

HEALTH AND COMMUNITY CARE COMMITTEE

Wednesday 24 January 2001
(Morning)

© Parliamentary copyright. Scottish Parliamentary Corporate Body 2001.

Applications for reproduction should be made in writing to the Copyright Unit,
Her Majesty's Stationery Office, St Clements House, 2-16 Colegate, Norwich NR3 1BQ
Fax 01603 723000, which is administering the copyright on behalf of the Scottish Parliamentary Corporate
Body.

Produced and published in Scotland on behalf of the Scottish Parliamentary Corporate Body by The
Stationery Office Ltd.

Her Majesty's Stationery Office is independent of and separate from the company now
trading as The Stationery Office Ltd, which is responsible for printing and publishing
Scottish Parliamentary Corporate Body publications.

CONTENTS

Wednesday 24 January 2001

Col.

REGULATION OF CARE (SCOTLAND) BILL: STAGE 1	1432
---	------

HEALTH AND COMMUNITY CARE COMMITTEE

3rd Meeting 2001, Session 1

CONVENER

*Mrs Margaret Smith (Edinburgh West) (LD)

DEPUTY CONVENER

*Margaret Jamieson (Kilmarnock and Loudoun) (Lab)

COMMITTEE MEMBERS

*Dorothy-Grace Elder (Glasgow) (SNP)

*Janis Hughes (Glasgow Rutherglen) (Lab)

*Mr John McAllion (Dundee East) (Lab)

*Shona Robison (North-East Scotland) (SNP)

*Mary Scanlon (Highlands and Islands) (Con)

*Dr Richard Simpson (Ochil) (Lab)

Nicola Sturgeon (Glasgow) (SNP)

*attended

WITNESSES

Jim Gibb (National Association of Inspection and Registration Officers)

Bernard McLeary (Convention of Scottish Local Authorities)

Elizabeth Norton (National Association of Inspection and Registration Officers)

Councillor Rita Miller (Convention of Scottish Local Authorities)

Jacquie Roberts (Association of Directors of Social Work)

Carole Wilkinson (Association of Directors of Social Work)

Sue Wilkinson (National Association of Inspection and Registration Officers)

David Wiseman (Convention of Scottish Local Authorities)

CLERK TO THE COMMITTEE

Jennifer Smart

SENIOR ASSISTANT CLERK

Irene Fleming

ASSISTANT CLERK

Joanna Hardy

LOCATION

Committee Room 1

Scottish Parliament

Health and Community Care Committee

Wednesday 24 January 2001

(Morning)

[THE CONVENER *opened the meeting at 09:37*]

The Convener (Mrs Margaret Smith): Good morning. I welcome everybody to this morning's committee meeting.

Before we get on with the agenda, Councillor Rita Miller is present this morning. Councillor Miller, I believe that we were taking evidence on community care the previous time you visited the committee.

Councillor Rita Miller (Convention of Scottish Local Authorities): That is right.

The Convener: I will give committee members an update on the matter. We should have received the Executive's response to our community care report yesterday, but it has not yet arrived. As a result, we have been putting pressure on the Executive this week to ensure that we get our hands on its response. A statement will be made this afternoon; we seek clarification because we have been told different things about whether the statement is in response to the review or—at least partly—to our report.

I have taken the matter up with the parties' business managers and I hope that we will receive the Executive's response today. It is rather unfortunate that we do not yet have that response, because it means that we will be expected to respond to the statement without having read even the chief nursing officer's in-depth report. It would have been useful to have the Executive's response in advance and, as I say, I am exerting pressure to ensure that we receive it today.

Regulation of Care (Scotland) Bill: Stage 1

The Convener: We move now to today's first group of witnesses in our stage 1 consideration of the Regulation of Care (Scotland) Bill. First up are the witnesses from the Convention of Scottish Local Authorities. I welcome Councillor Miller, Mr McLeary and Mr Wiseman to the meeting.

During stage 1 consideration of a bill, the committee is asked to formulate its views on the bill's general principles, to check that there has been full consultation and to highlight any concerns or any aspects that need further work or that should be put out for further consultation.

The committee already has COSLA's very useful written submission. I understand that you will give a short statement, after which we will move to questions.

Councillor Miller: Good morning. I thank the Health and Community Care Committee for inviting COSLA to give evidence. We welcome the Regulation of Care (Scotland) Bill and support the Government's drive to modernise the regulation of care services and early education and to ensure that we have a confident and well trained social services work force in Scotland.

We have been particularly pleased by the level of involvement that we have been allowed in the period leading up to publication of the bill and we look forward to continuing involvement up to and during its implementation. Much of the detail of the arrangements that underpin the bill, including the operation of the commission and the council, will be the subject of secondary legislation and will flow from the establishment of national care standards. However, it is important that the bill provides a guarantee that there will be continuing consultation on those matters.

Members will not be surprised to hear that COSLA will seek assurances on the funding arrangements. We want transparency and fairness in the amounts that will be taken from local government and health boards to pay for the new arrangements, and in the level of fees that the new bodies will charge. We are working on the implications of the financial memorandum for local authorities.

COSLA also has concerns about the proposed move to self-financing through fees from 2004-05. We believe that that is unrealistic, because it will involve a significant increase in fees. We also suggest that moving money from one set of public bodies to another public body—from local authorities to the proposed commission—will not make the best use of the community care pound

or of any moneys that are available for early-years services. Costs could increase to cover the administration of a fees system.

COSLA also has a more general concern that the current—most welcome—Scottish Executive increases in total revenue grant to local authorities over the next three years might not be sufficient to meet all the additional burdens that are being placed on us, including those that will arise from the bill.

We raised recently with the regulation of care project team a number of concerns about the need for appropriate transitional arrangements. We need to be sure that satisfactory arrangements are put in place for staffing and location issues. Although such issues do not touch on the principles of the bill, they will be critical to its effective implementation.

We suggest that lessons should be learned from the most recent experiences of local government reorganisation and the establishment of the children's reporters administration. We suggest that, for a limited period only, an independent body should be set up to ensure smooth implementation. That is a tried and tested way of resolving disputes and it should be put in place as quickly as possible.

We draw committee members' attention to the fact that, as a local authority organisation, we see nothing in the bill that would ensure continuing local involvement by way of advisory committees or adequate joint working at a local level. Local knowledge and the working relationship with local authorities and groups are crucial in safeguarding vulnerable adults and children. Local support is also necessary to allow providers continuously to improve their services.

The Care Standards Act 2000—the sister to the Scottish bill—which covers England and Wales, introduced the post of children's commissioner for Wales, who will report to the National Assembly for Wales. COSLA believes that the Regulation of Care (Scotland) Bill should include a provision for an independent children's commissioner for Scotland. The role of such a person would need to be defined in detail; COSLA is consulting its member authorities on that.

An important area that we are discussing with the Scottish Executive is whether it is sensible to have two new non-departmental public bodies rather than a single new body that has overall responsibilities. By their nature, the two bodies will need to have close links. Given the wider concerns about the number and role of non-departmental public bodies, COSLA would like to be sure that the new set-up is consistent with best value.

In the explanatory notes that accompany the bill,

the Scottish Executive states:

"It is intended that the Commission"

for the regulation of care

"should fulfil the recommendation of the Royal Commission on Long Term Care that there should be a National Care Commission to take a strategic overview of the care system and its funding and to steward the interests of older people. This role will not be limited to older people. The Commission will therefore have a statutory power to advise the Scottish Ministers on trends in care provision generally."

COSLA's view is that the commission will be able to fulfil only part of the remit that is envisaged in the royal commission's report. Therefore, the need remains for a UK-wide commission that includes Scottish representation to consider the important interface between the benefits system and care. We are also concerned about the reduced requirement that all care services be subject to a minimum of one inspection every 12 months. Local authorities are currently expected to make two inspections a year. We feel that the reduction might result in a lower quality of regulation for services that are currently regulated.

We welcome the establishment of a register of social workers and social care workers. It is COSLA's view that all social care workers should be required to register as soon as possible. Until that is done, the bulk of service users will not be protected, although the public perception is likely to be that they are protected. Some clarification is also required on the status of staff who come from an education or children's services background—which have different training and qualifications—regarding their registration with the Scottish social services council.

I draw members' attention to the fact that we have provided a fuller written submission. We will welcome members' questions; I have brought with me two professional advisers who will field any technical questions.

09:45

The Convener: One of your questions has been raised with us already—whether it is best to have two regulating bodies or one. The Parliament has been moving towards having fewer arm's-length bodies but, given what has happened with the Scottish Qualifications Authority, we are all aware of difficulties that can arise. Latterly, you made the case for a single body, rather than two separate bodies, but I understand that that was not COSLA's initial response. Why did it change? What are the pros and cons of having either two bodies or a single body?

Councillor Miller: We are anxious to have a one-door approach for members of the public, local authorities and those who are being

regulated. The bill states that the two bodies will have to work together. It seems obvious that the way to work together is to be together as one body that includes two committees at a lower level.

David Wiseman (Convention of Scottish Local Authorities): COSLA did not necessarily favour two bodies; it did not comment in detail on that point, but considered its position as policy developed. However, for a number of reasons, COSLA now favours a single body. Many of the papers that we have seen on the matter have stressed the need for effective co-operative working. That would be much easier to achieve through a single body. A single body would also result in some cost savings—for example, there would be only one chief executive and there would be shared support services. We want the best value approach, because if there is a move towards self-financing, local authorities will pick up most of the tab, certainly in relation to the commission's side of the work.

If there were two bodies, we would worry that incompatible policies might develop. In a number of areas, it is clear that the two bodies would have to work closely together, with the council developing codes of conduct and practice and the commission, during inspections, being required to ensure adherence to those codes. COSLA has long made the point that no additional non-departmental public bodies should be created—unless there is a clear justification for that.

Dorothy-Grace Elder (Glasgow) (SNP): Thank you for your excellent advance submission. Do you welcome the registration and inspection of local authority services, as proposed?

Councillor Miller: We do.

David Wiseman: Yes. We recognise that there was a perception—among providers in the independent sector and among members of the public—that the inspections that were being carried out by local authorities might not have been as independent as they should have been, because local authorities were still providers as well purchasers. We feel that that perception was merely that—a perception rather than a reality. The majority of local authorities—or all of them—were able to organise independent arrangements. However, we welcome the proposals and recognise their strengths.

Dorothy-Grace Elder: You are concerned about the requirement to have only one inspection a year. Would you prefer spot checks or inspections for which advance notice has been given?

David Wiseman: We are certainly concerned about the reduction to one inspection per year. We feel that there should be a minimum of two inspections, which is what local authorities

currently have to provide. That provides the opportunity for an announced inspection and an unannounced inspection. Obviously, there are sometimes circumstances in which more frequent inspections than that are needed. In the authority that I worked with before I moved to COSLA, we had a situation in which we had to inspect daily because of circumstances that were probably leading to deregistration.

There are a number of reasons why there should be more than one inspection a year. First, that would allow a combination of announced and unannounced inspections. Secondly, inspectors must develop a rapport with the users of the services. If there is only one inspection and another inspector comes along 11 or 12 months later, it is difficult to build up confidence and have a dialogue with those who use the services such that they will talk truthfully about their circumstances. People have concerns about talking during inspections about what the service is like for them; they might be concerned that they will be penalised for voicing their concerns. We need to build up rapport.

