

LOCAL GOVERNMENT COMMITTEE

Tuesday 16 January 2001
(*Afternoon*)

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CONTENTS

Tuesday 16 January 2001

Col.

REGULATION OF CARE (SCOTLAND) BILL: STAGE 1	1397
BUDGET PROCESS 2002-03	1434

LOCAL GOVERNMENT COMMITTEE

2nd Meeting 2001, Session 1

CONVENER

Trish Godman (West Renfrewshire) (Lab)

DEPUTY CONVENER

*Dr Sylvia Jackson (Stirling) (Lab)

COMMITTEE MEMBERS

*Mr Kenneth Gibson (Glasgow) (SNP)

*Mr Keith Harding (Mid Scotland and Fife) (Con)

*Mr Michael McMahon (Hamilton North and Bellshill) (Lab)

*Mr Gil Paterson (Central Scotland) (SNP)

*Iain Smith (North-East Fife) (LD)

*attended

THE FOLLOWING MEMBER ALSO ATTENDED:

Margaret Jamieson (Kilmarnock and Loudoun) (Lab)

WITNESSES

Sandy Cameron (Central Council for Education and Training in Social Work)

Joe Di Paola (Unison)

Jimmy Farrelly (Scottish Trades Union Congress)

Paul Johnson (Unison)

Mike Kirby (Unison)

Douglas McKelvie (Central Council for Education and Training in Social Work)

Bernard McLeary (Convention of Scottish Local Authorities)

Anne Middleton (Scottish Trades Union Congress)

Councillor Rita Miller (Convention of Scottish Local Authorities)

Kate Peart (Central Council for Education and Training in Social Work)

Professor Cherry Rowlings (Central Council for Education and Training in Social Work)

David Wiseman (Convention of Scottish Local Authorities)

CLERK TO THE COMMITTEE

Eugene Windsor

SENIOR ASSISTANT CLERK

Irene Fleming

ASSISTANT CLERK

Craig Harper

LOCATION

Committee Room 1

Scottish Parliament

Local Government Committee

Tuesday 16 January 2001

(Afternoon)

[THE DEPUTY CONVENER *opened the meeting at 14:02*]

Regulation of Care (Scotland) Bill: Stage 1

The Deputy Convener (Dr Sylvia Jackson): Today's meeting is a continuation of stage 1 of the Regulation of Care (Scotland) Bill, during which we will take our second lot of evidence. Before I introduce the representatives of Unison and the other organisations, does any member have any interests to declare?

Margaret Jamieson (Kilmarnock and Loudoun) (Lab): I am happy to declare an interest, as a long-standing member of Unison.

Mr Michael McMahon (Hamilton North and Bellshill) (Lab): I remind members that I am a member of the GMB, so I declare an interest as a trade union activist, given that representatives of the Scottish Trades Union Congress will be coming along later.

The Deputy Convener: I welcome Mike Kirby, who is the Scottish convener of Unison, Paul Johnson, who is a Unison member and inspection and registration employee in Renfrewshire Council, and Joe Di Paola. Could you speak for five to 10 minutes to give the committee an overview of the papers that you sent us? After that, we will ask questions. I should inform the witnesses that the microphones come on automatically—you do not have to press anything.

Mike Kirby (Unison): I will make some introductory comments to expand on our written submission. Unison welcomes the opportunity to comment on the bill, just as we welcomed the opportunity to contribute to the consultation exercises that informed the content of the bill. Unison has 150,000 members, approximately 80 per cent of whom are employed in health services and local government, so we have a real interest in the provisions of the bill. We are here on behalf of Unison members who are employed in registration and inspection, and on behalf of the many thousands of social care workers who are employed in the statutory, private and voluntary sectors across residential, fieldwork, community and home care services, and who will be required

to register under the bill, if it is enacted.

Our members also depend for their livelihoods on the organisations that deliver the range of care, so we are deeply concerned to ensure that the process of reform and modernisation that is behind the bill is headed in the right direction. In common with all citizens, Unison's members and their families will probably seek to benefit from the range of the bill's provisions at some point in their lives. For all those reasons, we believe that we have something to say about the bill.

We share the principal objectives of the bill. They include strengthening and supporting a common system of registration and inspection, maintaining and developing professional standards, raising standards of practice and protecting those who use the range of services. We welcome a strategy that aims to boost services to communities and to restore the esteem in which those who work in the social care services used to be held, which was greater than it is today. A registration scheme that transforms training and provides for investment in training is also to be welcomed.

We believe that a fierce determination to raise standards lies behind the bill and, as I said, Unison members share that determination. Our members who manage and deliver front-line services to hundreds of thousands of people know that those services could and should do better.

