The Public Services Reform (Social Work Complaints Procedure)(Scotland) Order 2015

Scottish Social Services Council

The Scottish Social Services Council (SSSC) is the regulator for the social service workforce in Scotland. Our work means the people of Scotland can count on social services being provided by a trusted, skilled and confident workforce. We protect the public by registering social service workers, setting standards for their practice, conduct, training and education and by supporting their professional development. Where people fall below the standards of practice and conduct we can investigate and take action.

We:

- publish the national codes of practice for people working in social services and their employers
- register people working in social services and make sure they adhere to our codes of practice
- promote and regulate the learning and development of the social service workforce
- are the national lead for workforce development and planning for social services in Scotland.

The social service workforce provides care and support for some of the most vulnerable people in Scottish society. The sector employs approximately 200,000 people in Scotland (SSSC, 2015). These workers deal with complex care needs and make a real difference to peoples’ lives.

1 Do you support the new regulations?

We are supportive of the new regulations. However, we have some reservations which are set out in our answer to question four of this call for evidence.

We welcome the provisions in the regulations about information sharing with ourselves and the Care Inspectorate. Should the SPSO have information which indicates to them a potential breach of the Code of Practice for Social Service Workers we would welcome them making a referral to us and providing us with any information they hold.

Also, if during an investigation we become aware that the SPSO hold information that may be relevant, this would enable them to provide it to us.

2 What are your views on Local Authority Complaints Review Committees being replaced?

We make no comment on this question.

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1 There are a number of groups of workers not captured by this data. These include childminding assistants and personal assistants employed by individuals in receipt of a direct payment.
3 What are your views on the SPSO being given a new role to investigate social work complaints?

We welcome these proposals. The new system will provide a consistent national approach.

4 What are your views on the SPSO being given a remit to consider the professional judgement of social work staff?

We are broadly supportive of the proposals. However, we have concerns about the plans to extend SPSO’s investigatory powers to include the exercise of ‘professional judgement’ of a social worker. The wording of the consultation suggests that the SSSC’s remit is limited to the conduct of the worker to the exclusion of judgement on professional matters. This is not the case. The SSSC considers suitability for initial and ongoing registration with reference to the good character, competence and conduct test set out in section 46 of the Regulation of Care (Scotland) Act 2001. At the point of application the SSSC uses this test to decide on entry to the Register. The SSSC also considers any ‘misconduct’ by a registered worker.

Misconduct is defined as:

“Behaviour whether by act or omission which falls short of the standard of conduct expected of a person registered with the SSSC, having particular regard to the Code of Practice for Social Service Workers issued by the Council under section 53(1)(a) and the SSSC Registration Rules 2012 both as amended or substituted from time to time.”

The Code of Practice for Social Service Workers sets out our expectations around them. Many of the Codes cover the exercise of professional judgement. For example, the Codes include:

3.8 – recognising and using responsibly the powers that come with your work with service users and carers

4.1 – recognising that service users have the right to take risks and helping them to identify and manage potential and actual risks to themselves and others

6.1 – meeting relevant standards of practice and working in a lawful, safe and effective way.

We make decisions about the exercise of a worker’s professional judgement in fulfilment of our statutory obligations as set out above. The new arrangements must make sure there is no overlap or duplication in scrutiny as it would be disproportionate. We would expect the SPSO to refer such concerns to the SSSC to allow us to deal with them.

In our experience, much of our fitness to practise case work for social workers involves looking at professional judgement and it is essential that the people investigating and deciding on such cases have relevant experience and knowledge. One way we do that is to have a "due regard member" on our hearings.
5 What are your views on how these proposals relate to the approach currently being taken to complaints relating to the NHS and the consideration of complaints relating to Integrated Joint Boards?
We make no comment on this question.

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References