Dorothy-Grace Elder: Do you definitely want more than a minimum of one inspection a year?

David Wiseman: Yes.

Shona Robison (North-East Scotland) (SNP): I do not know whether the witnesses have seen the Accounts Commission for Scotland's performance indicators report for social work, which notes with concern that a number of councils still report an average inspection rate of 1.5 a year or less. Is there a danger that reducing the number of inspections to one a year might favour councils that have not been putting enough effort into inspections, while councils that have been good at ensuring that two inspections took place every year will be penalised? Is it possible that the quality of the inspection service in the more diligent local authorities might not be recognised because it will be reduced to only one inspection a year?

David Wiseman: The situation is probably a wee bit more complex than that and is linked, in some respects, to our concerns about the transfer of resources from local authorities. The vast majority of—if not all—local authorities currently spend well over the grant-aided expenditure for registration and inspection services. Because they believe that there needs to be a built-in quality system, they have had to invest, and the danger is that we will have a poorer-quality system by moving to one inspection a year. If the requirement was that there should be at least two inspections but, in some cases, that requirement was not met, will that mean that, when the requirement is for one inspection, there will sometimes be inspections less than once a year?

The vast majority of councils have been inspecting more than twice a year. Even for those that were not meeting the target, close study of the figures shows that there are specific reasons for that. My council did not meet that target one year, although it does now. That happened in the year when we were inspecting a particular unit once a day. The pressures of enforcement are a major issue. We do not know when situations will get so difficult that we need to use intensive inspection and enforcement, which has an effect on a council's ability to do the minimum inspections of other units.

The Convener: That picks up on the Executive's argument that having a minimum of one inspection a year allows inspectors to train their resources on the areas where a second or unannounced visit would have the biggest impact, such as new facilities or facilities where there are problems.

David Wiseman: Our argument is that there must be a minimum of two inspections to establish whether everybody meets the minimum requirements. Therefore, the commission must be resourced in such a way that it can enforce the standards. The minimum is the basic safeguard—having only one inspection would not provide that basic safeguard.

Dr Richard Simpson (Ochil) (Lab): Do you agree that there should be an announced and an unannounced visit—one within and one outwith normal hours—and that therefore two visits is the absolute minimum?

David Wiseman: Yes.

Dr Simpson: I agree entirely.

Do you agree with the definition of care services that is given in section 2(1) and with the definitions and terms that are used in section 2? In particular, what is your view of the exclusion of nannies and au pairs from the list of services that are covered? Have any other groups been excluded that you think should have been included? Do you believe that the section as drafted covers respite carers? I should declare my role in advising the three central Scotland regional local authorities on adoption and fostering.

David Wiseman: Two areas should be covered, on one of which—adoption and fostering—we understand that the Executive will introduce an amendment at stage 2. The other area is nannies and nanny agencies. Like other organisations, we are concerned about the potential loophole in regulation that would be created.

We spell out clearly in our submission that we support the Association of Directors of Social Work's view that the definition of personal care needs to be beefed up. Bernard McLeary might

wish to address early years issues. I know that the Association of Directors of Education in Scotland is considering the question of the definition of early-years childminders and so on.

Bernard McLeary (Convention of Scottish Local Authorities): We would like some clarification on the extent to which uniformed organisations and recreational activities are covered, and on the principle of the extent to which they should be covered.

The ADES raised the question of nannies when the initial consultation paper was published and sought clarification on why they were not included.

Dr Simpson: Does COSLA have a view on that?

Bernard McLeary: No.

Dr Simpson: On page 3 of your submission, on costs, you refer to

"the need to monitor additional unregistered services in the context of the Supporting People proposals to move towards unregistered services."

To what services does that refer, and should they be covered by the bill?

David Wiseman: There needs to be further discussion and clarity about the supporting people proposals' implications for the regulation of support services. Currently, some services in this field are registered and some are not. Local authority directors of social work can listen to the views of their council registration and inspection unit on whether a particular service should be registered. They can then decide to take the registration option or to introduce similar arrangements under compliance activity in the local authority, including requirements for the submission of annual reports to committees. The reason why that different approach is needed is the different effect that it has on individuals' personal finances, in terms of benefits—that is linked to why we think there should be a UK commission.

We need clarity on how the system will operate. The initial papers took the view that most of the services should be unregistered, but the current view is that some will have to be registered. We need to clarify how they will be registered. We are concerned that the on-going costs of ensuring that they comply if they are not registered will be harder for local authorities to meet.

Dr Simpson: Given the Executive's development of increased in-home and out-of-home respite care, does section 2 adequately cover the whole of respite care?

David Wiseman: That is a good question, which we have probably not yet considered in enough detail.

Dr Simpson: You might want to come back to us on that point and on nannies.

David Wiseman: Yes.

Dr Simpson: That would be helpful.

Janis Hughes (Glasgow Rutherglen) (Lab): In your opening statement, you said that you were still considering the financial implications for councils of the proposed bill's financial memorandum. Could you outline some of those implications and any concerns that you might have?

10:00

David Wiseman: We have discussed the issue of transparency and fairness as far as the amounts that will be taken from local government are concerned. The financial memorandum refers to on-going discussions with the Scottish Executive—which have centred on local authority expenditure in 1998-99—to bring the figures up to a level for 2000-01. The Executive has concluded that £6.1 million of the £9.3 million that local authorities currently spend on registration and inspection services should be transferred to the commission. Out of that £9.3 million, the Executive will take an allowance for residual functions: the local authorities' current fee income; and another £900,000 in respect of the fees that local authorities are likely to pay for regulation of their own services.

I have mentioned that, as many councils have invested heavily above GAE, there are concerns that they will be penalised for investing in registration and inspection above other priorities, if the whole sum is taken away. Furthermore, the Executive has not really recognised that the activities of many people involved in registration overlap with compliance activity within authorities. We need clarification about whether the expenditure is exclusively for regulatory functions or whether it will also be given for compliance activity, which will remain the responsibility of the local authority. Some elements of development activity will also remain with local authorities.

We are concerned about the implications of fee income—not only for the local authorities in relation to the direct payment of their own fees. The independent sector will expect that the increased fees that it pays will be picked up by increased unit costs, with the local authorities as the main purchaser in that context.

We are also concerned about the implications of costs for local authorities in relation to the Scottish social services council. Not only will the authorities' own staff have to be trained to meet some of those requirements, but the independent sector will have increased unit costs for training,

staff registration fees, police checks and the implementation of codes of conduct.

Related policy issues, such as the duty to train safeguarders and safeguarders' fees, also have cost implications. Councillor Miller mentioned our concern that the revenue grant might not be enough to cover all those burdens. The financial memorandum refers to the fact that the revenue grant will increase by 6.2 per cent next year and by a further 5.4 per cent and 3.8 per cent in the following two years. However, we are concerned that a large number of changes that will result from Scottish Executive announcements are expected to be met with that money. We are trying to do some calculations to find out whether both sides add up.

Councils will also face the cost implications of demographic pressures over the next few years. For example, there will be huge increases in the number of older people and, in particular, a real-terms increase of 1 per cent to meet the additional demand that will be caused by the increase in the number of very elderly people in the population. As research from the University of Leeds has shown, more people with learning disabilities are surviving to middle age and old age and are often outliving the parents who have provided them with support. Furthermore, there are higher birth survival rates for people who have learning disabilities. The reckoning is that there has been a 1.2 per cent growth in demographic terms in connection with people with learning disabilities.

We should also put into context a question that was raised with the minister last week when he referred to his concern about the number of local authorities that do not spend up to GAE on services for the elderly. On GAE for community care services—which are not for the elderly only—it is true to say that, based on the 1999-2000 budgets, 21 out of 32 local authorities spent less than their GAE assessments; on average about 1.5 per cent less. Members will be aware of those figures from evidence that has been given to the committee.

However, 28 local authorities spend more than their GAE on children's services, two spend about the same and two spend less. The average budget for children's services is some 36 per cent over GAE and the combined expenditure on community care and children's services amounts to an average spend by the 32 local authorities of 6.5 per cent over GAE. That clearly reflects a difference in client group priorities between central and local government, particularly in the context of central Government's assessment of GAE.

Members must recognise that the problem is not one of ring-fenced moneys; rather, local authorities must prioritise. There is an intense pressure on the need to protect children and on

the development of children's services, which has led local authorities to spend money on children's services to the detriment of community care services. That point must be picked up centrally.

Janis Hughes: You have demonstrated your concerns, but I take it that you are not far enough down the road with your calculations to give specific figures on the financial implications.

David Wiseman: We are working on the figures, but the financial memorandum is a little complex.

Mr John McAllion (Dundee East) (Lab): I want to be clear. In your submission to the committee, you point out that £9.3 million is to be transferred, as that is the cost to local authorities of providing regulation and inspection services. Are you saying that local authorities spend more than £9.3 million on those services?

David Wiseman: No. Local authorities spend £9.3 million, which is far more than the GAE for registration and inspection services. The amount that will transfer is £6.1 million—the figures that I mentioned have been taken off.

Mr McAllion: The financial memorandum tells us that £5.3 million will transfer in 2002-03 and £5.5 million will transfer in 2003-04. That is more than £1 million less than you say will transfer—quite a lot of money, when you consider that Glasgow City Council chucked COSLA over £300,000. An awful lot could be done with that money.

Which figures are correct—the figures in the financial memorandum or your figures?

David Wiseman: We did a quick comparison. I think that the Executive considered the figure for the full transfer, which will be £6.1 million at the end of the day. The figures that I quoted were given to us in a proposal at the COSLA-Scottish Executive expenditure committee.

Mr McAllion: Therefore, the figures in the financial memorandum are not true. They were true when the financial memorandum was published—

David Wiseman: The Executive was looking at different years.

Mr McAllion: But those figures are not true now.

David Wiseman: The Executive was not looking at the end-of-the-day, full picture. It was looking at the lead-up figures for the first two years.

Mr McAllion: The basic story that local authorities are telling the committee is that the financial provisions that have been made for the switch are inadequate.

David Wiseman: Yes.

Mr McAllion: Local authorities are also telling

us that local authorities are being left to find money from elsewhere in their budgets in order to fund the implications of the transfer.

David Wiseman: We think that too much money will be taken away from local authorities, given both the residual duties that will be left to us and the investment that we have made over and above what the Scottish Executive believes we should invest in those duties, to the detriment of other community care work. We have invested in registration and inspection services partly to the detriment of some of the services for the elderly that the minister is concerned about. We could have put money into those services instead of putting money into registration and inspection. We must also pick up the increase in fees, both for our services and for the independent sector. We are also concerned about the problem of fee structure.

Mr McAllion: Will fees increase by 10 per cent for the next three years and is there no provision within local authority funding for those increases?

David Wiseman: That is the proposal.

Mary Scanlon (Highlands and Islands) (Con): There is some confusion over income and the transfer of services; some local authorities have decided to increase spending above GAE, as you say in your submission. Does not that spell out the lack of transparency and openness that you referred to? We want the bill to deliver a consistent approach, best value for the community care pound, transparency and openness, which are not evident in the current system.

David Wiseman: We are involved in discussions on the figures. As far as I am aware, those discussions have not reached a conclusion. COSLA has reserved its position, because it is considering the Scottish Executive's proposals in great detail. One of our difficulties is in determining whether the amounts that are proposed to be taken for residual duties are fair. We are still considering whether it should be recognised that some councils have made an investment over and above the amount that the Executive felt should be invested in the service.

