



Health and Community Care Committee

26th Meeting, 2001

Wednesday 7 November 2001

The Committee will meet at 9.30 am in Committee Room 1

1. **Item in private:** The Committee will consider whether to take item 5 in private.
2. **Time limit on debates:** The Committee will be asked to agree to limit debate on emergency affirmative SSIs to 15 minutes.
3. **Community Care and Health (Scotland) Bill (Stage 1):** The Committee will take evidence from—

Scottish Care

Annie Gunner, Jim Jackson and Shona Barcus, Community Care Providers Scotland

Malcolm Chisholm MSP, Deputy Minister for Health and Community Care

4. **Subordinate Legislation:** The Committee will consider the following affirmative instrument—

The Food Protection (Emergency Prohibitions) (Amnesic Shellfish Poisoning) (West Coast) (No.8) (Scotland) Order 2001, (SSI 2001/374)

The Food Protection (Emergency Prohibitions) (Paralytic Shellfish Poisoning) (East Coast) (No.2) (Scotland) Order 2001, (SSI 2001/387)

The Food Protection (Emergency Prohibitions) (Amnesic Shellfish Poisoning) (West Coast) (No.9) (Scotland) Order 2001, (SSI 2001/388)

The Food Protection (Emergency Prohibitions) (Diarrhetic Shellfish Poisoning) (Orkney) (Scotland) Order 2001, (SSI 2001/391)

and the following negative instruments—

The Feeding Stuffs and the Feeding Stuffs (Enforcement) Amendment (Scotland) Regulations 2001 (SSI 2001/334)

The National Health Service (General Dental Services) (Scotland) Amendment (No.2) Regulations 2001, (SSI 2001/368)

5. **The Scottish Budget 2002/3:** The Committee will consider the draft Stage 2 Budget Report to the Finance Committee.

Jennifer Smart
Clerk to the Committee
Room 2.5
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The Following papers are attached for this meeting:

Agenda Item 3

Submission from Community Care Providers Scotland
Submission from Alzheimer Scotland - Action on Dementia

HC/01/26/1
HC/01/26/2

Agenda Item 5

Draft Stage 2 Budget Report (Private)

HC/01/26/3

COMMUNITY CARE PROVIDERS SCOTLAND

SUBMISSION TO THE SCOTTISH PARLIAMENT HEALTH AND COMMUNITY CARE COMMITTEE

COMMUNITY CARE AND HEALTH (SCOTLAND) BILL

General principles

The Bill draws together a number of Executive commitments, each of which has its own set of principles: equity in relation to free personal care; choice and control in relation to Direct Payments; partnership in relation to carers and their rights to assessment; and so forth. CCPS is broadly supportive of all of these.

Overall, there would appear to be two broad principles in play: one relating to enhanced rights for users of services and their carers (to free personal care, direct payments and assessments), and the other relating to enhanced organisational effectiveness both strategically and operationally (joint working). CCPS would support the inclusion of a set of underpinning principles for the Bill as a whole, as we recommended in relation to the Regulation of Care (Scotland) Bill, although we recognise that in this case it may not be so straightforward given the composite nature of the present Bill.

Key concerns on specific areas

Charging for social care

- We note that there is no reference to any age limit applying to the provisions on charging for social care on the face of the Bill itself, although the accompanying memoranda make clear that only older people's services are at present under consideration.

It is a matter of considerable concern to many CCPS members that younger disabled adults may not benefit from free personal care under the proposals as they stand. In this respect we would refer the committee to Chapter 9 of the Royal Commission report, and in particular the Commission's statement that:

"We think our recommendations can apply in general to all adults with disabilities who may need long-term care."

- We note that key elements of the measures relating to free personal care will be taken forward in regulations rather than in primary legislation (for example, precise details of what will and will not be chargeable). We do not object to this in principle; however, we would like to see a duty laid on Scottish Ministers to consult with relevant interests, including the Scottish Parliament, before publishing (or later amending) such regulations.
- We note that COSLA is undertaking some work on the standardisation of charges. We would ask the committee to do what it can to ensure that this work is not undertaken by COSLA purely as an internal exercise and that other relevant interests are involved (or at least consulted).

We would also wish the committee to note that some care providers are now required, as a non-negotiable contract condition, to collect care service charges

direct from users of non-residential services; we would hope that any new guidance or regulations on charging will prevent local authorities from insisting on such an arrangement, which fundamentally alters the relationship between a service user and a voluntary sector care provider.

- We are aware that there has been some discussion of the merits or otherwise of ring-fencing funds associated with free personal care. Whilst we understand the frustrations of local authorities in relation to ring-fenced funds, it is our experience (especially, for example, in relation to resources transferred from health boards) that monies destined for a particular group or service can all too easily be diverted to other priorities; in such cases, these services have either to be subsidised by providers' own non-statutory resources or to run at a deficit with attendant risks for their longer-term future. If funds are not ring-fenced then some other mechanism, such as robust outcome agreements, must be put in place to ensure that they are used appropriately.

