Healthcare Improvement Scotland has considered the call for evidence into the regulation of care for older people and has prepared the following written response for consideration by the Committee. The Chair and Chief Executive of Healthcare Improvement Scotland would welcome the opportunity to be called before the Committee to give evidence personally about our organisation’s role in the scrutiny and regulation of healthcare services for older people.

Healthcare Improvement Scotland is one of two new scrutiny bodies set up by the Public Services Reform (Scotland) Act 2010, the other being Social Care and Social Work Improvement Scotland (SCSWIS). Our purpose is to support healthcare providers in Scotland to deliver high quality, evidence-based, safe, effective and person-centred care; and to scrutinise those services to provide public assurance about the quality and safety of that care. We also regulate independent healthcare services.

As the two new scrutiny bodies became operational from April 2011, it would be too early to provide an informed view on how these bodies have been operating. Therefore we wish to make general comments about the regulation of services from our own perspective as a scrutiny body focusing on healthcare services. However, as further integration of health and social care is a policy direction set by Scottish Government we believe the role of SCSWIS cannot be looked at in isolation in relation to the regulation of care for older people.

Responding to the needs of the population, care is increasingly delivered across a spectrum of health and social care settings. This includes care being delivered in people’s own homes, in the community and in care settings.

In relation to the specific questions raised the following response is put forward for consideration:

**Can we be confident that the regulatory system is picking up on care services where the quality of care is poor?**

In answering the specific question:

- In order to be confident, there is a need to look at all recent reports from the regulators, and triangulate them against complaints about the services and ombudsman reports, in the first instance. There is also important information in the NHS HEAT target achievements and the single outcome agreement targets to build a comprehensive picture of what is happening across services for older people. It is also important to seek views from local authorities who commission care from providers and
views from local NHS staff who provide care for residents and can comment on what they see and experience when visiting residents.

- In addition our view would be that regulatory visits should be mainly unannounced to ensure services are seen through the lens of patients and carers. However, these should be complemented with announced visits following up on service providers’ self assessments. This will mean that scrutiny benefits from the differing merits of both approaches. We are conscious however that there is a significant challenge in ensuring the right balance is struck.

It is also worth noting that there have been changes in recent years to the approach to scrutiny of public services. This is in light of the Hampton report and the Crerar review, and both the Westminster and Scottish Government’s responses (including the Public Services Reform (Scotland) Act 2010). As a result, scrutiny bodies have adapted, and are continuing to adapt their approach to scrutiny, shifting to risk-based, proportionate approaches as opposed to operating the same inspection regime across all service providers.

Any reductions in the frequency of inspections may be viewed by the public as a reduced level of quality assurance. It is important to ensure that the rationale for any such changes is evidence based and transparent. Any necessary additional safeguards should be incorporated to mitigate concerns and risks to ensure that scrutiny bodies are able to respond quickly to concerns to further mitigate risk of harm to citizens in care.

**Are there any particular weaknesses in the current system?**

To ensure a risk-based and proportionate approach can be taken by regulators, provider organisations must consider strengthening their own assurance processes.

It may be useful to consider verification of self-assessment returns by service users/public partners or patient interest groups. This may assist in validating the service provider’s statements about how they comply with standards with regard to the services that users receive.

It may also be helpful to review the evidence base and robustness of grading and risk rating systems used by scrutiny bodies and to consider whether a more integrated approach could be developed across health and social care services.

There is a need to ensure that there is timeous reporting by scrutiny bodies, and robust follow-up on inspections to ensure that improvement plans are implemented quickly and effectively. Although this happens currently, ensuring that it happens consistently in every case can present challenges, particularly at times when resources are stretched.

We are mindful that much of the scrutiny activity of health and social care services takes place during ‘office hours’. An alternative approach is that
there may be merit in extending the timing of inspection visits in order that they may take place ‘out of hours’ ie evenings and weekends. This would require to be managed carefully in light of potential disruption to services and service users/patients.

Inspection reports also need to be clear and accessible for service users, carers and the public.

A potential weakness is the gap in the current system of assessing and quality assuring both health and social care in ‘care at home’ along a pathway of care. We think it is important we contribute to the health component of that assessment.

**Does the system adequately take into account the views of service users?**

The Duty of User Focus introduced by the Public Services Reform (Scotland) Act 2010 provides a helpful framework for ensuring that service users are involved appropriately in the work of scrutiny bodies at governance level and in shaping scrutiny and improvement activities. Healthcare Improvement Scotland is implementing the Duty of User Focus, building and strengthening our approach to user involvement across all key areas. We are also committed to working with SCSWIS, and other relevant bodies (such as the Mental Welfare Commission for Scotland and, the new body, Education Scotland) to ensure that we take a consistent approach, wherever possible, in implementing that duty.

The use of other sources of data such as complaints data and user feedback provides invaluable intelligence for health and social care services, and for scrutiny bodies, in identifying areas of concern and scope for improvement. We published research in 2009, which highlighted the barriers identified by patients in relation to making complaints and providing feedback and ways in which these barriers might be addressed¹.

We welcome efforts made by the Scottish Government in recent years, and work that is ongoing to improve the use of complaints and feedback in NHSScotland. Although there have been significant improvements, through national initiatives like the Better Together Programme and those planned in relation to the Patient Rights (Scotland) Act 2011, there is potential for more to be done. One possibility could be to consider the introduction of a national portal for logging concerns/complaints about health and social care services.

Patient and carer groups, and the voluntary sector, have a key role to play in highlighting what matters most to those using our health and care services, and identifying areas for improvement. We hope to continue to strengthen their input into our own work in the future.

There is evidence from other initiatives that have been piloted using patient/community volunteers to gather feedback in NHSScotland. There is potential for such initiatives to be further developed, in addition to the use of online feedback systems, such as Patient Opinion (www.patientopinion.org.uk), which relates to NHS services. There is no equivalent to Patient Opinion for social care services.

Some older people may be vulnerable and, for various reasons, may have difficulty in expressing their views about the services that they use. Carers/carer organisations, and independent advocacy services, can play a vital role in providing feedback about services and it is essential that this is acknowledged by service providers and by scrutiny bodies in order that their views can be captured effectively.

**Does the registration and regulatory system provide an appropriate basis for the regulation, inspection and enforcement of integrated social and NHS care in the community?**

The ‘Duty of Co-operation’ introduced by the Public Services (Reform) Scotland Act 2010 provides the platform for joint inspection of services by the health and social care regulatory bodies. This should be based on an agreed shared methodology underpinned by joint health and social care data and risk assessment to inform the inspection process.

Our relationship with SCSWIS will be further developed to explore shared methodologies and approaches as this will be vital in light of the increasing integration of health and social care services.

Dr D Coia, Chair
Dr F M Elliot, Chief Executive
Healthcare Improvement Scotland
22 August 2011