To ensure that the necessary improvements are delivered, many factors will have to be brought into play. From our point of view, they can be summarised as the restoration of morale among the work force. Workers have been demoralised by low pay, poor conditions, hostility from some politicians and a lack of purpose at the centre in the development of services. Unison is keen to play a full part, but the Government must play its part by funding the services and by refusing to employ what we would consider to be a name-and-shame philosophy over some of the difficulties that arise in the services.

I repeat that Unison shares the objectives of ensuring improved protection for vulnerable individuals and securing public confidence. Unison believes that achievement of that will depend largely on a stable work force that is properly trained, educated and paid. To that end, our comments focus mainly on staffing and implementation.

First, I will focus on the Scottish commission for the regulation of care. My initial point concerns that commission's constitution. Unison believes that careful consideration must be given to the commission's size to ensure that a balance of lay members, service users and professional interests is maintained and that there are sufficient

members to do the commission's job and represent all client interests. The consultation exercise involved figures of about 17 to 21 commission members. As we say in our written submission, we do not believe that such numbers would be sufficient to encompass all interests, particularly those of ethnic minority communities.

Fees is another issue that relates to the part of the bill on the commission. We believe that the proposal to meet the cost of regulation largely from fees is unrealistic, because there is a danger that the cost will merely be passed on to service users.

A principal concern about the commission relates to the transfer of staff. The smooth transition of staff will be essential to the bill's implementation. There is concern at the apparent duress of the provisions on the transfer of current registration and inspection staff.

The bill talks about applying the Transfer of Undertakings (Protection of Employment) Regulations principles. We believe that, even if TUPE were applied totally, it would be insufficient to deal with the staff concerns that are coming to our attention. A range of issues such as locations, grades, conditions, continuity of service, pension rights and employment alternatives are all uncertain and are giving rise to considerable concern. The English experience illustrates the benefits of developing a unified set of terms and conditions before transfer. That would avoid anomalies and provide an informed choice for staff who will probably transfer when they must make that choice.

We have concerns about the constitution of the Scottish social services council that are similar to those that we have about the commission's constitution. Will the overall size of that council be sufficient to accommodate the range of interests and ensure credibility among the work force that will be subject to the council's register?

On the codes of practice that will be drafted, there is evidence of a tendency to refer to some outdated codes when compiling the new codes. The codes that cover the teaching and nursing professions were properly constructed at that time, but we suggest that there should be the fullest possible consultation on new codes, which should be contemporary and credible to those who will be governed by them.

Training is a related major area of concern for Unison. Unison agrees whole-heartedly that the social care work force must be better trained, but we are concerned that the balance of responsibility for continuing training that is presented in the various consultation papers is a bit out of kilter. There is a relentless drive to cut the cost of care. Training budgets have been cut

to meet national economic targets. It is possible for central Government to control local council investment by means of hypothecation, but there are no such levers in the private and voluntary sectors. Employers who cut wages, make no pension provision and provide no training will change only by compulsion. Unison argues that local councils—who will be the main commissioners—should be able to factor into contracts the cost of good employment practices, including training, and that that quality agenda would be better delivered through a work force that was employed directly by the local authority.

Our final point about the social services council is—again—on fees. Unison wants to repeat the view that it expressed on the commission for the regulation of care—it is unrealistic to expect the costs of registration to be met wholly from fees, even on a phased basis. We accept in principle that fees must be paid, but that must reflect individuals' ability to pay.

There is a need for clarification about who will be the subject of the register. We understand that the register will be phased in over time and that there will not be a big bang, but there must be more clarity about how the phases will run.

I thank the committee for the opportunity to speak today. We will be happy to answer any questions that members have.

Mr Keith Harding (Mid Scotland and Fife) (Con): Thank you for your useful contribution. Have you made any assessments of the resource implications of the additional training that would be required?

Mike Kirby: We have not. We have only recently received the financial memorandum to the bill and we have not had the chance to consider it. We are concerned that, because of a range of incidents that took place over a considerable time, it is evident that training—particularly in the residential care sector, which is notoriously undertrained and under-resourced—still needs to be addressed. We argue that there is a need for considerable commitment there.

Mr Harding: I assume that you expect the funding for that to come from central Government, rather than local government.

Mike Kirby: I hope so, yes.

Mr Kenneth Gibson (Glasgow) (SNP): You talked about the membership of the commission and the council. What size would be optimal for the commission and the council, given that you are concerned that the numbers that have been suggested are too low?

Mike Kirby: I accept that there needs to be a balance, but I think that membership of about 30 or more would accommodate the range of

interests that Unison believes should be represented. That would provide a working commission that could cover the range of issues that must be addressed.

The other interesting question is whether all that lay activity will rest with the commission at the top or whether there will be local bodies that would be charged with overseeing the process. There appears to be no reference to that in the bill or the explanatory note. We think that there is scope for the commission to expand the number of its members and that a sub-tier might address some of our concerns.