Mary Scanlon: We seem to have a perfect system. Are we getting best value from the community care pound? The Sutherland commission discovered that £750 million in England and Wales went into a black hole in local authorities and was never accounted for. If you cannot provide accurate figures, you may be proposing an inequitable and inconsistent system. Who are you to preach on the new arrangements?

David Wiseman: We are talking about the money that is spent on the registration and inspection service. There are clear figures for that. Through its indication of GAE, the Government has made fairly clear what it believes should be

spent on that service. Local authorities have invested well above GAE because we believe that the additional cost is required to provide a quality registration and inspection service with a minimum of two inspections a year. The proposed system will reduce the number of inspections to one a year and will give self-evaluation a much fuller part in the service. Under the proposed system, the quality of service will be lower than it is under the system that local authorities currently follow. We have had to invest more money in that system to ensure that we meet the quality that is required.

Mary Scanlon: At least all services are being inspected.

On integrated planning, your submission says:

"There is a need to coordinate aspects of the legislation with the outcomes of current Scottish Executive consideration of integrated planning and operation of community care and children's services and to ensure coherence between the Bill and . . . national policy . . . as it is developed for integrated services in both these fields."

What are you talking about? That paragraph is hardly clear and transparent. I read it about three times last night. The problem may be with me, but I do not think that that represents openness, clarity and transparency. If that is the way in which you jointly work, I do not know what you are offering.

David Wiseman: We are suggesting that the Executive has several policies, including those that the bill promotes. We must ensure that joint working takes place, because some policies will be delivered by local authorities, some by the commission and some by the council. The danger is that policies might be adopted that countered the Scottish Executive's overall objectives. For example, the child care strategy is important and will interface with the development of the commission's work on the registration of early-years services and childminding services. A single picture of what the commission does must match with delivery of the other objectives in the overall policy, which local authorities have a key role in achieving. That is why we are pushing for joint working locally.

Mary Scanlon: Local authorities' record on joint working is abysmal. That is one reason why the committee has spent 10 months trying to sort things out. Have you learned from your experience? Are you more willing to enter into better partnerships?

David Wiseman: That might be a political question.

Councillor Miller: Local authorities have always been willing to enter into partnerships. A partnership has two sides, both of which must operate together to make the partnership successful. If Mary Scanlon is referring to community care, I must say that many local

authorities made great strides in working together with their health colleagues on that issue.

However, partnership working is difficult and it is not the way of working that was being encouraged in the comparatively recent past. Mary Scanlon is talking about developments that are coming on stream now. Local authorities have always been willing to work jointly. Indeed, departments within local authorities work jointly. That is partly why it is difficult to unpick services one from the other, which is what is proposed in this case. As David Wiseman said, the person who does the regulation and inspection can also be involved in supporting service users and those who are running services to keep up the standard and improve the quality of those services. That is one of the things that emerge from joint working at present.

10:15

Shona Robison: It is proposed that self-financing will kick in in 2004-05. You have already said that you are generally unimpressed and unconvinced that that will be achievable, but I would like to go into more detail on that. Has COSLA done any analysis of the additional costs or of the community care pounds that may be lost in direct service provision through the extra administrative burdens involved in recycling money from one public sector body to another? When the Deputy Minister for Health and Community Care appeared before the committee, he tried to justify the recycling of money on the ground of transparency, with organisations and bodies being seen to pay for the service. Do you find that a convincing argument?

David Wiseman: We are doing the calculations to ensure that we clearly understand the financial implications for local authorities in relation to their own fees as well as to the cost increases for other providers. We argue that not all the increased costs to the provider should be passed on in unit costs to local authorities. Local authorities may have to consider what implications that will have for their profit margins and their need to be efficient. We have not yet finished the calculations that will give us an estimate of the administrative costs. However, if a fees system requires fees to be paid to one organisation but to be picked up by another organisation, the administrative cost will mean that the pot of money for delivering the service will be less. We are still working on those figures.

Shona Robison: When will that information be available?

David Wiseman: I would need to ask our finance officers for an exact date.

Shona Robison: Could we have a copy when the calculations are complete?

David Wiseman: Yes.

The Convener: That would be useful.

David Wiseman: Our finance officers have been a wee bit busy with something called the McCrone report, and they may be even busier with other things after this afternoon's statement in Parliament.

The Convener: We can take that as read.

David Wiseman: It is difficult to comment on Shona Robison's other point. If individuals and individual organisations are shown to pay their fees, there will obviously be transparency. The judgment needs to be made on whether the cost of doing that is worth paying.

Mr McAllion: You have already made it clear that, like everyone else, you accept that the fragmentary and inconsistent nature of the current system makes it right to set up a national body that will apply national standards. You also stressed in your opening statement the importance of continuing local involvement. How does COSLA think we can best get the balance right between the national and the local in the new system?

David Wiseman: We raised concerns in our submission about the loss of the advisory committee role. We think that the input from advisory committees—from local authorities, from provider organisations, from health boards and, most important, from users and carers organisations—has been substantial in developing the way in which regulation takes place.

We accept that the minister is concerned that an advisory committee system might work against national standards. Our view is that, if the remit of the advisory group were tight enough—which is not the case at the moment—that would make a huge contribution to the way in which services are delivered. The delivery of services in the Highlands and Islands is very different from the delivery of services in Glasgow. Input from local providers is important.

Bernard McLeary may want to talk about early-years provision, but it is important to note that much of the work of registration staff and inspection staff concerns development—helping providers to improve the quality of their services and to raise their standards to meet the additional demands that are made on them. Part of that work impacts on authorities' contract compliance and commissioning activity. Much work is needed to ensure good communications at a local level between commission staff, who will be responsible for the regulatory function, and local authority staff, who will be working in commissioning and compliance activity. That will help providers and the local authority to raise standards.

Bernard McLeary: Mrs Scanlon mentioned

integrated planning. The local authority will still have a role in planning and developing early education and child care. That work will have to be done hand in hand with the commission. David Wiseman spoke about support. The market for child care is expanding, and we have to be sensitive and sensible about that. Joint working will be important in maintaining and developing that market. We need clarification on the inspection role of Her Majesty's inspectors and the commission and on the monitoring role of the local authorities. Clearer role definition and communication will be needed at a local level.

Mr McAllion: Are you saying that, as well as being part of a national body, inspectors have to be involved locally and work with local providers and authorities?

Bernard McLeary: Yes.

David Wiseman: In our submission, we detail our concerns about the proposal to have regional offices.

Mr McAllion: I wanted to ask about that. There is a proposal to have five or six regional offices. Has there been any indication of where they will be?

David Wiseman: Not yet, as far as we know. We understand that local enterprise companies and local authorities have been told that there may be a requirement for bids to come in—they have been asked what properties may be available. It has not been said where the local offices will be, but some options have been suggested for how the country could be divided. COSLA is concerned that discussions started off with a number—five—when they should have started off by considering what was needed. In whatever way the country is divided, we should try to avoid having yet another layer, with different boundaries, placed on top of the already complex arrangements.

Mr McAllion: Could you explain that, because your submission says that the divisions should be coterminous with local authority areas and health board areas? There cannot be 32 areas, so do you mean that health board areas should be used?

David Wiseman: That is not just a matter for the bill. In the west of Scotland, there are concerns about current boundaries between health boards and local authorities. We may have to look at the bigger picture. Until that is done, we should at least not make things worse than they are.

Let us take the example of Lanarkshire. One of the proposals that has been offered to the reference group is that South Lanarkshire and North Lanarkshire be linked with different sets of health boards, despite the fact that North Lanarkshire and South Lanarkshire deal with the

Lanarkshire Health Board. Although total coterminosity is not possible, we should at least minimise the effects of changes and not make things more complex than they are.

Mr McAllion: What is certain is that the location of the regional centres should not be determined by which local enterprise companies can offer cheap buildings—which, from what you are saying, appears to be the direction in which the Executive is moving.

David Wiseman: We also feel that we cannot have just those five or six, or however many, divisional offices; we also need some sort of local bases. We are suggesting not that we need the same number as at present, which is not realistic—

Mr McAllion: But that everything should be based on the need to make the system work locally.

David Wiseman: Yes.

Margaret Jamieson (Kilmarnock and Loudoun) (Lab): The bill will lead to significant changes. What will be its main implications for work force planning and training? I am thinking, for example, of early-years provision and the degree that is obtained by people working in social work.

David Wiseman: I have mentioned, in connection with the Scottish social services council, a number of training implications for local authorities. Some staff will require additional qualifications in relation to registration and some staff will be involved in continuing professional development. Another implication will be the cost to local authorities of releasing staff for training. A huge cost that local authorities face comes not so much from training staff but from the need to cover for staff when they are away being trained.

A fair bit of work needs to be done on training. At the moment, a large number of staff will not be registered by the council and so qualifications and training opportunities may not have been developed for them. We need to develop opportunities in, for example, areas of home care. We must also strike a balance between qualifications and experience. Rather than saying that everything needs a qualification, we should accept that a balance needs to be struck between academic qualifications and experiential training.

Training has a number of knock-on effects and there could be similar knock-on effects in relation to salaries. As people gain qualifications, they may demand an increase in their remuneration. We also recognise that a number of work force planning issues relate to the different roles and responsibilities that might be developed under council and commission guidance. There must be clarity about the different integrated and generic

work that may take place to deliver the joint futures-type scenario that has been identified. We must consider how to develop much greater joint working between the different professions that will make up generic teams, some of which will be subject to the council and the commission and some of which will not.

Margaret Jamieson: It is unfortunate that that is an area of concern for COSLA given that, in certain areas, the issue—individuals looking for a vocational qualification rather than an academic one—has been sadly neglected for so long. To home in on that, the bill is quite clear about who can use the title “social worker” and how that title can be used. However, a number of individual authorities have staff who use the title but who do not have the academic qualifications as defined in the bill. How will authorities deal with that? What is the time scale for addressing the issue?

David Wiseman: That is connected to our point about the need for clarity about the tasks that only qualified or titled social workers should undertake. In that context, work needs to be done to get clear agreement on which tasks can be carried out only by a qualified social worker. Once those tasks have been defined, along with the title, any changes in who is appointed to perform particular roles within the local authority will have clear implications for some authorities. Planning for that will take place, but we believe that the definitions—not only of the qualifications, but of the tasks that only qualified social workers may undertake—need to be strengthened and clarified in the bill or in secondary legislation.

Margaret Jamieson: At the Local Government Committee, you talked about the provisions that you would like for the transfer of staff, particularly those in the registration service. Could you expand on that, so that the Health and Community Care Committee is aware of COSLA's views?

10:30

David Wiseman: We are concerned about a number of staffing and transitional arrangement issues. As we said in our submission and as Councillor Miller said in her introduction, we think that there are lessons to be learned from local government reorganisation and from other more recent reorganisations. We are pushing for the establishment of a time-limited independent body, similar to the staff commission that applied to local government reorganisation. Staff transfer will have operational as well as financial implications. In the early stages, the commission and the council will have to take on staff, with the greater implications being for the commission.

