum that we participate in the Executives Aiming for Excellence Reference Group.

It is in the context of the above that we offer our comments to the Committee.

**The Introduction of the Bill**

We are fully supportive of the broad intentions of the Bill, and have worked to ensure that the voluntary sector has been informed of the process leading to its introduction through organising a series of information dissemination events culminating in a national conference organised by the four voluntary sector Fora on the proposals in November 2000, (Leading the Changing Agenda). This was attended by 110 organisations.

During the lead in period to this legislation a subtle shift of emphasis occurred, the focus was broadened from "protection of the public", and "strengthening the professionalism of the workforce" was given equal weight. The effect of this is now seen in the intention to register staff by "qualification". We support the attempt to raise qualification levels but this approach is counter to our sectors wish to have a **fully inclusive register** of Care staff as quickly as possible. We believe that the register is the most effective way to protect the public from poor Care. This will be expanded upon below.

The current plan to have two separate bodies, **Commission and Council** is the best model. There is a relationship between service standards and regulation of staff activity, but enough of a difference to keep them as separate functions in respect of regulatory systems. It may also lead to better articulation of standards of delivery and occupational standards, if each body negotiates over the final models.



**Key issues and consequences.**

We aim to cover issues and consequences together as they are so closely linked, but will try to address them under the separate headings of Commission and Council.

**Commission**

The definition of **day care for children** at section 2(13)(b) would allow as much as 520 hours of unregulated care in a year. We accept that a line has to be drawn somewhere, but feel the **delivery** of the service should merit registration, not the daily duration of that service.

It seems inappropriate that the Commission would not visit services that are also subject to **HMI inspection** in the year that **HMI inspection** occurs. The different responsibilities should not be confused.

We are concerned regarding the **increase in fees** that will be payable to cover the costs of registration. We believe the Scottish Executive has a duty to support the protection of the public it represents through acknowledging its role in funding the Commission. The funding should not be based solely on collection of fees after 2004/5.

Under some of the current inspection regimes it is possible for a **new service** to be granted registration before service is being delivered, and the first visit occurs one year after commencement. The regulations should ensure that new services are **inspected within 12 weeks** of commencing operation.

Inspection staff will take into account the **financial viability of a service** prior to granting a certificate. We hope that this system does not disadvantage voluntary sector providers in service areas that are funded annually and often do not know until the 11<sup>th</sup> hour if funding will continue. Annual inspection is appropriate if the six monthly self evaluation system is properly planned. **Electronic transfer** of reports will not be possible for all registered services

It is proper that the Commission should have the power to develop regulations that enable them to stipulate the staffing required and the training of staff required to deliver a Care service (section 24(2)(g&h)), but this cannot be looked at in isolation to the points made below in relation to **training matters and staff registration**.

The **composition of the Boards** proposed in the light of the problems at SQA will fundamentally change the spirit of intention that saw service user being given a stronger voice in the deliberations of both Commission and Council.

**Council**

The voluntary sector would have liked a firmer commitment to an **inclusive register** clearly stated in the Bill. This is what was wanted by the vast majority of respondents at the consultation stage. The plans for a qualification based register could mean, even with massive investment, that ten years from now less than half the Care workforce

are registered. This would not serve as protection to the public. Only an inclusive register can act as protection.

The **Training Organisation for Personal Social Services (TOPSS)**, is to be subsumed within the Council. We welcome the inclusion of TOPSS in the Council structure but are not clear how an “employer led” body will exercise its autonomy in a framework that is accountable to a Minister.

The **financial memorandum** accompanying the legislation does not adequately describe the costs to voluntary sector organisations in trying to register staff by qualification. The Committee has been informed of the belief that the majority of the workforce could be registered by 2006. Our experience in the delivery of SVQ awards suggests that this is idealistic. One large provider has estimated that achievement of the proposed Registered Managers Award alone would cost the organisation £250,000. If the vision of registration is to be met in this timescale, the plan for **staffing and central location of the Council** may also need revision.

The memorandum mentions Section 9, it is well to remember that this small amount of funding is only available to national organisations. In this, current funding is not equitable.

The **Codes of Conduct and Practice** are welcomed, but we urge close scrutiny of the intentions regarding **health status** issues that could be discriminatory and leave an unrealistic expectation on employers in relation to **Human Rights** issues. This is pertinent in relation to de-registration on the “**balance of probabilities**” as well.

