



SCOTTISH CONSUMER COUNCIL

**RESPONSE TO THE CONSULTATION
PAPER**

**“MODERNISING SOCIAL WORK
SERVICES: A CONSULTATION PAPER ON
WORKFORCE REGULATION AND
EDUCATION”**

FEBRUARY 1999

**The Scottish Consumer Council’s response
to the consultation
“Modernising Social Work Services: A Consultation Paper On
Workforce Regulation And Education”**

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A BRIEF GUIDE

- publicise ideas and information of

The Scottish Consumer Council (SCC) was set up by the government in 1975 to promote the interests of consumers, particularly those who experience disadvantage in society.

While producers and suppliers of goods and services are usually well organised and articulate when protecting their own interests, individual consumers very often are not. The people we represent are consumers of all kinds: they may be council tenants, patients, parents, solicitors’ clients, public transport users, or simply shoppers in a supermarket. We speak up for them by communicating with the professions, industry, business, local authorities and central government, using careful research and persuasive lobbying.

Our broad aims are to:

- represent, promote and safeguard the interests of consumers in Scotland;
- promote the provision of advice and information, choice, representation and redress for the consumers of goods and services;
- identify issues and problems of specific consumer concern;
- monitor and report on services for consumers in the public and private sectors and recommend changes in practice where necessary;
- influence key decision-making processes, policy and practice;
- encourage consumer representation in the public services and the privatised utilities;

PUBLICATIONS

The Scottish Consumer Council publishes reports, policy papers and consumer information on a range of areas.

A full list of our publications is available on request from The Scottish Consumer Council, Royal Exchange House, 100 Queen Street, Glasgow, G1 3DN

consumer interest and concern;

- play a distinctive and leading role in Scottish affairs.

OUR APPROACH

When we investigate the way goods and services are being provided - whether it is buying a used car or going into hospital - we use six basic principles to guide our research:

- **access** - can people get the goods, services or information they need?
- **choice** - can consumers affect the way goods and services are provided through the choices they make in the marketplace?
- **information** - is information available, is it easy to understand, and does it help customers to make informed choices?
- **safety** - are goods produced to the highest of standards of safety?
- **redress** - is there a simple, cheap, quick and fair system for dealing with complaints and disputes if things go wrong?
- **fairness** – are consumers subject to arbitrary discrimination for reasons unconnected with their characteristics as consumers?
- **representation** - are consumers’ views properly represented in services where there is little or no consumer choice?

1 Introduction

The SCC welcomes this consultation on workforce regulation and education in social work services. We believe that this provides an opportunity to address the important issue of how the public, and in particular the most vulnerable groups in society, can be protected from the possibility of poor services, neglect, or, at worst, abuse. While we recognise that in the vast majority of cases such issues do not arise, the pattern of provision of social care services has become increasingly complex, with an increasing amount of care being provided by the independent sector, both private and voluntary. At the same time, moves towards encouraging greater independence, for example through the Direct Payments scheme, add to the complexity of the relationships between social care providers and service users.

We are therefore disappointed that this consultation was not sent to any organisations, such as the SCC, which represent the interests of users of services.

In our response we do not address many of the technical questions posed in the consultation as we do not consider that we have the knowledge to do this. Our comments focus on the impact of the regulatory system on those who use services and those who care for them, and are based on the consumer principles, particularly those of access, information, safety, redress and representation.

2 Ethos and style

The new body must be authoritative and independent, and it must be perceived to be independent. It must be a vigorous champion of service users, and be able to tackle alleged cases of misconduct or bad practice vigorously and effectively. This has implications for its composition and governance, and also for its functions, as discussed below. It should be open and accessible, stimulating public debate and involving service users and members of the public in the process of setting and assessing standards.

It should not be seen to be protective of the interests of those working in the social care field, and should not shrink from excluding people from the register when that is necessary. Its fundamental role, the protection of the public, should lead it to actively promoting quality of care.