Mr Gibson: You talked in your submission about staff being under duress. Could you expand on that?

Mike Kirby: I refer Mr Gibson to Paul Johnson, who will be subject to the transfer proposal.

14:15

Paul Johnson (Unison): I will try to give a flavour of what is happening on the ground. I can speak only from my own experience which—in all honesty—I cannot claim is completely representative, although it is not too wide of the mark. As members know, inspection staff are employed by local authorities. We have known for some time that the establishment of the Scottish commission for the regulation of care is on its way. I echo Mike Kirby—there is a genuine welcome for that proposal among a wide range of colleagues to whom I have spoken, for the need to set nationally agreed standards and for consistency. The background is certainly not that people are set against the establishment of a commission.

On implementation, the information that has been available until now has been patchy; only some people have received only some information. We know that there will be five regional offices in Scotland. The reference to homeworking has not always been clearly stated, but the impression that is given is that we are being told simply not to worry too much about the proposals that there should be five regional offices, or about the proposals on homeworking and so on.

Understandably, that has raised great anxieties for people who think that they cannot or who do not want to work from home. There is also an absence of clear information that tells people where they will fit in, what the management structure will be, what salaries will be, whether they will be better off and whether they should think about other options.

The key theme of duress is related to people's uncertainty about their options. In my—and many other people's—experience, local authorities work

largely on the basis of budgets being transferred. That is like telling people, "See you later." Local authorities, as employers, do not suggest that they should engage in a dialogue with employees about the possibilities. I am not trying to pillory local authorities; they, too, have had information that has been short of comprehensive.

As a current employee, I am therefore interested—in theory—in a transfer. However, I do not know where such a transfer will be to. I do not know the capacity in which I will be transferred. I do not know whether I will be expected to be a generic inspector. I have a specialism, so that would have retraining implications, not least a severe requirement that I should improve my information technology skills, given that I would, supposedly, be based at home. It does not feel like we could make an informed, real choice.

Mr Gibson: Is there a chronic lack of information among the staff, who have been presented with little room to manoeuvre?

Paul Johnson: Absolutely.

Mr McMahon: Among the information that the committee has received, we have heard that some organisations believe that an expansion of the lay inspectorate would be a good way to progress the care that is delivered. You might wish to comment on that, specifically with regard to how that would impact on the development of staff, about whose conditions and career progression you are clearly concerned. Are you concerned about such an expansion of the lay inspectorate?

Mike Kirby: We would come at that from a number of angles. To start by responding to the question about the size of the Scottish commission for the regulation of care and of the Scottish social services council, we think that they could be expanded to accommodate the range of interests. That might be addressed through another tier of the lay structures. We have no fear about the involvement of lay people in some assessment and commentary on the delivery of services. Such people should, quite rightly, have a place.

However, as we stated in our written submission, we think that it is important to distinguish between the regulatory aspects and the employment and service conditions aspects. The commission would have a role in regulating the provision of care. However, having made certain recommendations in relation to registration and to how some aspects of care will be delivered, it would then be for employers to determine what happened to the work force. We have no difficulty in principle with broader lay involvement, provided that it is recognised that there is a demarcation line between professional issues and employment issues.

Mr McMahon: You have raised concerns about

the payment of fees. Will you expand on those concerns, particularly in relation to union membership and conditions?

Mike Kirby: The effect on raising standards of having a register is recognised. That can only help to build confidence in the work force so—again, in principle—there is no difficulty. The issue is the cost of the register and the range of people who would be subject to it. There is a significant earnings difference between a head of a home or senior social worker, who earns in the region of £25,000 or more—they should probably earn more, but that is not a subject for the committee—and a home help. I understand that it is not proposed at present that home helps will have to be registered, but that might be the case in future. A payment of £20 once a year by a senior social worker is not the same as a payment of £20 once a year by a home help. Those are the sorts of area about which we are concerned, but there is also the issue of fees for the commission.

Paul Johnson: Another aspect of the fee structure is fees for the registration and inspection of childminding and day care services. Certainly, the explanatory notes of the bill recognise that to make fees prohibitive would militate against other strategies, such as the national child care strategy. We are worried that in the fullness of time, if the commission was expected to be completely self-financing, the real cost of inspecting a private nursery, for example, would be somewhere between £550 and £800, and the real cost for a registered childminder would be between £250 and £400. The knock-on effect would be that, rather than regulating more effectively, particularly in relation to individual childminders, the legislation would make people decide not to participate in the system. There is a danger that, rather than increasing the number of childminders and providing a better-regulated system, the legislation would drive providers underground.

On the same theme, although the legislation might be a step forward, our overriding concern is its execution. People must be available locally to carry out the task. Everybody is agreed that we want better and more effective regulation, but the bill is only one aspect; implementation, which is our prime concern, is another important aspect.