At the same time, local authorities will have to maintain the current service and there will be

some tensions in that. We are already finding some difficulties with options for staff who are not sure of their circumstances—whether they will stay with the local authority or go to the commission. Some questions have not been answered—for example, on location and on the longer-term scenario for conditions and opportunities for development and promotion. Those concerns are starting to leak out and it is difficult to recruit staff because of them. Those issues have to be addressed, which is why we think that a staff commission has to be set up at an early stage.

Margaret Jamieson: Would that staff commission also cover home working? I am aware that that is a concern to a number of staff, although I know that some individuals will be quite happy to operate from home, given the area that they are covering. However, peer support is important for professional development and that is not obviously available through a networked laptop.

David Wiseman: We have some concerns about the proposal on home working. We are not against home working, but there is a big difference between transferring existing employees and establishing an organisation and recruiting people to it to work from home. The people who are recruited to such an organisation are those who are willing to work from home, who are capable of doing so and who have the home circumstances to allow them to do so. We will be transferring a large number of staff whose current circumstances may not fit that bill. They may be prevented from home working because they have difficulty in meeting health and safety requirements at home or because they have their own care requirements. Some people may welcome the change, but others may not.

There used to be a belief—I hope that it is no longer held—that the glue that sticks everything together is information technology. Perhaps we should ask the Scottish Qualifications Authority whether the glue works. The glue that sticks the service together is appropriate support, supervision and management, and particularly peer support. A number of our staff are working in extremely sensitive and difficult areas. They will sometimes go into a unit to inspect it knowing that that will lead to enforcement or to closure. Those are difficult, tense and stressful situations. If those inspectors are working from home, they may not receive the sort of support that they would normally get from their peers. We need to find ways of building in such support. That is another reason why we propose the development of more local bases, so that staff do not have only a heavy home-working scenario.

Dr Simpson: I should make another declaration of interests at this point. I am still director of a

nursing home company, although it is in England and is therefore, I am glad to say, not covered by this bill.

I want to ask about care standards. You say on page 10 of your submission that

“the standards need to be fit for purpose and enforceable, and that the three sets of standards do not, as presently drafted, offer an appropriate balance between outcomes and processes.”

Will you expand on that aspect of your submission? The paragraph continues by saying that there should be a

“clearly defined minimum standard of practice below which providers should not be allowed to function.”

Will you elaborate on standards for those who are beginning to provide care as opposed to continuing care? They might be different. Those are my three initial questions on care standards.

David Wiseman: I will try to remember all three.

Dr Simpson: The first question concerned the outcomes and processes. You do not think that the first tranche of the draft national care standards that were published in June 2000 contains an appropriate balance. The second question related to minimum standards for existing providers. The third question was about whether entry-to-care standards for new providers should be different from the minimum provision.

David Wiseman: We support the move towards outcome standards, but we feel that the required balance has been lost. Outcome standards for new providers are aspirational. We feel that there should be clear indications of the provisions that can be easily measured and enforced, which lead towards achievement of those outcome standards. For example, staffing ratios, quality of premises—which includes physical issues about the premises and environment—adequate case records and health and safety standards could be measured. They are process issues. If they were a greater element and helped to lead towards the outcome standards, the balance would be more appropriate.

It is much more difficult to take the outcome standards as the basis for enforcement and for deciding whether standards have been met. If half the individuals in a home are satisfied with the situation and half are not, has the home met the outcome standard satisfactorily or has it only half-met the standard? There are questions about such judgments.

We are concerned about some of the language in the standards such as the use of the word “adequate”. How will that be defined and interpreted to decide whether provision is adequate?

I think that I touched on Dr Simpson's second point briefly. It is recognised that if those who join the service have never been involved in it, it is difficult for them to show immediately that they can deliver, particularly to the outcome standards. An application for registration will make clear what standards the provider will follow to ensure that it is led towards the outcomes. Some of the process standards can be used as a much higher standard for those who are developing new services. Later, the outcome processes can be considered. There is a difference between the standards.

Dr Simpson: That is helpful.

I am also concerned about medical standards. By moving care of the elderly into the community, we have disrupted the geriatric and psycho-geriatric services that hospitals provided. In many areas, that has been replaced by a service that is not as effective and is patchy. Should the national care standards regulations include standards for health promotion as opposed to ill health?

David Wiseman: In principle, we agree with that suggestion, but we have not examined that idea in any detail.

Dr Simpson: You might like to return to it.

David Wiseman: There are similar concerns about difficulties in developing a good relationship with local community health facilities, where some people live in units. That is an important contribution. We must ensure that an adequate service is provided to what is someone's home. People should be provided with an adequate service whether they live in their own home or in a residential unit.

Dr Simpson: There is certainly confusion that in some areas—more often in England than here—the independent and voluntary sectors pay for medical services to augment general medical services. In Scotland, some health boards pay an additional fee for medical services—we may return to this issue on another occasion. The standards that are set for processes and outcomes have increased and it is likely that they will continue to do so. Who judges what the appropriate fee income is for the independent and voluntary sectors?

It is all very well for the national care standards committee to demand improvements to staff ratios, rooms, case records and health and safety factors, but it is largely local authorities that provide the funds to pay for care. How do we square the circle and ensure that there are adequate funds to meet demands that are placed on the independent voluntary sector, and indeed on local authority provision, which should have separate purchasing arrangements? How do we ensure that those funds are equitable across all sectors and that there is no differential provision of funds by the

local authority to its own providers for services that are identical to those in the independent and voluntary sectors? Should that be a function for the commission?

Councillor Miller: I will ask Bernard McLeary to answer that question because it is relevant to the HMI and schools.

The Convener: After this answer, we will have to wind up this part of the meeting, despite protestations from colleagues.

Dorothy-Grace Elder: I am sorry, convener, but I think that I should be able to ask for the witnesses' views on a children's commissioner. Is there time for me to do that?

The Convener: No. We will have to wind up after this answer.

Bernard McLeary: Councillor Miller asked me to talk about the role of HMI in quality standards relating to performance indicators. I am not sure whether I can answer the question appropriately by referring to HM inspectors as some sort of honest broker on the assessment of fees and standards. All I can say is that HMI has a role in this area in line with what is proposed for the commission.

Councillor Miller: I was referring to the implications of HMI school inspections for local authorities. Dr Simpson's point was that when providers are told to improve standards, there are implications for investment: who picks up the bill? How does the local authority negotiate how much of the bill it will pick up through fees? I see similarities with the role of HMI, as the inspectors make comments on school buildings and so on, and the local authority has to respond by investing in schools. Local authorities have to deal with that fact at the moment, but it does not impinge on individual companies.

Dr Simpson: How do nursery schools, for example, respond to the fact that standards are set on inspection by HMI, but you provide much of the funding?

Bernard McLeary: It goes straight back to the local authority to provide funding to meet the standards. If the local authority does not do that, the HMI inspection will not be signed off and HMI will continue to visit the establishment. That will not reflect well on the local authority.

Dr Simpson: Do we need a mechanism for dealing with that?

The Convener: This relates to another point that you made, on section 16, about the cancellation of registration for a local authority home. There was a question mark over how a local authority would look after itself in such a situation and over staffing issues. There are

several issues that could be raised. We could spend a long time with you, but we have to take evidence from other witnesses this morning and time is moving on. Would you give us a written submission on that point and on the issue of a children's commissioner, which my colleagues wanted to raise? You mentioned that issue in your submission, and we will have an opportunity to question the Association of Directors of Social Work on it. It would be useful if you could supply in writing any further information that you may have on that and on how the system is working in Wales.

I apologise but we have run out of time for—

Dorothy-Grace Elder: Excuse me, convener, but may I confirm whether COSLA would recommend a tribunal of commissioners with special interests in care homes, children and the community? I believe that that is a terribly important omission from the bill.

Councillor Miller: We are consulting our local authority members and have asked for submissions to be returned by the beginning of February. Once we pull those submissions together, we will be able to give you some feedback on that point.

The Convener: As that is an omission from the bill and is not an area on which we have worked, I suggest that it might be a good idea to ask the Scottish Parliament information centre to give us some information on what is happening in Wales and at the UK level. We can come back to that matter.

I thank the witnesses for their attendance.

I welcome the witnesses from the National Association of Inspection and Registration Officers to the Health and Community Care Committee.

Do you wish to make a verbal statement to back up your written submission, or are you quite happy for your written submission to stand?

10:45

Sue Wilkinson (National Association of Inspection and Registration Officers): I have prepared a short verbal statement.

The Convener: You may begin with that; we will then move on to questions. Our first question will be about the children's commissioner.

Sue Wilkinson: Good morning. Thank you for inviting NAIRO to speak to the committee.

NAIRO is the professional organisation that represents inspection and registration officers throughout the United Kingdom. Its members come from a wide range of backgrounds in health care, education and social work and all of them

work in inspection and registration. I work in Fife, Mrs Norton works in South Lanarkshire and Mr Gibb works for the Glasgow City Council—we are hands-on.

Members will have seen both our printed summary, which we prepared to coincide with the publication of the Regulation of Care (Scotland) Bill, and the evidence that we submitted to the committee. As we have provided those submissions, my opening statement will be brief.

NAIRO welcomes the bill. We believe that the principles that underpin it are centred on the need to protect vulnerable adults and children who need the support that is provided by residential and day care services. The provision of national standards will make consistent good quality care possible throughout Scotland for the first time by avoiding the variations in practice that exist.

We welcome the intention to register local authority provision and the creation of a level playing field with the voluntary and private sectors. We support the move towards greater co-operation between health services, social work services and HM inspectors of schools. The introduction of single-care homes is a positive development.

We welcome the additional responsibilities of the inspection of day care services, home care agencies, secure accommodation for children, care and welfare in boarding schools, school hostels and housing support services and—we hope—adoption and fostering services. However, we are disappointed that nannies and nanny agencies will remain unregulated. The protection of children is vital and we hope that it is not too late for a rethink on that.

We believe that the regulation of the work force by the proposed Scottish social services council will strengthen and support professionalism, raise standards and improve practice. Like COSLA, we think that all social care workers should be regulated.

NAIRO supports the separation of the commission and the council as independent but co-operative and colocated bodies—we disagree with COSLA on that point. We believe that under-eight services will be a key area for the commission. Like the committee, we have concerns about the safety of children. The approval of fit persons to work in those services should continue to be a stringent process.

It is right that providers have a high level of responsibility for checking the fitness of the staff they employ. However, services such as playgroups, holiday play schemes and after-school clubs are frequently staffed by volunteers. We would be concerned if organisers of such groups undertook responsibility for Scottish Criminal

Record Office checks—that might lead to neighbour checking up on neighbour and might not achieve the rigour that is necessary for the protection of children.

The move to self-financing of the commission through fee income by 2005 is not realistic. The burden for some of the smaller providers might be excessive and fees might be a drain on the resources of local authorities.

One inspection per year is inadequate. To increase the cost of inspection while providing an inferior service will anger providers and will not create confidence among users, their families, friends and carers.

We believe, as does COSLA, that the draft national standards are too vague in places. The good outcomes for users can be achieved only if there are regulations that can be enforced when necessary. We support the view of COSLA and the ADSW that there should be a balance between outcomes and processes, and that there should be a clearly defined minimum standard of practice below which providers should not be allowed to operate.

We welcome the current level of consultation of NAIRO by the Scottish Executive. The arrangements for the transfer of staff are unclear at present, in particular in relation to conditions of service and location. We hope that those matters will be progressed quickly to avoid uncertainty in the work force, which could lead to a loss of skilled staff, who might seek employment elsewhere.

