

response to regulation of health care support staff and social care support staff in Scotland

September 2004

About the Scottish Consumer Council

The Scottish Consumer Council (SCC) was set up by government in 1975. Our purpose is to promote the interests of consumers in Scotland, with particular regard to those people who experience disadvantage in society. While producers of goods and services are usually well-organised and articulate when protecting their own interests, individual consumers very often are not. The people whose interests we represent are consumers of all kinds: they may be patients, tenants, parents, solicitors' clients, public transport users, or simply shoppers in a supermarket.

Consumers benefit from efficient and effective services in the public and private sectors. Service-providers benefit from discriminating consumers. A balanced partnership between the two is essential and the SCC seeks to develop this partnership by:

- carrying out research into consumer issues and concerns;
- informing key policy and decision-makers about consumer concerns and issues;
- influencing key policy and decision-making processes;
- informing and raising awareness among consumers.

The SCC is part of the National Consumer Council (NCC) and is sponsored by the Department of Trade and Industry. The SCC's Chairman and Council members are appointed by the Secretary of State for Trade and Industry, in consultation with the First Minister. Martyn Evans, the SCC's Director, leads the staff team.

Please check our web site at www.scotconsumer.org.uk for news about our publications.

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The SCC assesses the consumer perspective in any situation by analysing the position of consumers against a set of consumer principles.

These are:

ACCESS

Can consumers actually get the goods or services they need or want?

CHOICE

Can consumers affect the way the goods and services are provided through their own choice?

INFORMATION

Do consumers have the information they need, presented in the way they want, to make informed choices?

REDRESS

If something goes wrong, can it be put right?

SAFETY

Are standards as high as they can reasonably be?

FAIRNESS

Are consumers subject to arbitrary discrimination for reasons unconnected with their characteristics as consumers?

REPRESENTATION

If consumers cannot affect what is provided through their own choices, are there other effective means for their views to be represented?

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RESPONSE TO REGULATION OF HEALTH CARE SUPPORT STAFF AND SOCIAL CARE SUPPORT STAFF IN SCOTLAND

The Scottish Consumer Council (SCC) welcomes the opportunity to respond to this consultation. The purpose of the SCC is to make all consumers matter. One of our aims is to work for markets that work for everyone, by finding the right balance between free markets, regulation and self-regulation. We support the five principles promoted by the Better Regulation Taskforce, that regulation should be proportionate, accountable, consistent, transparent and targeted. The SCC has a remit to represent the interests of disadvantaged groups, and many of those who come into contact with health and social care support staff will be vulnerable, and need protection.

As a matter of principle, we believe that the protection of service users needs to be given a high priority, and that there need to be clear standards to which such staff must work. At the same time, the SCC recognises the resource implications of introducing regulation in this area, particularly in relation to social care support staff, who are often on low pay and may not have a long-term commitment to working in this field. The Scottish Executive must bear these resource implications in mind in deciding how most effectively to ensure that standards can be developed and enforced in this area.

Question 1 Should regulatory requirements be extended to the groups of staff identified above? If not, which groups of staff should be included and on what criteria?

The Scottish Consumer Council welcomes the recognition of the importance of regulating staff who have direct contact with patients and service users, and welcomes the extension of regulation to a wide range of currently unregulated staff.

This consultation is being carried out in Scotland following a very similar consultation in England and Wales. However, the English consultation deals only with healthcare support staff. As a result there is a very significant difference in the scope of the two consultations. The inclusion of social care support staff adds considerably to the scale of what is proposed, and makes it more complex to decide on the best option for protecting the public.

The SCC is not convinced that including social care support staff in a single regulatory regime is helpful, and in particular would like greater clarity about the kind of social care support staff who might be covered by regulation.

Question 2 Should assistants and support staff be accountable for their own practice?

It is important that all staff are accountable for their own practice, within a system which provides the correct level of supervision and training. Assistant staff will often be supervised by and accountable to an appropriate professional in the relevant field, but in some cases they may operate independently, and so must be accountable for their practice.

Question 3 Should assistants and support staff set their own standards or should those with overall responsibility for the work of these staff share in or take the lead in setting these standards?

The process of setting standards should involve all key stakeholders including patients or service users, employers, and professional groups, and should be the subject of public consultation.

Question 4 How can multi-disciplinary and multi-agency issues best be addressed? Should the regulators set common standards and/or recognise each other's so that workers can move between different health and social care settings without the need for multiple registration? Or, could all assistants and support staff be regulated as a single group within a single framework including some shared standards and some discipline-specific standards?

Common standards are probably the best way to address these issues. These include standards of education and training, and standards of conduct, performance and ethics. However, there will also need to be discipline specific standards, and this must be recognised.

Question 5 Is statutory regulation appropriate or should other approaches be taken?

Statutory regulation appears to be the approach which is most likely to ensure the protection of the public. The alternatives, voluntary regulation led by staff organisations and employer-led regulation, are not as comprehensive or rigorous as statutory regulation. However, as cautioned above, such regulation must be proportionate, and take account of the resource implications, and any impact on the workforce.

Question 6 Should Scotland follow any decision that might be taken in England in order to ensure both transferability of staff and public protection by ensuring one system for the UK?

In relation to healthcare staff it is difficult to see how Scotland could take an independent approach when the regulation of all health professions is done on a UK basis, as a reserved matter. It seems unlikely that support staff and assistants working in health settings would want to be regulated by the Scottish Social Services Council.

If regulation involves the use of protected titles, such as "nursing assistant" or "healthcare assistant", it is more likely that patients and service users will become familiar with these if they are introduced on a UK basis.

It is less obvious what should happen in relation to social care support staff, since this is not being consulted on in England.

Question 7 Should the Nursing and Midwifery Council and the Health Professions Council (HPC) regulate those groups of assistants and support staff that work with the professions they regulate? Are other options preferable?

The SCC would prefer the Health Professions Council to be responsible for the regulation of all healthcare support staff. There is no reason why the Nursing and Midwifery Council should be singled out, and there is probably merit in developing common standards through an organisation which is already involved in developing common standards across a wide range of healthcare providers.

Question 8 Should the Scottish Social Services Council be the regulatory body for all healthcare support staff or should they only be responsible for social care support staff?

The SCC considers that the SSSC would be the appropriate body to regulate social care support staff, and that it should work closely with the Health Professions Council on common standards.

Question 9 If the HPC is the most appropriate body, should regulation be by way of statutory committee of the Health Professions Council or would other options be preferable?

This seems to be a reasonable proposal.

Question 10 Would regulation of assistants and support staff by the bodies responsible for regulating those whom they support lead to other problems such as “second class workers”?

The SCC would prefer regulation of support staff not to be the responsibility of the body responsible for the supported group of workers, but that the regulation of support staff should be the responsibility of one body, in the case of healthcare support staff, the Health Professions Council.

Question 11 Are there other options for the structure of statutory self regulation we should consider?

No