Margaret Jamieson: I will stay on inspections. The bill talks about having one statutory inspection per annum. I am aware that different local authorities have different levels of inspection, as do health authorities. Do you believe that that is sufficient to make inspectors who are working from home or from remote offices wholly confident that they will pick up everything that they usually do in the current system?

Paul Johnson: That is a very good question. The picture of what happens in the range of

authorities throughout Scotland is disparate. From my experience, I think that there are two strands. The provider is given notice of the annual inspection, which would not be changed radically by the proposed new legislation. We all know that if four weeks' notice is given that someone is coming to do an inspection, it is questionable how representative a picture of a service will be formed by that inspection. Therefore, the ability to drop in and carry out other inspections is crucial. In my experience, following up complaints quickly has uncovered some of the worst contraventions of the regulations. I share the worry that more remote and fragmented inspections might not be as responsive.

Margaret Jamieson: From previous experience, I am aware that Unison, along with other trade unions, has a significant wealth of information on the application of TUPE and the disaggregation at the last local government reorganisation. How should the Executive take that knowledge on board to answer the fears that staff have expressed and to ensure that it is totally up to speed? Some members have received letters from concerned constituents who are registration officers in health or local government.

Joe Di Paola (Unison): Margaret Jamieson raises several issues of which we are fully aware. At the time of local government reorganisation, I was the Unison officer who dealt with many difficulties that related to staff transfer.

A bill—which, if enacted, would be as much primary legislation as the Scotland Act 1998—has been introduced in Parliament. I suggest to the committee—as we did in our submission—that we should follow section 9 of the Local Government Act 1996, which set out clear transfer orders that protected staff in all the authorities. It is only proper that the same safeguards that applied in 1996 should apply to staff who are leaving local authority employment and entering the employment of the two new bodies. I commend to the committee the staff commission circulars, which were agreed with the authorities, the trade unions and the then Scottish Office, and which set out the parameters and safeguards that would apply to staff transfer.

The committee should consider section 9 of the Local Government Act 1996—which gave rise to the transfer orders—the orders themselves and the helpful circulars that came from the staff commission. We hope that that kind of protection would be set out in or attached to the proposed legislation so that our members and anybody else who moved into the new bodies would be clear about what was happening. Not only should the TUPE regulations apply but—above and beyond that—we must have the clear protection that is set out in the transfer orders. People must be assured

that they have the maximum protection with their new employers to ensure that the best service is delivered. We expect the trade unions to be central to those discussions, as they were in 1996. We will be happy to lend our expertise and share the experience that we have gained over the years.

Iain Smith (North-East Fife) (LD): Is Unison supportive of the proposal to set up two separate bodies or would it prefer one body to have a co-ordinating role across both programmes? Are you happy about the split in responsibility between the two bodies?

Mike Kirby: The short answer is yes. We understand that there have been some representations about the desirability of one overarching body. There is a need to distinguish between the issues that arise from regulation and the issues that arise from management of a work force. Different sets of legislation will come into play, such as the law on employment rights as opposed to the provisions of the Regulation of Care (Scotland) Bill.

It will be difficult for the proposed social services council, in registering the work force, to maintain a view on what is its responsibility and what is the responsibility of the employer. To have that under the same umbrella as the body that regulates provision would become unnecessarily cumbersome and might give rise to considerable difficulties for employees and employers. In short, two bodies would help to maintain a distinction between different sets of circumstances.

14:30

The Deputy Convener: To summarise, the main thing that I have picked up from what you have said is that this is as much about the run-up to the change in the system as about afterwards and that training is a major aspect. For instance, you talked about the transfer arrangements for employees, so that they know the options. You outlined where we might go to look at how those arrangements are implemented and you mentioned the training for various people prior to entry to the system. In your paper, you say that it would be useful to learn from the experience in England. Do you have anything further to say about the run-up period and how you feel that you could contribute? What should be happening?

Mike Kirby: We are learning from what people in England are learning, so there is not much more to add at present, other than to emphasise that they appear to be some way down the road of having a unified set of conditions prior to the transfer. They are doing considerable work to develop information and communications technology systems. From what we have seen of

that, there is much to learn. It is about the pre-programme for staff who may transfer.

Paul Johnson: We are talking about the whole sequence of what happens—for example, the point at which staff will know that they are transferring. I presume that nobody wants a situation where, at the 11th hour, staff are not prepared and are not fully conversant with the legislative changes and the different configurations to which they are working. Unless there is a few months' grace for that training process, the opportunity will be lost and the commission will be unable to hit the ground running. Staff and local authorities need to know which staff are transferring and when. Only then will a path be open to the preparatory training process that will be required before April next year.

The Deputy Convener: If there are no other questions, I thank our witnesses from Unison for their evidence.