We welcome questions on any issues that are raised in our submissions or on any other matters that the committee would like to discuss.

The Convener: I will kick off. You take a different view from COSLA on whether there should be one body or two. You support the separation of functions between two bodies; COSLA's position is that there should be one body containing two committees or bodies. Why is separation the best course of action?

Elizabeth Norton (National Association of Inspection and Registration Officers): We believe that in future, particularly in view of the joint future group report to which the committee contributed, care services will be likely to employ a range of professional groups, including many health professionals. Therefore, the commission will have to have protocols with a range of regulatory bodies that regulate groups of health professionals, such as the United Kingdom Central Council for Nursing, Midwifery and Health Visiting, which is the body for regulating nurses. We expect that the commission will need to have protocols with other regulatory bodies as well as with the council.

We agree about the need for protocols between bodies and for close co-operation, but we do not think that the roles of the council and commission are so intertwined that they need to be combined in one body. In the interests of fairness to the staff who will be regulated by the council, we argue that, if there are two bodies, staff will be assured of a fair and independent hearing on any matter that relates to their conduct that comes before the council. That is more in line with the European convention on human rights.

Looking to the future, we see the need for two bodies and a whole range of protocols with other professional regulatory bodies, not just with the councils.

Dr Simpson: That was very helpful. There would obviously be a degree of commonality between the two bodies. For example, there might be one chairperson for the two bodies.

I would like to move on to the definitions of terms and the list of services in section 2 of the bill. In your opening statement, you spoke about nannies. You might want to expand on what you said and to talk also about au pairs. Do you believe that section 2 adequately covers respite carers, given the Executive's desire to increase the amount of respite care in and out of the home? The traditional view of respite is that people are taken elsewhere for such care, but we must also consider people having respite care in their own homes.

In your submission, you talk about recreational clubs and uniformed organisations. Could you expand on that and say what other groups should be included and why?

Sue Wilkinson: I believe firmly that nannies should be regulated. It is self-evident that they have care and control of a child—probably a baby or an under-5. It is so obvious that they should be regulated that I cannot really expand on that.

Dr Simpson: That is all right.

Elizabeth Norton: Respite care that is provided in a residential home will be covered by inspection. Dr Simpson is talking about respite care with individual carers, which would almost be akin to a foster care service for adults. I feel that that should be regulated—certainly for necessary things such as health checks and the inspection of premises. With adults, we are usually talking about people who have learning difficulties and who may not have the knowledge to say whether they are getting good care.

Au pairs should be regulated, although they are not mentioned in section 2. You also asked about uniformed organisations, but I do not think that NAIRO has a view on them. However, in view of previous scandals, it would seem worth while to

have some kind of regulation for any organisation that takes children out of their home to go camping or whatever.

Dr Simpson: Would it be appropriate for that to be in the bill?

Elizabeth Norton: Yes—if not, the issue might not come up again for years.

Mary Scanlon: The final point in your submission is on supported accommodation. I understood that everybody in supported accommodation would be covered, but your submission seems to bring our attention to some sort of loophole, which

“distorts patterns of care and undermines effective regulation.”

The submission adds:

“NAIRO urges the Executive to ensure that this factor does not continue to remove vulnerable people from the Commission’s protection.”

Is there a serious loophole in the bill?

Jim Gibb (National Association of Inspection and Registration Officers): That particular submission was produced prior to the bill. The difficulty is over the definition of a care home—what we would now call a residential or nursing care home—and the definition of supported accommodation. There is a current position, a future position and a transitional position—that causes us some concern.

Supported accommodation, on the whole, is not registered; it is funded—or has been in the past—by housing benefit, although it is moving into the transitional housing benefit scheme. There are wide variations in practice and interpretation throughout Scotland about what should be registered and inspected and, therefore, called residential care—there is a fair amount of supported accommodation in that—and about what should be funded by housing benefit and not inspected by an independent body and reported on annually. Our experience throughout the different authorities in Scotland is that we are, in effect, applying a wide variety of approaches.

Our concern is that that is primarily finance-driven, but not primarily in the interests of a high standard of care. There is a serious distortion in relation to the impact on people’s entitlement to housing benefit; in the scope of a registered service, people are not legally entitled to receive benefit under the housing benefit regulations. Their right to hold a tenancy is not restricted, but their legal right to receive housing benefit is. That affects directly personal income for the user and substantially affects the cost to the local authority for purchasing that service, because a substantial cost is moved out of the community care pot into the housing benefit pot.

11:00

That is the current position; I turn now to the transitional situation. As authorities are moving towards maximising the use of transitional housing benefit—a broad policy move for which there is a lot of support—units that have until now been registered are being recommissioned or reinvented in services that will cost the local authority less and that will give users of services more money. That means taking those people out of a registered, inspected environment and putting them into what is currently an unregistered, uninspected service—other than in cases where contract compliance monitoring is taking place. That is a serious concern, and the situation varies in different parts of the country. However, we recognise the validity of a policy that supports people in their own homes and in the community, rather than in group settings, where that is not necessary.

In future, as I understand the bill, supported accommodation that is funded by housing benefit, and residential care and care homes will be registered and regulated. At this stage, I am not clear about how they will be regulated and managed differently. That will depend on how the regulations will apply and which regimes will apply to a supported accommodation service, as opposed to a residential service.

My main concern is that the definitions that are supplied in the bill will not remove the current element of conflict in deciding in a case in which somebody has a legal tenancy and makes a claim for housing benefit, and who—to all intents and purposes—occupies a building which, although it is treated as a care home in this part of the country, would be treated as supported accommodation in another part of the country.

If those definitions are not clearly made, that will be a recipe for confusion between the new commission and the providers and purchasers of services. It would also have major implications for authorities that have gone further towards funding transitional housing benefit, if the commission was left to define its line in such a way that all grouped settings would be registered, but all supported single-person flats would be regarded as supported accommodation. There is no such clear division at the moment, and clarification on that is important.

Mary Scanlon: That is an important point. As we are considering national care standards, and given that some of the most vulnerable people in our society are falling through the net, could NAIRO supply us with a paper on the matter? It is very serious.

The Convener: It would be useful if NAIRO could supply further explanation on that point.

Mary Scanlon: People with drug and alcohol problems who live in homeless accommodation and people who have been living in long-stay psychiatric hospitals and who are now living in the community might not be receiving a service. They might fall through the gap and less scrupulous providers might provide an uninspected and even worse service than that which is provided now. It would be serious if those sectors of society fell through the net.

Jim Gibb: I think that the bill will pick that up. What is of concern in that regard is the interim position.

The explanatory notes suggest that mainly people who have a background of alcohol-related offending or homelessness would use the supported accommodation services. The substantial and increasing number of people who have mental health problems and adults who have learning disabilities and who move out of long-stay hospitals comprises a vulnerable group.

Mary Scanlon: A few scandalous cases in Glasgow have been highlighted by television programmes. The type of person that you mention is the type of person that I hope the bill would cover.

Margaret Jamieson: In your submission, you indicated that you wanted secure and robust arrangements for transfers of existing staff into the commission and for that transfer to build on the Transfer of Undertakings (Protection of Employment) Regulations. You have heard the evidence from the Convention of Scottish Local Authorities, which recommends that we go into what I will call the comfort zone that was afforded to local authority employees in the local government reorganisation. Would your organisation support COSLA and the trade unions in their desire to have such a facility made available?

Elizabeth Norton: Our written evidence says that in principle we support setting up a temporary body to deal with the transfer of staff and to help resolve any disputes that might arise. I emphasise that we envisage such a body being a short-term measure and not, obviously, of the same scale as the staffing commission that was set up at the time of local government reorganisation. Staff are becoming anxious and there are indications that people are leaving and securing employment in other areas because they do not feel sure that their interests will be protected.

Margaret Jamieson: That is a worrying aspect for the committee. We know that when we pull services together, we need to have stability for a long time to ensure that the service can be up and running on day one. What will be the implications for training staff?

Elizabeth Norton: Our written submission shows that NAIRO has, for some time, been involved in trying to advocate for a recognised professional qualification for staff who are engaged in the regulation of services. That is an attempt not to create a new professional grouping, but to find a way of ensuring the competence of those who regulate services. It will be important for service users and providers to have confidence in the new arrangements. NAIRO believes that there will be no confidence in the new arrangements unless the staff are credible. We must put in place an accredited programme for staff who will work for the commission.

Margaret Jamieson: That would also provide for people from a social work background, a teaching background or a nursing background.

Elizabeth Norton: Yes. It would be a way of integrating staff who have different professional backgrounds. While it is common for staff who have a health background and staff who have a social work background to work together in inspection, it is not so common for people who have a teaching background to do so. We need to find a way of integrating the staff and of giving people an ethos and a culture that they can share. We believe that regulation needs to be values-led, evidence-based and user-focused. The glue that binds the organisation will be its shared culture, not information technology.

Dorothy-Grace Elder: How do you think the best standards of inspection should be achieved? It is obvious from your evidence and that of others that many children will be excluded from the planned improvements, for example those who are in the adoption and fostering system and those who are cared for by nannies. What are your views on having an overall children's commissioner?

Sue Wilkinson: The best standards of inspection are achieved through a variety of means, which must be linked together. We must have suitably qualified and experienced inspectors. They should have managerial experience of working in residential homes, if those are what they inspect. If they inspect day nurseries, they should have worked in similar provision. If they inspect nursing homes—a single-care home—they should come from that background.

We need skilled inspectors who work to clearly defined standards. We support the establishment of national standards for Scotland and—as we said in our submission—those standards must be robust. It will be impossible to regulate certain standards if they are defined by words such as “adequate”. That is not good enough. Some things must be clearly expressed; otherwise providers might seek an easy way out.

Dorothy-Grace Elder: How many inspections do you recommend?

Sue Wilkinson: We recommend two a year.

Dorothy-Grace Elder: Minimum?

Sue Wilkinson: Yes. One of those inspections should be announced and, more importantly, one should be unannounced. Thereafter, there should be as many inspections as are necessary. If the new service is not resourced to provide for at least two inspections a year, it will soon reach the stage at which inspections are carried out only once every 18 months.

Dorothy-Grace Elder: What about the idea of a children's commissioner? COSLA is one of several bodies that are enthusiastic about that idea. I would like to hear everybody's views on that.

The Convener: No. We will listen to one person's view and if there are further views we can get those in writing. There are several other points.

Dorothy-Grace Elder: We talk about such a commissioner as if that person would be a sort of ombudsman, but perhaps there are so many different facets to protecting children in the community and in homes and so on, that a tribunal might be more appropriate. What are your general views?

Sue Wilkinson: Although we have not said anything about a children's commissioner in our statement, we would welcome such a development. It is not an area in which we have done much research. Any independent person who exists to protect children is bound to be an additional safeguard and we would welcome that.

Dorothy-Grace Elder: Do you agree that what are often missing from well-intended future legislation are the parts that should relate to children? Are children omitted from legislation more often than other groups?

Sue Wilkinson: I am not sure that they are. Residential child care is included in the bill. There is an omission in relation to adoption and fostering, but I understand that that will be rectified. For the first time, care and welfare at boarding schools and in secure accommodation for children are being addressed. There are some omissions and now is the time to tackle them but, on the whole, the bill looks after the interests of children.