There will need to be great transparency in the use of **fees paid by individual registrants**. It would be wholly inappropriate that any of that money be used to support the other responsibilities of the Council, in relation to Education and Training and Workforce Planning.

#### **Final Comments**

We welcome the key role of the Minister in the proposed legislation, and see this as a particular safeguard and strength.

We would like to have seen a legislative commitment to continue the funding of capacity building and support to small organisations, in line with the Scottish Compact .

We have for many years sought an inclusive and comprehensive strategy for Care training in the voluntary sector. Employers want to have a qualified and competent workforce and with limited support have progressed vocational awards and professional qualifications. If continuing professional development is to be enhanced at all levels adequate funding must be available .This will require a clear and costed strategy and a programme of accessible funding beyond the capacity of current initiatives.

## **Agenda item 2**

HC/01/4/4

**Health & Community Care  
Committee**  
30 January 2001

### **THE COALITION OF CARERS**

Submission to the Scottish Parliament's Health and Community Care Committee

The Coalition of Carers in Scotland is a constituted network of around 50 independent local carer-led organisations in Scotland, including members of the Princess Royal Trust Carers Centres network, local CNA Scotland groups and many 'non-aligned' local groups, including young carer projects and minority ethnic carer projects.

Carers and their representatives across Scotland welcome the Scottish Executive's initiative to prioritise legislation on the regulation of care, and welcome the opportunity to comment on the Regulation of Care (Scotland) Bill. Like other groups we regret the short time available to prepare our submission, but we did manage to contact the majority of affiliated groups and summarise below a representative spread of responses.

#### **1. Recognition of carers - carers as "partners in the provision of care"**

The Coalition of Carers in Scotland believes strongly that carers should be recognised as partners in the provision of care. This is in line with the spirit of the National Carers Strategy "Caring About Carers" and the Strategy for Carers in Scotland, and in recognition that carers are currently the single largest group of care providers in Britain.

A shift in the recognition of carers as active partners in the provision of care - replacing passive client and user-based models - will represent a further milestone in modernising the concept of community care and is supported by the enactment of Human Rights legislation. Carer organisations and local authority representatives of the Carers Legislation Working Group in Scotland recently presented this key recommendation in their report to Deputy Minister Malcolm Chisholm.

In view of the present shift in thinking about the status and role of carers, the Regulation of Care (Scotland) Bill is in danger of being out of tune. The Bill currently states explicitly in Part 1, Section 2 (2), page 2 lines 11 - 13 "A "support service" is a service provided, by reason of a person's vulnerability or need (...) to that person or to someone who cares for that person ..."

We recommend that the concept of carers as equal partners in the provision of care should be incorporated in the Bill.

#### **2. The role of carers as partners in the provision of care**

As partners in the provision of care, the role of carers in the development, implementation and monitoring of national and local care standards deserves greater consideration and acknowledgement.

Carers have repeatedly pointed out that as providers of the bulk of the care for a person they are often the main, and sometimes the only reliable source of information on the standards and effectiveness of care services provided to the disabled person. This applies particularly where such services are provided in the home, and in thousands of situation where the ability of communication with the cared for person depends greatly on the special intimate relationship between the cared for person and their carer.

We hope the Committee will be able to strengthen the recognition of the role of carers in the Bill to ensure carers as a provider group and as individuals can play a full part in all future aspects of implementation.

### **3. Quality Standards for local care services - particularly covering care support in the homes of individuals - and for carer support**

The Regulation of Care (Scotland) Bill covers residential and day care services particularly well, but carers have expressed concern about quality standards for home based services. Carers believe that services providing home based care would benefit from clearer definition within the Bill, and would deserve to be a more explicit priority for the development of regulation, standards, training and inspection.

Carers are also aware that Quality Standards for Carer Support were agreed in England, but not yet in Scotland. We welcome the Bill's explicit commitment to develop National Care Standards (Section 5) and Codes of Practice (Section 36) in Scotland, and hope these can be extended to cover standards for carer support.

Carers regard care support at home as vital provision to ensure a high quality of independent living. Support and services at people's home are one of the highest priority issues for carers and are regarded as potentially the greatest "growth area" for future service developments.

Carers are of the view that services provided at home are different from other services. In residential or day service settings, vulnerable people are usually supported by teams of social services staff with a range of professional skills and within a more public setting. This assists the monitoring of professional practice and allows for elements of 'self-regulation' where good practice is more easily implemented and bad practice more likely to be detected.