I welcome representatives from the Scottish Trades Union Congress. We have with us Anne Middleton—who has been here before—Pat Kelly, Jim Farrelly and Robert McGregor. Would you like to say something for five or 10 minutes, to expand on the points that you have given us?

Anne Middleton (Scottish Trades Union Congress): Thank you, convener. I will make a submission on behalf of the general council and, with the committee's permission, my colleagues will add anything that they think I have missed.

The STUC welcomes the opportunity to meet the Local Government Committee to give evidence on the Regulation of Care (Scotland) Bill. We would also like to comment on the fairly lengthy consultation process, which has involved the trade unions, the professional associations and users of the service. It is important that the Scottish Parliament and its committees are taking advantage of forums such as that to hear the views of all the parties concerned.

As we say in our brief submission, we welcome the Regulation of Care (Scotland) Bill. In welcoming the establishment of the council and the commission, we hope that the trade unions will be involved in the establishment of those bodies, as they were in the consultation process. We feel that the trade union movement has an important role to play in establishing the regulation of staff and formulating policy on the regulation of care.

On the transfer of staff, the bill recommends that staff be subject to TUPE regulations. We feel that TUPE terms are insufficient. There have been instances of TUPE regulations being badly applied in the care sector—the sector in which we want to establish good standards. My colleague, Jimmy Farrelly, will expand on that at the end of my introduction and will give specific examples of why

TUPE is insufficient for the transfer of staff under the bill.

We would far rather see the type of arrangement that was in place during the restructuring of local government, when staff automatically transferred under their existing conditions of service, following which individual discussions were held with individual employers concerning the way in which the conditions of service that applied to those staff were rationalised. We would like unified conditions of service for staff groupings after staff have transferred. Given that they work in both the health sector and local government—as we go further into our presentation, we may include groups of staff from independent bodies—it would be helpful to consider how that unification could be established. As you might expect, we would like the trade unions to take the lead role in the implementation group that would determine the conditions of service for those groups of staff.

The bill and explanatory notes lack detail about the registration fees and the costs of administration. Although I understand that the initiative will not be totally self-financing and that Executive moneys will accompany the registration fees, it is unclear who will have to pay those fees. New charges will be applied to local authorities for services that they may deliver themselves. Where will that rest in respect of registration and where will the money come from?

Although references are made to the top-slicing of the local government budget, other functions are going to be left with local authorities, such as their monitoring role and the way in which they deal with other services. A simple example is the provision of childminders, on which the bill lacks detail. Who would pay the registration fee for a service that is home based and involves low levels of remuneration, although the service is provided for financial gain?

The issue of the new locations in which the registration staff would be based has caused us some concern. The reference to five bases, one of which would also house the council and the commission, is insufficient. We must ensure that the bill reflects inclusion and the development of relationships locally. We believe that the Executive has recognised the need for some sort of parity between health board boundaries and local authorities. However, to establish only five bases for the regulation of care is insufficient to cover that issue.

The recommendation that people should work from home may be suitable for some people but it probably will not be for the majority. People might have inappropriate accommodation and difficulties in relation to family care responsibilities and their homes may be inadequate in terms of health and safety at work. That is an important consideration

for the Scottish Executive, which is keen to ensure that quality service standards are put into the care sector. Home workers should have the same health and safety standards as other employees. We believe that far more detailed information on home care should be presented.

A further aspect of home working is that of social and professional contact. Some people will welcome home working but other people will find it abhorrent: having social contact with other people is one of the reasons that people get up in the morning and go to work. The wide implications of home working must be addressed further, both by the committee and in the legislation and its supporting documents.

Point 5 of our submission deals with the education and training programme. The establishment of the council and the commission will lead to the demise—I use that word intentionally—of the Central Council for Education and Training in Social Work and the Training Organisation for the Personal Social Services, the national training organisation. We welcome the theme of national care standards that runs throughout the Regulation of Care (Scotland) Bill. However, if we are to set those standards, we must consider seriously the professional qualifications that apply to social workers as well as to other groups of social care workers, who are often neglected.

Over a number of years, we considered that vocational qualifications between levels 2 and 3 were appropriate for those who work in residential establishments. With local authorities and the health service, we developed social care qualifications at levels 2 and 3 for those who work in the home help service. I would hate there to be a diminution in the type of professional—in the widest sense of the word—qualifications for all social care staff or for those qualifications to be neglected as a result of the creation of the commission and the council. We urge the committee to examine the establishment of a national care standards body that would consider professional qualifications for social workers and vocational qualifications for other groups of staff. We must also consider career progression that would take staff from the vocational route into the professional route. The care sector lead body has examined that, although I understand that its work never came to fruition. If we are serious about quality standards of care, that should be an important part of the implementation of the legislation.