Mr McAllion: I want to ask about trying to balance a national system of regulation and inspection with the need to deliver that system effectively at a local level. How would that best be achieved?

Jim Gibb: Delivery of service is clearly the responsibility of providers and the purchasing local

authority.

Mr McAllion: I meant in terms of the inspection and regulation service.

Elizabeth Norton: I have found it very useful to involve local people in the inspection process. Those people have something extra to bring and their involvement also means that the business of regulation can be owned and influenced by communities. That is important. It is always a mistake to leave something completely to the professionals; it is always good to have communities involved in the services that are provided locally. The way to involve local people in inspection is through lay involvement, and for that local links are needed.

Things must also be visible at a local level. If the commission becomes a faceless national organisation that has nothing to do with local communities, that would be a sad loss. There needs to be interaction between national bodies, such as this committee, and people at a local level. Although you operate nationally, you want to have an impact and to be visible locally.

11:15

Mr McAllion: We have to have impact locally, or we do not get re-elected.

Elizabeth Norton: Exactly. There is real value in communities seeing the worth of regulation and becoming interested in the services that are provided locally. Local, for most people, means local; it does not mean something that is 50 miles away. Dividing Scotland into five areas, from which the commission's regional offices will operate, is fine, provided that there are additional local bases. I am not suggesting that there should be 32 offices—one in each local authority area—but there should be some coherence with other designated areas. There are four HMI areas, 15 health board areas, seven sheriffdoms and five commission areas. That does not show much coherence. There should be some consistency with other boundaries.

Mr McAllion: I want to ask about that. What the Executive is proposing in the bill is not clear to me. In the financial memorandum, we are told that there will be a headquarters and five or six area offices. Like you, COSLA seems to assume that there will be five areas.

Elizabeth Norton: The memorandum says five or six, but I do not think that that is set in stone. I am glad that we have an opportunity to influence it.

Mr McAllion: The Executive has not indicated to anyone what its proposals are for the number of area offices.

Elizabeth Norton: It has. It has produced a paper showing Scotland divided into five areas. The paper offers three alternatives, with different configurations.

Jim Gibb: During the most recent discussion, there was some movement towards increasing the number of local offices, especially in the Highlands, where it was felt that the distances there were too great to have only one office. There was the beginning of a move towards the view that local resource centres, as they were described, should be located where necessary for people to visit them, hold interviews, keep files and have access to new technology, which they may not have at home.

Mr McAllion: Has the idea of having the five commission areas coterminous, in some sense, with local authority or health board areas been ruled out, or is it still a possibility?

Elizabeth Norton: I think that it is still a possibility.

Mr McAllion: In the discussions on the bill, could we persuade the Executive to amend that proposal?

The Convener: Malcolm Chisholm did not say that the proposal was set in stone. He said that the Executive was still considering the issue. However, the Executive has said up front that it is thinking of having five or six areas, so it is not completely open-minded.

Mr McAllion: That is what I am trying to establish. From the evidence that we have heard today, the Executive seems to be thinking of setting up a system of sub-offices within the five big areas. That seems to be its answer to concerns that there would not be a local presence.

Sue Wilkinson: That is what we have been told.

Mr McAllion: COSLA regretted the absence of any proposals to maintain their local advisory committees. Do you feel the same?

Sue Wilkinson: Local advisory committees are valuable. The committee in Fife comprises not only councillors but carers, representatives of provider organisations and—most important—people of all ages who live in residential homes. The people who live in homes bring a different perspective to our work. In the committee, they can state their concerns and ask for information. That is very valuable.

Mr McAllion: So you do not believe that those committees in any way undermine a national system.

Sue Wilkinson: No, I do not. People like to know what is going on in their area.

Shona Robison: You will have heard the

representatives of COSLA expressing their opposition to the proposal for self-financing through fees. I assume that your reasoning is similar to COSLA's, but do you have any additional arguments? Your helpful submission says that

"current funding arrangements need reform".

In view of that and the fact that you do not want a system of fees, what sort of system do you think should be in place? What alternatives are there? Moreover, could you expand on the comment that

"good providers will have to subsidise the cost of regulation in poorer quality homes"?

Sue Wilkinson: The financial memorandum in the explanatory notes suggests that fees could rise to £180 per person per year. That means that the cost for a 40-bed home could rise to as much as £7,200 per year, and the cost for a small 10-bed home could rise to £1,800. At the moment, a 40-bed home pays 40 times £65, so the increase for providers will be tremendous. Of course, local authorities would also have to pay those fees. Under the current proposals, good providers, who will receive only one inspection a year, will be asked to pay a very large fee for an inspection that will last two days, perhaps, whereas the poor provider, who is not doing a proper job, may have people coming in frequently.

Other forms of regulation—of the police, for example—are paid out of central taxation. We propose that there should be part funding. It is reasonable that providers should pay some fees, but if the cost is to rise so high so quickly, there should also be central funding.

Shona Robison: How could the current funding arrangements be reformed without going down the fees route?

Sue Wilkinson: That is very much a political matter. There is a choice between funding out of central funds or putting the burden wholly or partially on providers. Although it seems reasonable to put the burden partially on providers, it does not seem reasonable wholly to do so.

The Convener: I call Richard Simpson. Richard, could you keep questions on national care standards fairly tight?

Dr Simpson: Yes.

I am interested in what the NAIRO paper says about entrants. It says that the draft national standards

"may not safeguard against inappropriate entrants to the care system."

Elizabeth Norton: The draft national care standards are based on the experiences of service users. That is fine, provided that the standards are

backed up by appropriate regulation. I am pleased that most of the matters that will be regulated are covered by the bill, including the vetting of people who are trying to enter the care market. It is right to say that the draft national care standards are not achievable at point of entry, because at that point there are no residents to say whether the outcomes are being achieved.

There need to be input standards. I always like to give the example of privacy. It is much easier for an older person to have privacy if they have a single room with an en suite toilet. Although the outcome for that person is privacy in their day-to-day business and while they go to the toilet and so on, the input standard that is required to achieve that is a single room with an en suite toilet. The standard needs to be a bit of outcome and bit of input. One cannot just say, as some people seem to, that the privacy outcome is achievable by means other than the provision of a single room—it would be hard to say by what other means. The input needs to be clearly stated so that providers know where they are.

The Convener: We wanted to question you about complaints procedures and provisions, but I will have to bring this discussion to a close now. The issue might, in any case, lend itself better to being addressed in written information. I also wanted to pick up on an earlier question about best standards. Who inspects the inspectors? How should that side of things be developed? It would be useful if you could give us something on those issues in writing.

Elizabeth Norton: Do you want us to address the complaints issue today or just in writing?

The Convener: I ask that you address it in writing. From the committee's point of view, having information in writing and in depth would clarify the present situation and what you think the situation will be if the bill is passed. You spoke about the need for further clarity and transparency as well as other concerns, and I think that a written response would be most useful for us.

I see that Dorothy-Grace Elder and Mary Scanlon are indicating that they wish to speak, but we have to move on to the next set of—

Mary Scanlon: My point is about what to request in writing, convener.

In response to Shona Robison's point about fees for registration, you discussed the increased cost and the risk that services could be driven underground. I would be pleased if you could elaborate on that, because anything falling through the loophole is a cause for concern.

Sue Wilkinson: That point is of more concern to childminders.

The Convener: It would be useful if you picked

up on that point. Are there any other points that members wish to request in writing?

Dorothy-Grace Elder: I ask our witnesses to elaborate on existing statutory complaints procedures and so forth, and on how they propose to encourage staff in residential units to come forward with confidence.

Sue Wilkinson: We would be pleased to do that, although we would appreciate having a list of the questions to which you want us to reply in writing.

The Convener: The clerk will write to you with that. Thank you for giving us evidence this morning. Margaret Jamieson will take the chair for a few minutes.

The Deputy Convener (Margaret Jamieson): We come to our next set of witnesses. I thank Carole Wilkinson and Jacquie Roberts for attending on behalf of the Association of Directors of Social Work. We have received your written submission and I now invite you to make your oral submission.

Carole Wilkinson (Association of Directors of Social Work): On behalf of the Association of Directors of Social Work, I thank the committee for inviting us to give evidence.

The association welcomes the Regulation of Care (Scotland) Bill and fully supports its intentions to safeguard vulnerable people and to give the public confidence in social work and social care services. We welcome the fact that the new regulatory system will cover a range of services and we support the emphasis on quality, both in care services and in the education and training of staff, and the focus on achieving a well-trained, motivated and regulated work force.

We wish to make a few brief points in support of our written statement, starting with the proposed Scottish social services council and moving on to the Scottish commission for the regulation of care.

We have four points to highlight with regard to the council. The first relates to the inclusiveness of the register. We are well aware that the work force is diverse and that regulation will be a complex task. However, we stress the importance of the inclusiveness of the register and of achieving that in good time. That becomes more crucial as we care for more people in their own homes or tenancies.

The public will assume, and the bill tends to give the impression, that all workers will be registered from day one. We have always been concerned that some child care workers, such as nannies, are not included. We recognise the complexity of legislating in this area, but it is important that the bill gives scope for the inclusion of those workers in due course, which will avoid the Executive

having to introduce further legislation.

11:30

Secondly, we hope that the bill and what follows it will encourage ministers and MSPs to promote the service and the work force. One of the Scottish social services council's key roles will be work force planning and ensuring that training and staff development is in place—we need a better trained and qualified work force, as that will promote confidence not only among the work force but among the public.

Like other organisations, the association is concerned about the recruitment and retention of staff. Experience in England points to serious recruitment difficulties. Good-quality management and supervision, image and access to training are factors that have a bearing on the work force and on our ability to recruit and retain employees. Improving the opportunities for training will require additional resources, particularly in relation to social care staff, where there are staff replacement costs if the service to clients is not to be reduced. Increased training demands will have implications for the voluntary and private sectors and will impact on community care moneys.

Thirdly, we welcome the fact that the bill will protect the title "social worker", but suggest that that should be reinforced by a clear definition of the tasks that only a qualified social worker is expected to undertake.

Our final point in relation to the Scottish social services council is that we would like the bill to refer to the role of the chief social work officer as the fit person for registration purposes and as the senior officer responsible for ensuring that codes of conduct and practice are applied and adhered to. In the climate of organisational change, it will be important to state clearly where responsibility lies.

On the Scottish commission for the regulation of care, our overriding concern is to ensure that best practice from the current arrangements is carried forward and that standards are continually improved. We are concerned that the bill specifies that there should be only one inspection a year, particularly for residential services. We would like there to be two inspections a year—one inspection a year is a dilution of the present system. Self-evaluation will be a useful tool, but only if it used alongside on-site inspections.

Work on the implications for local authorities—as both providers and purchasers of services—of the transfer of funding and the new regime of fees is not complete. Like others, we remain unconvinced that the commission will be able to achieve self-funding through fees alone; there would have to be significant increases to existing

fee levels, which would have an impact on all providers. For local authorities, that would mean not only that additional burdens were placed on their own services but that the cost of purchasing services would increase, which would draw on community care moneys. We ask whether that is the best use of the community care pound.

We argue that complaints is a complex area. We work hard to achieve links between existing procedures—the statutory complaints procedure, personnel procedures and child protection procedures. The establishment of the independent bodies means that the area could become more confusing. We suggest that the statutory complaints procedure should be reviewed first and that there should be a closer examination of—and some clarity around—links to the planned index in relation to vulnerable adults. The complaints procedures of the new commission must be well thought out and widely consulted on, so that the different arrangements fit together and are easy to access.