The majority of care services provided within the home of individual people are provided by one 'social service worker' only. These services require a greater breadth of training and skills to meet specific individual needs; they are provided in very intimate settings and not subject to wider scrutiny; and most importantly for carers, any doubts about the quality and standards of care in these situations cause great unease. Unless carers are absolutely convinced of the quality of a service, they are reluctant to leave the cared for person with the peace of mind required to benefit from a short break from their caring responsibilities.

Carers are aware that services provided in the home of individuals will be among the most difficult to regulate and monitor, and for precisely this reason they deserve more distinct reference and recognition within the Bill.

#### **4. Registration and training of staff**

Carers have widely commented on the issue of registration of 'social service workers' and have raised their concern and preference for all staff to be registered. Again in the specific context of care services provided in the homes of individuals, carers currently experience hugely differing quality and service levels. Care agencies employing staff on short-term or 'loose' contracts are of particular concern as short-term staff often hold no or insufficient qualifications for the job, and do not stay long enough to acquire these formally or through community care practice. As a result, many carers have turned away from agencies with high staff turnover or unable to provide suitably qualified staff, and as a consequence often do not receive the minimum support they require.

Carers welcome the specific emphasis on the registration and training of staff, and hope that the registration and training of staff delivering services in the homes of individual people can be explicitly included in the Bill and prioritised in the implementation of the Act.

#### **5. Complaints**

Carers have welcomed the Bill's reference for the development of comprehensive complaints procedures, but have stressed the current difficulty and reluctance of many people in receipt of a care service and their carers of entering into "complaint procedures".

This reluctance extends particularly to services provided in the home, and can be explained by feelings of vulnerability, fears of 'recrimination' or by the fact that an existing service is often the only available or affordable service.

In addition to proposed complaints procedures, carers have suggested a duty or mechanism to establish "continuous assessment" or regular "customer satisfaction surveys" on standard compliance. These should routinely involve all care service recipients and their representatives. Carers believe this could add an important dimension to service monitoring and evaluation, help remove the "stigma of a complainant" (be it cared for person or carer) and provide more representative "early warning systems" for service improvements which may pre-empt crisis complaints at a later stage.

#### **6. Conclusion**

The Coalition of Carers in Scotland welcomes the introduction of the Bill. Drawing on comments from carers and their local organisations we hope the Health and Community Care Committee will be able to incorporate in the Act

- the modern concept of carers as partners in the provision of care,
- more specific recognition of the role of carers in standard developments and compliance
- more specific recognition and stronger emphasis on the development of standards, regulation and professional training for home based care services
- scope for 'continuous assessment' models of service evaluations involving all service users and their carers

## **SCOTTISH CONSUMER COUNCIL**

### **Briefing paper for Health and Community Care Committee Regulation of Care Bill**

The Scottish Consumer Council (SCC) welcomes this Bill, and its proposal to establish two new bodies, the Scottish Commission for the Regulation of Care and the Scottish Social Services Council. The SCC was represented on the Aiming for Excellence Reference Group.

The aim of the SCC is to *make all consumers matter*, and within this general aim, one of our objectives is to *make markets and public services work for all consumers*. The concept of regulation is to intervene in areas of service provision in which there is a public interest which the market may not protect, where the market does not operate freely (for example where there is no, or limited, competition), or where vulnerable consumers need protection. This is clearly the case in relation to care services, where many service users are vulnerable, and in which there may be limited choice for consumers, and where one provider may be dominant.

Regulation has a key role to play in ensuring that people using services and their families and carers can be confident that the services they receive will be of good quality and appropriate to their needs. However, poor regulation may result in additional costs to consumers, as well as poorer services.

The SCC agrees with the faults in the existing pattern of regulation in the area of care, This system of regulation has been criticised for

- Being divided between different bodies (local authorities, health boards, SWSI) and some locations not being subject to registration procedures
- Lack of independence, for example local authorities regulating care homes, while themselves being service providers
- Lack of consistency between authorities
- Lack of integration between residential and nursing homes

A further criticism is that there has not been any professional self-regulatory scheme for those working in the field of personal social services.

For these reasons we welcome the move towards a more consistent, authoritative structure which will bring greater consistency across Scotland, and the development of national standards which services must meet.

The Scottish Consumer Council would argue that the Commission and the Council must be authoritative, independent, transparent, accountable, and involve service users and their carers, as well as representatives of the public interest, in its work.