We also require further clarification on the implementation process and on who is to be covered by registration. The legislation is fairly loose, which in some instances makes it unclear. For example, where does the childminder fit into

registration? If childminders are to be registered, who will pay the registration fee? In the four groupings that the bill identifies in addition to the professional social worker, who will determine who will transfer and in what time scale? We recommend that the trade unions should be involved in how that transfer process takes place in relation to those four categories.

Given the theme of partnership in the development of the legislation, it is important that that partnership continues throughout the implementation of the legislation. We urge the committee to ensure that that continues until 2004-05, when the transfer and implementation process will be finalised. We ask you to examine the budget for the phasing-in process and obtain further information on the financing of the service. The manner in which the top-slicing of the local authority budget is to be undertaken gives us some cause for concern. If further detail and more financial information become available, the trade unions will return to the issue; if we are to add quality, it must be properly resourced, but not at the expense of resources for other already hard-pressed services.

I have nothing further to add on the general issues. I ask my colleague Jimmy Farrelly to expand on examples of difficulties when TUPE has been applied to transfers, particularly in the care sector.

14:45

Jimmy Farrelly (Scottish Trades Union Congress): Instead of giving a general view about transfers, I would prefer to give one example. In 1998, Dumfries and Galloway Council outsourced its elderly homes, and the TUPE regulations covered employment conditions for two years. The TUPE regulations are probably the most complex employment legislation. Within a short time—the ink was not even dry on the two years—our members faced massive changes to their terms and conditions, such as freezes on their current rates, buy-outs that meant that people would lose up to £100 a week, cuts in holiday entitlement, partial reductions in sick pay and a challenge to their trade union rights.

Of the workers involved, 99 per cent were women and many were single parents. They faced the bleak prospect of accepting the terms and conditions that were on offer or being made redundant. The tone of the letters that our officer who dealt with the matter in Dumfries and Galloway saw was pretty frightening; it was designed to pressure people who were extremely vulnerable in that situation. The changes were proposed to account for the cost element of a contract that the company had taken from the council.

What concerns us is the fact that the company claimed to be a registered charity. Its highest-paid director earned more than £80,000 a year. The seven senior managers earned £380,000 in total. The company was also offered full occupancy of the homes for five years and the option to buy the homes for £1 each. Despite all that, the company insisted that it had to make savings. It still does so and is making a saving of £1 million on a contract from a council.

The way in which the transfer was conducted was unacceptable. It has affected extremely vulnerable people. The leader of the Labour group on the council, Councillor Tommy Sloan, wrote to the chief executive of the company to say that he still considered that the council had a responsibility to our elderly and wanted to ensure the best possible social and nursing care delivery. We cannot expect the best standard of care when an employer is driving down terms and conditions and pressuring staff. People who were trying to earn a living in a care environment were put through the mincer. If they did not agree to the conditions, they would be out of a job.

What happened was absolutely reprehensible. The people involved are highly skilled. If they are lost, the service could be damaged. The staff are at the sharp end, providing care. In our view, the way in which the process was conducted in Dumfries and Galloway is a salutary lesson that such things should not happen. The bill provides an opportunity to find ways of preventing a repeat of such problems and I argue that such provisions would be most welcome.

I recognise that the transfer regulations are governed by Westminster and the European Union, but I believe that there should be dialogue to consider how such situations can be addressed by the bill or guidance notes.

Anne Middleton: We do not expect that the new body will have the same sort of arrangements as those in Dumfries and Galloway, but we have concerns about how TUPE could be misapplied. It would show good will and good faith if the bill could be amended to allow transfers to be made as they have been made in local government. That would give staff confidence that a proper negotiating structure is in place, and all parties could willingly sit down and unify the conditions of service.

Mr Gil Paterson (Central Scotland) (SNP): I was going to ask what was lacking in TUPE and why you were fearful of the transfer, but Jimmy Farrelly's explanation has resolved that question for me. How do you think that the registration fees should be met?

Anne Middleton: I have some difficulties with where registration fees should be paid from, but

that is not to say that there should not be a registration fee. In a private company running a nursing or residential home, the employer would pay the registration fee. However, as part of the community planning process, there is a responsibility on the provider, so that nobody can simply go ahead and open a nursing or residential home.

The STUC does not have a policy view on where responsibility for the registration fee should lie. Regardless of whether it is paid from public or private funds—and local authorities and health authorities are using public moneys—it seems nonsensical simply to transfer moneys to pay for a specific aspect of registration. We must also consider what is happening in the voluntary and private sectors. Although we do not have a policy view, we want to ensure that the registration scheme is properly resourced.

We have concerns about whether people such as childminders would have to be registered and, if so, what type of fees they would have to pay. For small entities of delivery of care, such as home help, is it the employer who would be responsible for the registration or would there be individual registration? We would like information from the Executive about how the registration process would apply to such people. The STUC would be more than willing to conduct a proper consultation exercise with our affiliates, from which we could gather concrete information and form a policy view, but we are not currently addressing the issue.