Our final point on the new commission is that the definition of personal care is not adequate. It must be widened in order to avoid further debate about what constitutes health care and what constitutes social care.

I will conclude by commenting on two further areas, the first of which is the children's commissioner. The association fully supports the establishment of a children's commissioner for Scotland. The Welsh model, with its emphasis on complaints, whistleblowing and advocacy, has much to commend it. Children's services are covered by a number of agencies and bodies at both local and central levels. The proposal to create an independent body to examine individual cases, monitor joined-up working and speak on behalf of children and young people has much to commend it.

Finally, there is much debate about whether there should be one body or two. Our primary concern is that, if there are two bodies, they should work well together, links should be established and the quality of staff should add to the credibility of such new and important developments in social care.

We thank the committee for giving us the opportunity to speak today. We would be happy to answer any questions.

The Deputy Convener: Thank you.

Dorothy-Grace Elder: I am delighted to hear your strong support for the establishment of a children's commissioner. You mentioned the Welsh model and commented on whistleblowing. How do you see that working in Scotland? Do you have any firm and detailed proposals of your own?

Carole Wilkinson: We do not have any firm and detailed proposals, but we would be happy to come back to the committee on that. What we think is lacking at the moment is a person with an overarching role, who can speak on behalf of children. There is much to commend the approach of a children's rights officer. However, a children's rights officer speaks for a specific group of children. The advantage of a children's commissioner is that that person can be an advocate for all children and young people as well as for specific individuals.

Dorothy-Grace Elder: You also referred to whistleblowing. Were you talking about giving staff within establishments for children and anyone else in contact with children the confidence to come forward?

Carole Wilkinson: We must encourage both groups to come forward. We must also encourage relatives and carers. Our experience has shown that it is not easy for people to blow the whistle, because they feel vulnerable. However, the more that we can do to encourage whistleblowing, the better. We often find out what is going on through young people, staff or service users blowing the whistle, rather than through the inspection regime.

Dorothy-Grace Elder: As the care of children is so diverse, would you envisage a children's commissioner unit in which individuals would be responsible for specific elements, such as children in care or children who it is suspected are being abused?

Carole Wilkinson: I would want to think about that. One of the merits of a commissioner is that that person or unit could bring the different elements of care of children together. If we followed the route that you are suggesting, we would have to ensure that we did not create separate compartments again, which is what we see as the problem at the moment.

Dorothy-Grace Elder: Do you think that this matter is a major omission or the major omission from the bill?

Carole Wilkinson: It is a major issue.

The Deputy Convener: I would like some clarification. Whistleblowing is important, but there must also be safeguards. Do you think that it should be considered a disciplinary offence for someone to divulge information that is not confidential?

Carole Wilkinson: There could not be a blanket response to that. If organisations and agencies have clear policies about whistleblowing, which they have agreed with staff representatives, and clear disciplinary codes, such cases could be dealt with. It would be a concern if members of staff divulged confidential information about staff to the

press. That would be a matter for disciplinary procedures. However, if a member of staff comes to a manager and says that they are worried about another person who is doing X, Y and Z, clearly, that staff member should be supported in making that information available and it should be investigated.

Jacquie Roberts (Association of Directors of Social Work): The bill will set out codes of conduct and practice for members of staff and employers. Regulations should be built in for dealing with absence of confidentiality.

Janis Hughes: Is there a need for new operational arrangements in situations where standards are not being met and action must be taken?

Jacquie Roberts: The way in which the bill is set out means that the new procedures for improvement notices are a great improvement on the current arrangements. There is a potential weakness in the fact that it is not clear how services will be continued while inspectors ensure that standards are being met. Far more work needs to be carried out with the local authorities and the other providers on how to maintain services—and keep up the standard of those services—for vulnerable people without having suddenly to move them.

Janis Hughes: Will the role of the various agencies and providers be clearly defined under the new arrangements? Is there scope for more definition of their individual roles?

Jacquie Roberts: Having looked at the bill and explanatory notes, I think that there is room for greater clarity on whose responsibility it is to ensure that the service continues to be provided.

Mary Scanlon: The achievement of improved standards obviously requires staff commitment. I am seriously concerned about the recruitment problems that you highlighted. Your target for training students in diplomas in social work is 500, but there are only 350 students. There is an even greater problem down south. Given the increasing demands, how will you overcome that recruitment and retention problem? If the bill is to work, we need the staff. The shortfall is not inspiring confidence either in itself or with regard to training in general.

Carole Wilkinson: You are correct to point out that there is the beginning of a recruitment difficulty for qualified social workers who have a Scottish diploma in social work—a DIPSW. The problem is not yet as serious as it is down south, and we have an opportunity to address it. We can do so in a number of ways. There are issues about attracting people to the profession. It is a difficult, complicated task, and is not always well received. We have to consider how we promote the work, so

that people want to do it. There is an issue around remuneration and reward, and there is no doubt that the implementation of the McCrone report will set members of certain professions, including social workers, thinking about the rewards that they receive.

There is an issue around how we support students on training courses, and the heads of the educational establishment tell us that student poverty is a concern. Local authorities need to consider how to support students to complete their DIPSW through different routes. It need not always be a full-time course, away from work. We are starting to develop employment-based routes so that people can be partly in work and partly on the course, and can receive financial support.

Jacquie Roberts: Some of the best managers in social care and social work services have started their profession from a job such as home help. We need to reinforce that type of route into the profession, ensuring that we provide good training regimes, particularly those involving local access to local training courses, progressing to adult education.

The bill offers a wonderful opportunity to promote the advantages of the social care profession for people. It is very good employment to come into. We could also use the bill as an opportunity to promote the importance of social care services for the most vulnerable people in society and to promote the value of trained and qualified social workers to undertake some of the most complex and difficult tasks that other people are unable or unprepared to take on.

I look forward to the council taking on that type of role. We highlighted the gap between the target number and the number completing training now, because we need to work on that. We need to work on work-force planning with the council in preparation. Instead of demeaning social work and social care services, we should all speak loudly about how much it is valued and how much people depend on it for their lives and for their inclusion as citizens in society.

Mary Scanlon: You talk about demeaning social workers. Why are people not attracted to social work? Are you saying that new graduates will be more attracted to teaching because of the increase in salary?

The Convener: Those questions are quite general. Given the time that is left, I would prefer that we moved on to the area of staff transfer.

11:45

Margaret Jamieson: In your written submission, you welcome the provision for protection of the title "social worker". What tasks should be

undertaken by only the academically qualified social worker?

Jacquie Roberts: Our written submission lists the legislation under which some of the tasks really matter. Clearly, child protection work—investigations and assessment, and forming a multi-agency protection plan—requires very skilled professional social workers. Some of the many other important tasks that I could give are the assessment of risk from sex offenders: working with mentally ill people and performing the duties of a mental health officer; working with vulnerable adults and doing the work that will be required under the Adults with Incapacity (Scotland) Act 2000; producing probation reports for court and criminal justice work; producing the detailed, comprehensive reports that are required by the children's hearing system; and undertaking the work that is required for supervision orders.

Probably one of the most important unspoken tasks that is carried out by qualified social workers is managing the difficult, complex work with looked-after children—ensuring that their health, education and well-being is fully catered for by all the other agencies that are involved. Skill, knowledge, expertise and qualification are required to work with our colleagues in health, education and the police in the best interests of the service users whom we help.

Margaret Jamieson: What practical implications does the bill have for directors of social work, chief social work officers and the inspectorate?

Jacquie Roberts: We are in an unusual position compared to that of other witnesses, as we are the current managers of inspection staff, the current providers of the services that will be regulated by the independent commission—and we will continue to be so—and also commissioners and contractors of services from the independent sector. Therefore, we can see the issue from three perspectives.

As employers of regulation and inspection staff, we are concerned that the transition be smooth and that our staff do not lose out. We have heard NAIRO's evidence and we know the COSLA position. We strongly support the idea of an independent body to look after the staff's interest and help people to work out whether they should make appeals.

We are concerned about the division into five or six regional areas. Our staff have very good local knowledge and links with the other organisations that are bound to be involved in inspections. The whole system must depend on local centres and expertise, and on links with the local authorities and with local lay people.

As providers of care services, we are obviously concerned that we will have to pay registration

fees. Carole Wilkinson will give you further details on that. Our concern is that the increase in cost to £180 per bed per year by 2003-04 could be far higher than local authority social work budgets can afford.

As commissioners and purchasers of services, we are concerned that the cost will be passed on to us. At the moment, local authorities purchase approximately 80 per cent of the beds in the independent sector.

Shona Robison: As a former home care manager, I echo what Jacquie Roberts said about home care managers.

You have made your position on fees quite clear, but it would be helpful if you expanded on that. You may have heard the evidence that COSLA gave earlier. COSLA raised the issue of national and local priorities, on which we would welcome your comments. The minister has said that councils do not spend up to GAE levels on elderly care, but that they had overspent on children's services—I think that 21 out of the 32 councils had spent less on elderly care, but 28 councils had overspent on children's services. You are the people who have to prioritise services in budgets. How difficult is it to do that? What solutions are there to ensure that children and elderly people receive the services that they require?

Carole Wilkinson: Although we have not done any detailed work on finances, I think that the issues are those that Jacquie Roberts has set out. Clearly, there will be a new burden on the local authority to pay registration fees for its services. It is important to remember that we are dealing not just with the services that are currently registered—older people's homes and some day care services—but with the community-based and home care services to which the scheme will be extended.

The financial memorandum includes significant proposals on fees for day care and home care. Is it the assumption that those will be paid out of local authority community care funds? If so, that money cannot be spent on service. Will the Executive acknowledge that the scheme will place a new burden on local authorities? If the commission is to become self-financing through fees, there will have to be significant fee increases. All the work that has been done by NAIRO, COSLA and local authorities shows that the figures do not stack up unless there are to be huge increases.

Jacquie Roberts: It is noticeable in the financial memorandum that there is a plan to subsidise the providers of child care, because developing child care is a priority. We feel strongly that if we spend money on fees for the commission, we will not be

able to spend money on community care services for the increasing number of people who do not enter hospital or remain in long-stay beds. There is an urgent need to develop more community care services.

Carole Wilkinson: It seems legitimate for a voluntary or private sector provider whose fees will rise to ask their purchaser—primarily the local authority—to raise the charges that are paid to the provider for the people for whom it cares in order to meet the increased fee. There will be increased expectations of providers from the Scottish social services council in relation to training and qualification, particularly for social care service staff, who represent the biggest unqualified element of the work force. Again, local authorities will need more training resources. Furthermore, our providers in the voluntary and private sector will say that, as standards are being set that require people to be qualified and trained to a certain level, that will have to be reflected in their fees. That is a fair debate, which I think will be very lively.

Mr McAllion: You mentioned your concern about the division of Scotland into five or six regional areas. From the answers that we received earlier today, from COSLA and NAIRO, it is clear that, just as Caesar divided Gaul into three parts, the Executive intends to divide Scotland into five parts and to get over the problem of the lack of a local presence by opening up an unspecified number of local resource centres or bases. Would that be an adequate response to your concerns over the need to maintain a local presence?