The creation of a new regulatory body is an opportunity to avoid some of the criticisms commonly made of other regulatory bodies, particularly those which combine the representation of a profession with its regulation. This can lead to a conflict of interest, well demonstrated by a recent report by the SCC on the handling of complaints against solicitors by the Law Society of Scotland.¹ The research found that 40% of respondents were very dissatisfied or dissatisfied with the way the Law Society had handled their complaint and the

¹ Scottish Consumer Council, *Complaints about Solicitors: a study of consumers' experiences of the Law Society of Scotland's Complaints Procedure*, SCC, Glasgow, 1999

report concluded that the Law Society could not carry out both roles, of representation and regulation, effectively. The public perception of self-regulatory bodies is that they are likely to take the side of the professional.

3 Composition and governance

The consultation invites comment on the relevant stakeholder interests which should be represented on the body and on the appropriate balance between them. The traditional pattern of self-regulatory bodies, as exist in the medical and legal professions, is not appropriate in the social care field. There are very many more types of worker involved, as well as a range of employers.

The SCC would argue that it is essential that public interest representatives should have a strong voice, as the new body must be able to demonstrate its independence from employers, practitioners and the government. We would resist any suggestion that any particular professional group should have a majority on the new body, and believe that public interest representatives should be in a majority. This would be in line with the Financial Services Agency and the Personal Investment Authority, both of which have a majority of public interest directors.

In the discharge of particular functions, such as those relating to professional education or training, it should be open to the body to convene committees in which it may be appropriate to have a majority of social care or social work professionals.

We consider that those providing social care, as opposed to those with professional social work qualifications, should be well represented, as they represent considerable numbers of those working in this area, some of whom may have been undervalued and unsupported in the past.

4 Functions

4.1 Education and information

There is one function which we think should be added to those listed in sections 11 and 12 of the consultation paper, namely that of public education and information. For the new system to function properly, it will be important that members of the public know that it exists, what it does and how to contact it if they are concerned about particular incidents. People should know that there are standards which social care providers are required to meet and they should know how they can find out more about those standards.

4.2 The interface between disciplinary action and complaints

Where service users have complaints about the services they have received it is unlikely to be clear to them whether the substance of the complaint would provide grounds for disciplinary action against the service provider involved. While service users should be encouraged to use the existing social work

complaints procedures, there may be cases where a service user would wish to be able to bring a case to the attention of the new body directly. It is important that there should be an accessible procedure for receiving and handling such cases from service users and carers.

Equally, those involved in handling complaints about social care, through the local authority complaints procedures, complaints review panels, or the local authority ombudsman, must be aware of need to refer disciplinary matters to the new body.

4.3 Health

The SCC recommends that the new body should establish a committee to deal with cases where social care staff are considered unfit to practise through ill health.

4.4 Enforcement

The focus of the consultation paper is very much on the registration of staff with the regulatory body. Employers are given the responsibility of ensuring that staff adhere to the codes of conduct and practice drawn up by the new body. There is nothing which explicitly deals with how this process of registration interacts with the other key element in regulation, which is that of inspection.

The SCC considers that there may also be a need to consider the development of local regulation units which would have a responsibility for the inspection of all forms of day and domiciliary care, as well as residential and nursing care. These units should be independent of local authority control.

5 Setting up a register

In response to question B in the consultation, we consider that it is preferable to proceed by registering all staff, some of whom would be registered on a conditional basis. This means that the body is in a position to deal with all those involved in providing social care from the earliest possible date.

6 Name

The name of the body is important as it gives a message about what the body is and what its functions are. We would be disappointed if the title General Social Work Council for Scotland was chosen. We would prefer that the width of responsibility of the body was reflected in its title and for this reason would prefer the body to be called the Care Council for Scotland. This emphasises the breadth of its concern, and has the merit of being in line with the title currently being used in Wales. We do not consider that the words “general” or “social” add anything to the title. The wider the remit of the body is perceived to be the more accessible it is likely to be to those who might need to turn to it for redress.

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