Mr Paterson: Do you think that working from home will lead to a deterioration of the service that is provided?

Anne Middleton: I would not go so far as to say that. Some aspects of home working are welcomed by many members of staff. However, home working should be voluntary, not compulsory. It may suit some people, but it does not suit others. I would rather that we had locations that are easily accessible by those who have to work. In some rural areas, that can be difficult, but we have made special arrangements in the past to allow people access to professional and social interaction.

The proposal to have only five regional offices covering the whole of Scotland is unreasonable. It would mean that the only employment option for people who do not work in those geographical areas is to be a home-based employee. I do not think that that is acceptable. We must also consider the amount of accommodation that may be available to us through other public agencies, which can readily be used as a point of contact for the individuals concerned. The development and expansion of information technology links will enable us to provide professional and social

contact in many ways. Nevertheless, there should be an administrative base of some kind, where people can work if they choose.

Mr McMahon: There seems to be general support for the idea of a regulation of care strategy or bill. However, there is some dubiety about the definition of care. Does the STUC have a clear position on what regulation is about?

Anne Middleton: The information that we submitted on the Sutherland report covers that question, but it may go further than the committee wants. The Executive has been quite specific about the professional social work aspects of registration covering all residential establishments. We have no difficulty with those aspects, as they are readily identifiable, whether they are provided in the nursing sector through health authorities or in the care sector through local authorities.

However, we have real concerns about the regulation of services that are provided in the community. Agencies are sending to people who require care employees who are neither registered nor trained, or who have no idea of what they are expected to do. Such employees are often delivering care on a 24-hour basis and on a very low wage.

The STUC has grave concerns about those employees and we would like that aspect of care to be regulated. The standards that are set for training, recruitment and qualification of the staff who go into the most vulnerable people's homes should meet the quality and care standards. We heard of someone who had to supply their own sleeping bag and sleep on the floor when providing personal care for a disabled man. We do not want to hear any more such stories—it can be difficult to back them up with evidence, but we know that such things go on.

People or companies may have been registered by local authorities or by the health service for provision of care, but investigation of how the regulation is being applied has been missing. We must tell companies that there must be registration and a basic standard of qualification and training for those who provide care. That would go a long way towards satisfying our concerns.

We have concerns about child care provision. We know that many voluntary agencies are now developing clear requirements for care qualifications for those involved in caring for children. Qualified personnel going into established nurseries may have been registered by a local authority or health service, but how does that apply when child care is being provided in a home environment? I have no evidence that the system is being abused in any way and I am not suggesting that it is, but we must address that question. We do not want to denude the

community of such an important service by dressing it up in bureaucratic registration and financial processes. That could result in people walking away from providing the service in the community.

Mr McMahon: You mentioned the cost implications of transferring staff from local authorities to another body. The bill has other cost implications. Has the STUC assessed the additional burdens that local authorities will face, the financial constraints that those burdens will place on them and the impact that that will have on employees?

Anne Middleton: We have spoken to our affiliates about the financial implications. As I said, it is not clear what they would be. It has been suggested that £6 million would be top-sliced to pay for the registration service. Although they have to meet performance standards in respect of the regulation process, many local authorities have put in additional resources beyond the expected minimum. Other local authorities have found it extremely difficult to give monitoring and regulation of care as much attention as they would like within their current resources.

Staff have an option about whether to transfer. Trade unions would be unwilling to accept compulsory redundancies for those who do not transfer, although I note that the documents before us say that if someone refuses to transfer it will not be classed as a dismissal. If it is not classed as a dismissal, what is it classed as? Does the local authority pick up the bill for the retention of those staff members?

It is extremely important that the trade unions are involved in the implementation group and consider much of the missing detail—especially on the financial implications. We do not want money to be taken from Peter to give it to Paul. We do not want the resources of local authorities or the health service to be denuded to create a properly resourced new service. A proper assessment must be done.

15:00

I am confident that the Convention of Scottish Local Authorities will have something to say about the rump of service provision that will be left with local authorities. Staff who may not transfer will have to be carried by local authorities. What about the wide array of staff who may originally have supported the staff who transfer? COSLA will raise those points, but we have indicated to COSLA and local authorities that, when the measures in the legislation go ahead, we want certain principles to apply—not least on the transfer arrangements. There must be no detriment to any employees who may opt not to transfer. We want to know how

such cases will be accommodated.

Margaret Jamieson: I would like to pick up on the issue of educational opportunities for the work force. Now that there will be a different and much larger structure, we must allow members of the work force opportunities for career progression. How should that be funded? How should individuals be supported through the learning process? As you said yourself, for many years, some individuals have been able to access continuing professional development but, at the other end of the scale, others have received absolutely no training. How could opportunities be phased in for people coming from the voluntary and private sectors?