Jacquie Roberts: Our main point is that there seems to be a strong drive from the bill team to set totally new boundaries—to have a different system completely—which does not make sense to us. To build on existing expertise, there needs to be a principle of coterminosity, for the health boards in particular. The bill will bring together a group of health regulators as well as social care regulators and early years regulators. By examining which health board areas are confirmed in the new national health plan, it should be possible to link certain local authorities together under health board areas.

The principle of coterminosity is the one that we recommend. It should be possible to establish a new body to provide a consistent national framework that is trusted by local people without having to redraw the boundary lines. One of the options that is set out in the paper is to split Highland Council into two, with a line going from north to south. That has provoked almost universal opposition, not only from Highland Council. There must be some stability, especially as we are about to enter a period of great transition. There must also be common sense and a system that is

understandable to members of the public. The bill must ensure that the public can have confidence in all social care and health care services, and that they know how to access the body.

It is not enough, therefore, to say that there will be local resource centres and five regional centres. We need much more detail of the way in which access will be provided for local people and the way in which the body will be represented. Furthermore, I do not think that the number of regional centres will necessarily be fixed at five or six. The issue is still open.

Mr McAllion: Your submission refers to the regulation of care project team submitting a staffing and accommodation paper that goes into detail about the management structure of the proposed regional centres. Is there anything in that paper to indicate the Executive's thinking about the location of those centres and the areas that they are intended to cover? You mentioned that the Highland area would be divided into two. Is there any suggestion that the same might happen to the north of Scotland, the central region or the south?

Jacquie Roberts: No. I believe that the Executive has an open mind about the location of the regional centres and the headquarters.

The Convener: We will seek clarification on that from the Executive. Some papers have been circulated, to which NAIRO referred earlier, and we can ask for copies of those papers to be circulated to committee members.

Mr McAllion: I have a final question. You think that it is unlikely that local advisory committees will survive and that there should be an alternative mechanism. What alternative mechanism should there be?

Jacquie Roberts: There needs to be a local representation of users, providers and locally elected members who have concerns about and interest in the level and standards of services in their local area, which would be accessible—

Mr McAllion: That sounds very like the local advisory committees. Are you saying that they should not be got rid of?

Jacquie Roberts: There may be a new way of working to a national commission, which is not working to the local council. There should be a way of providing greater national consistency for a local advisory group—I say group rather than committee.

The Convener: Yes. Change the name.

Richard Simpson will now ask about care services and care standards.

Dr Simpson: Those subjects are covered by two sections of your submission. First, on page 5

you say that adoption and fostering services, nannies and nanny agencies will require to be included in the bill. What about au pairs? Secondly, do you believe that respite carers—not those who provide care in institutions, who are covered, but those who provide the service in the individual's home—are adequately covered? Thirdly, do you think that the area of supported housing, including the new types of supported housing and the transitional housing benefit, will be adequately regulated?

Carole Wilkinson: I support wholeheartedly what Jim Gibb said earlier about the need to understand what the different services do and the way in which they might develop. The other area that you should be thinking about is the regime that follows the supporting people changes. A number of services are likely to develop that will not fall within the regulation of the commission, and some services may not require to be registered. There is inconsistency and lack of clarity, concerning which home-based support services should be registered and inspected.

12:00

I work in an area in which there are several home-based care services for people with dementia. Both respite care and day care are provided by individuals, as you probably know. At the moment, we register and inspect that care as a joint inspection unit. There are difficulties to registering and inspecting care that is being delivered in people's homes, and such registration and inspection is not universal. That issue needs to be clarified and explained, and everyone needs to understand what the different elements of care are. The situation is unclear at the moment.

Dr Simpson: I presume that, if we close a further 2,300 learning disability beds, those people will not all go to group homes.

Carole Wilkinson: No.

Dr Simpson: If you have any other comments on that issue, we might ask you to share them.

On the care standards side, you have said the same as COSLA. We will not ask about the authorship of your submission. I do not know whether you heard COSLA's evidence. The witnesses said that achieving a balance of outcomes and processes was difficult, as you say on page 6 of your submission.

Carole Wilkinson: At this stage in the process, one of the difficult things is working out what needs to be clearly specified in the bill, what preparation work needs to be carried out by the bill team and what is legitimate business for the commission, once it is established. Some of the frameworks need to be in place beforehand, but

some of the detailed work on standards and processes would properly be the business of the people in the commission who have to implement them. We would all seek to influence those standards and processes, but there are different stages to be gone through.

Jacquie Roberts: If your question is about whether we need a system to measure inputs as well as outcomes for people, my response is that certain minimum inputs must be subject to scrutiny. I cannot see how that can be avoided. What the NAIRO representative said is right: certain inputs are essential to guarantee some of the outcomes, particularly for vulnerable older people and children.

Dr Simpson: Do you think that the commission should have a role in regulating health issues for the elderly—health promotion as opposed to ill health, which is clearly a health service matter—such as diet and the prevention of falls? Such issues could fall between two stools.

Carole Wilkinson: Where such issues impacted on the care of an individual, that would be legitimate. During their inspection visits, good inspection units examine menus, meals, diets and individual care plans to find out whether individual needs are being met. The issue is more pronounced for people with learning disabilities, and inspection units must ensure that their specific dietary needs are being met.

Dr Simpson: Is there a national system for sharing best practice?

Carole Wilkinson: I am not sure that there is.

The Convener: The NAIRO representatives in the public gallery are shaking their heads.

Carole Wilkinson: NAIRO shares best practice, as does the association, and sometimes that work is brought together. However, there is no national system.

Dr Simpson: I presume that that suggestion will be inputted to the new national care standards.

Carole Wilkinson: Yes. That would be one of the benefits of having national standards.

Dr Simpson: You say that the care standards should be set out in secondary legislation. Is that the bill's intention, as you read it? Section 5(3) refers to the national care standards and the codes of practice that the council publishes under section 36. The national care standards are also only published. Are you comfortable with such provisions, or does the bill need to be more specific about enforcement?

Carole Wilkinson: On the whole, we are comfortable. Once the national care standards are agreed and published, their status must be clear. We must know whether they are regulations or

guidance, so that all parties understand how they fit in and comply. There have been difficulties with that. That clarification properly belongs in secondary legislation rather than the bill.

Dorothy-Grace Elder: There is concern that nannies, as opposed to childminders, are left out of the bill. Who will define a nanny? Is that someone who has undergone proper college training? That leads to the question whether the regulation of nanny agencies should be devolved to Scotland. Present employment law does not allow that, but would it be appropriate for the new proposals?

Carole Wilkinson: Defining the role of nannies and other groups is not easy, but that should not be the excuse for not including them. The association thinks that it will be the proper business of the commission and the council to be clear about what child care agencies, nannies and au pairs do and the qualifications that they require. What is expected of such agencies, and why is that different from expectations of other agencies that provide home-based care?

Jacquie Roberts: My understanding is that the intention is to have adoption and fostering agencies registered. Nanny agencies and au pair agencies could be included in a similar way.

The Convener: What are the pros and cons of establishing one or two bodies? I think that the association has today's deciding vote on that issue. Will you give us an idea of why one or two bodies are acceptable?

Jacquie Roberts: It is interesting to examine some of the reasoning. The bill and the explanatory notes fully recognise the need for constant dialogue between the bodies. The bill even contains a duty to consult. The explanatory notes refer to

"the manager of a care home being removed from the Council's register."

Such a case might have to be notified to the care commission.

There is a belief that all problems will be dealt with by collocation, but we think that there are many arguments for placing two functions in one body. We have an open mind, but we remain to be convinced about the need for two bodies. If the functions were linked in one body, there would seem to be more chance of more effective co-operation, working and communication. Data protection legislation and the Human Rights Act 1998 raise some problems about sharing information between the bodies. One body would also produce cost savings.

Even if the two bodies are collocated, they could develop incompatible policy directions by not checking matters out with each other. One body

would make it clearer and simpler for the public to know what body to approach. The services that are regulated will depend on the staff in those services being registered by the council. There is a desire to limit the number of non-departmental public bodies, so making the two bodies into one would reduce the number.

As I said, the work overlaps so much that we cannot understand why it is necessary to establish two bodies. The main argument for two bodies is that it makes a clear distinction between the regulation of services and the regulation of staff. A group of us believe that it is possible to make that distinction in one body.

The Convener: A couple of issues have cropped up during the questions, and we would like further written information about them from you. The clerks will write to you to clarify that. I was not here for the whole meeting, so I apologise for missing part of your evidence. Thank you for coming this morning and answering our questions.

I assure colleagues that we will pursue the Executive's response on community care. As soon as the clerks receive information on that, they will e-mail it to members.

Meeting closed at 12.10.

Members who would like a printed copy of the *Official Report* to be forwarded to them should give notice at the Document Supply Centre.

No proofs of the *Official Report* can be supplied. Members who want to suggest corrections for the archive edition should mark them clearly in the daily edition, and send it to the Official Report, 375 High Street, Edinburgh EH99 1SP. Suggested corrections in any other form cannot be accepted.

The deadline for corrections to this edition is:

Friday 2 February 2001

Members who want reprints of their speeches (within one month of the date of publication) may obtain request forms and further details from the Central Distribution Office, the Document Supply Centre or the Official Report.

PRICES AND SUBSCRIPTION RATES

DAILY EDITIONS

Single copies: £5

Meetings of the Parliament annual subscriptions: £500

The archive edition of the *Official Report* of meetings of the Parliament, written answers and public meetings of committees will be published on CD-ROM.

WHAT'S HAPPENING IN THE SCOTTISH PARLIAMENT, compiled by the Scottish Parliament Information Centre, contains details of past and forthcoming business and of the work of committees and gives general information on legislation and other parliamentary activity.

Single copies: £3.75

Special issue price: £5

Annual subscriptions: £150.00

WRITTEN ANSWERS TO PARLIAMENTARY QUESTIONS weekly compilation

Single copies: £3.75

Annual subscriptions: £150.00

Standing orders will be accepted at the Document Supply Centre.

Published in Edinburgh by The Stationery Office Limited and available from:

The Stationery Office Bookshop
71 Lothian Road
Edinburgh EH3 9AZ
0131 228 4181 Fax 0131 622 7017

The Stationery Office Bookshops at:
123 Kingsway, London WC2B 6PQ
Tel 020 7242 6393 Fax 020 7242 6394
68-69 Bull Street, Birmingham B4 6AD
Tel 0121 236 9696 Fax 0121 236 9699
33 Wine Street, Bristol BS1 2BQ
Tel 01179 264306 Fax 01179 294515
9-21 Princess Street, Manchester M60 8AS
Tel 0161 834 7201 Fax 0161 833 0634
16 Arthur Street, Belfast BT1 4GD
Tel 028 9023 8451 Fax 028 9023 5401
The Stationery Office Oriel Bookshop,
18-19 High Street, Cardiff CF1 2BZ
Tel 029 2039 5548 Fax 029 2038 4347

The Stationery Office Scottish Parliament Documentation
Helpline may be able to assist with additional information
on publications of or about the Scottish Parliament,
their availability and cost:

Telephone orders and inquiries
0870 606 5566

Fax orders
0870 606 5588

The Scottish Parliament Shop
George IV Bridge
EH99 1SP
Telephone orders 0131 348 5412

sp.info@scottish.parliament.uk

www.scottish.parliament.uk

Accredited Agents
(see Yellow Pages)

and through good booksellers