Direct payments

- CCPS is broadly supportive of the move to expand Direct Payments schemes in Scotland. We recognise that greater take-up of Direct Payments may have significant implications for the way in which care providers operate and are funded; we have accordingly set up a working group of members to analyse these implications and make recommendations as to the changes that providers will need to make in order to accommodate them. We would be happy to furnish the committee with further details of this initiative as the work progresses.

Joint working

- Again, CCPS is broadly supportive of these measures, and again, we recognise that closer working between health and local authorities will carry implications for voluntary sector care providers. A further working group of CCPS members has been set up to look into the matter and our findings here will also be available to the committee in due course.
- Whilst we support closer links between health and local authorities, we feel that joint working has to encompass more than these two bodies, important though they are. We have been consistently disappointed by Executive 'joint working' initiatives, up to and including the report 'A Joint Future', because they have failed to recognise adequately either the existing contribution made by the voluntary sector to community care in Scotland or the sector's potential for even greater involvement (the CCPS working group noted above has been set up precisely to address this omission). Specific ongoing initiatives arising from that report have similarly failed to involve the voluntary sector; in this respect we would highlight in particular the human resources group which is looking at the disparity in pay and conditions packages between health and social care professionals. The committee will be aware that a similar issue exists in relation to voluntary sector care staff but this is not, as far as we are aware, being addressed by that group despite CCPS's early expression of interest in its establishment.
- As the committee will be aware, voluntary organisations now provide a substantial proportion of Scotland's community care services and receive significant amounts of public money in order to do so. CCPS believes that some thought must be given by the Executive, and by statutory authorities locally, as to how the expertise and

experience of voluntary organisations can be harnessed at a strategic level as well as in relation to service provision.

We would like to float the idea with the committee that the legislation be amended to the effect that any new structures or arrangements to facilitate local partnership working should be required to involve voluntary sector providers and, indeed, service user and carer representative groups.

Monitoring

CCPS shares the concerns of some of the committee's earlier witnesses in relation to monitoring the effectiveness of the legislation. In this respect, we would urge the committee to ensure that the Executive puts in place a monitoring mechanism that will be able to tell us, months and years hence, whether the Bill has been effective in enabling joint working, Direct Payments, free personal care and so forth to occur; and, more fundamentally, whether these measures in themselves have contributed to improvements in care services in Scotland.

CCPS is the association of voluntary sector organisations providing care in Scottish communities. Membership of the association comprises 32 of Scotland's major national service-providing charities.

October 2001

Alzheimer Scotland - Action on Dementia

Evidence to the Health and Community Care Committee

Community Care and Health (Scotland) Bill

1 Introduction

Alzheimer Scotland – Action on Dementia represents Scotland’s 58,000 people with dementia and their family carers. We appreciate the opportunity to submit evidence to the Health and Community Care Committee supporting the proposed Community Care and Health (Scotland) Bill.

2 Purpose of the Bill

Alzheimer Scotland welcomes unreservedly the Bill’s intentions:

- to enable the provision by local authorities of free personal and nursing care
- to give the Scottish Executive powers to regulate charges for non-residential social care
- to give carers a right to an assessment of their needs
- to remove obstacles that inhibit joint working between the NHS and local authorities.

We are particularly pleased with the proposals for free nursing and personal care because it has been a cause of great concern that people with dementia and their families have had to pay for many of the care services they require while people with other illnesses receive free medical care.

The other features of the Bill are valuable because they help take forward the modernisation of Scotland’s community care system.

3 Improvements to the Bill

The Bill could be improved by the introduction of a set of broad principles outlining its intentions and a clear requirement to consult interest groups who would be affected by proposed regulations before they are introduced.

Full consultation on the proposed regulations is necessary because it will be through the details of these regulations that the Bill’s intentions become real to community care users and their families.

A further improvement would be a requirement for the NHS and local authorities to identify carers and to notify them of their right to an assessment.

4 People aged under 65 years old

Part 1 of the Bill, inter alia, will give Scottish Ministers the power to introduce regulations which will require local authorities not to charge for personal care. There is no reference to these regulations only applying to people aged over 65.

Alzheimer Scotland – Action on Dementia requests the Health and Community Care Committee to urge the Scottish Executive to extend its proposals for free nursing and personal care to people aged under 65. It cannot be fair for people requiring personal care as a result of an illness such as dementia to be charged if they are aged under 65 when they would not be charged if they are aged 65 or over.

Jim Jackson
Chief Executive

30 October 2001