In responding to the Bill, we would like to draw the attention of the committee to the following points:

1. Composition of the Commission and the Council
2. Annual reporting

3. Process of inspection
4. Relationship with other parts of the regulatory structure
5. Complaints

### **Composition of the Commission and the Council Schedules 1 and 2, section 3**

Schedules 1 and 2 of the Bill deal with the composition and powers of these bodies. The details about the size and composition have not been specified in any detail. Section 3 of each schedule says that they should “provide a proper balance between the interests” of five categories, ie service users, carers, service providers, local authorities (as purchasers of services), and staff. The schedule provides no guidance about what a “proper balance” would be.

The SCC would like to make three points in relation to the composition of these bodies:

- a) There should be statutory guidance on the size of the bodies and on what a proper balance would be. As it stands the Bill leaves a discretion to Ministers as to the interpretation of proper size and balance. We believe that the Bill would be strengthened by clearer guidance.
- b) There should be one additional category – that of public interest representative. The five categories of membership which are listed in the Bill include both service users, and carers. The SCC welcomes the Bill’s commitment to including these two groups in the membership of both bodies, and the fact that these groups are listed first. However, all five categories of members could be described as “stakeholders”, with particular interests and concerns. We consider that there should also be some people on both these bodies who are not stakeholders in this way, but who can bring an objective viewpoint and voice.
- c) The independence of these bodies would be strengthened by ensuring that the majority of their members are not service providers. The objective of regulatory bodies is to protect the interests of service users, and it is increasingly recognised in many different policy areas that those who provide services should not be in a majority. Examples of regulatory bodies adopting this principle include the Clinical Standards Board for Scotland and the Financial Services Authority. This point should be included in the statutory guidance which we have proposed on the size and composition of the bodies.

### **Annual reporting Schedules 1 and 2, section 8**

Section 8 in Schedules 1 and 2 require the Commission and the Council to report to Scottish Ministers on the exercise of their functions throughout the year. The SCC argues that this measure does not go far enough. An effective regulatory body should be in a position to take a strategic view, to make judgements about the way in which the social care system is operating across Scotland, and to identify areas in which there is a market failure, for example a serious shortage of facilities or staff, or a failure of authorities to purchase appropriate services. An annual report which covered these matters could also make recommendations for change which would be in the public domain, and so stimulate public debate in this important area. This could also be seen as an aspect of the Commission’s obligation to provide information to the public set out in section 4 of the Bill.

## **Process of inspection**

There is not a great deal of detail in the Bill about how inspections will be conducted, but existing staff will transfer from health boards and local authorities to the Commission. The SCC would like to urge that lay people should be involved in the inspection of care services. In general this has not been done in the past in local authority or health board inspections. There is, however, much existing good practice in doing this, for example in HM Inspector of Schools which has a panel of lay members who have been trained and bring a different perspective from that of professional inspectors who are usually former teachers. They are able to view services from the perspective of service users, and add to the perception that these inspectorates are independent from service providers.

## **Relationship of Commission and Council to other parts of the regulatory structure**

The SCC is concerned about the number of different bodies which have a role in the regulation of services in the health and social care field. These include the Social Work Services Inspectorate, the Scottish Health Advisory Service, the Clinical Standards Board for Scotland, the Mental Welfare Commission, and Audit Scotland. It is clearly vital that these bodies work together to co-ordinate the development of generic standards.

The particular concern of the SCC is about how service users will make sense of this array of bodies. It is an important principle that regulatory processes should be transparent. This means, among other things, that it should be clear to service users which body is responsible for the process of setting, monitoring and enforcing standards in any particular area.

## **Complaints Sections 6 and 45**

The SCC welcomes section 6 of the Bill which requires the Commission to set up a complaints procedure for complaints about service provision, and section 45 which requires both the Commission and the Council to have complaints procedures about their own operation.

Regulatory bodies have an important role in ensuring that redress systems are available. The creation of a system which, in some cases, will be in addition to that provided by the service provider should ensure that all potential complainers are encouraged to come forward with their complaint, particularly when for some reason they feel reluctant to complain directly to a service provider.

The creation of a complaints system is particularly important in areas where at present there is an absence of means of seeking redress. This is most obviously the case in relation to private or independent health care, which are not covered by the NHS complaints procedure.

For this parallel complaints procedure to work effectively it will clearly be essential that where necessary the Commission will pass the complaint on to the relevant agency to investigate, whether this is a service provider or a disciplinary body.

January 2001