What do you feel about nurses being employed by local authorities to cope with the changing needs of clients in what are currently termed residential homes?

Anne Middleton: We could go back a long way in history and talk about the establishment of the care sector lead body and the qualification that was developed for care sector staff who were not professional social workers. At that time, the Scottish lead body was operated through COSLA and involved all sorts of agencies and training organisations. The trade unions were also involved. The affiliates, trade unions and employers took on the role of bringing together people who worked in the service, establishing the basic level of qualification and deciding what should be included in the care sector. That process developed into vocational qualifications 1, 2 and 3.

Once we had established the care sector qualification, we went to the local authorities and the health boards to implement it. However, the cost of implementation took everyone aback. Although we welcomed the idea that people could take the qualification while at work, facilitating that would have led to a great deal of cost for employers. As a result, the measures were implemented piecemeal. In children's care, the care sector qualification was implemented, but in care for the elderly—which was often seen as the cinderella service—the qualification was not given the same prominence. That was purely because of finance.

The health service was even more reluctant to implement the qualification, but it has since made great headway in the implementation of training for all groups of staff. Unison has been instrumental in a programme called return to learn, which the health service in Scotland has adopted and funded. It is an awareness programme to get people back into training or education—especially people who left school without any formal qualifications. To put a proper career structure in place, the programme is being developed in

partnership between the trade unions, the employers and all the affiliates. Someone can go in as a porter or a domestic and nothing will stop him or her from working through different grades of qualification. The individual takes a share in the responsibility for gaining training and qualifications.

I understand that the health service was able to fund that training programme by top-slicing money from individual employers. It has also set up a body that works with affiliates to develop their training plans. COSLA has entered discussion with its affiliates on how it will implement a similar training programme, but it is bound by a lack of finance. Only last week, I talked to Wendy Alexander about how the programme could be implemented. She is setting up a meeting through the Scottish University for Industry with people concerned with enterprise and lifelong learning and with the affiliates to discuss the development of a project that may use individual learning accounts and may access some of the moneys that are available through projects that are specific to enterprise and lifelong learning, especially through SUFI.

Opportunities exist, but the STUC and the affiliates have a major complaint: there is no Yellow Pages to tell people where to go or how to do things. I may be wandering on to another agenda, but I feel that there should be a register that makes it easy for any organisation or employer to find out how to get access to good-quality training that meets the requirements of the bill, and to find out about any special funding initiatives to help with that training.

The timing of the creation of the new organisation could allow people to access all sorts of moneys from all sorts of different arenas, which would get them on the right footing from the start. I am especially keen that the route that the Scottish health service has taken—the route of looking at vocational qualifications and marrying them with what are deemed professional qualifications—should also be taken by the registration service. People should be able to see clear career progression that does not have a ceiling just because they happen to have been hands-on workers rather than professionals with a more strategic role.

Margaret Jamieson also asked about nurses in local authorities. I welcome the fact that nurses can work in a local authority setting. That epitomises what the Executive and the affiliates have argued for a number of years—the need for far closer relationships and working agreements between all concerned if we want seamless service and delivery of care. I would not want to see any diminution of either the professionalism of nurses, or the career structures that are available

to them, as a result of their working in a local authority.

Committee members may recall the contention that arose between occupational therapists working in local government and those working in the health service. They were on different pay grades, one set being paid far more than the other. Although we tried to achieve equity, and to encourage a more professional attitude, poaching went on everywhere. Whoever was paying the most attracted the occupational therapists. I do not think that that kind of thing is helpful, so we must ensure that nurses in local government are given the same professional status, qualification, recognition and opportunity for continuing professional development as they would be given in the health service.

The Deputy Convener: This question is brief, because Margaret Jamieson asked what I was going to ask about training. Do you see the national care standards body as a continuing and separate body, or will it have a limited lifespan during which it will consider qualifications and career routes? Could that role fit in with the Scottish social services council's role?

Anne Middleton: The STUC is always worried when we talk about qualifications, because they tend to be thought of at a particular grade and above—the bulk of the staff who are below that grade are never looked at. Qualification may not be the right word to use. The professional development that leads to the provision of the care standard is what is important within a particular arena. Markers are put down for the particular qualifications that are required, but we must marry the divisions that have existed in the past between vocational and professional qualifications.

We want to attract people to the service. We have had a dearth of professional social worker applicants in some areas—although not as bad as in England and Wales—because we have not cultivated those who may be willing to go into a particular area of work. We have said that they must come from where they are and do a professional qualification, rather than recognise that their breadth of experience and the vocational work that they have undertaken can be married. That is not to deny in any way the importance of qualifications, but there are ways of achieving them other than by doing a professional qualification.

The Deputy Convener: If there is nothing else—I am sorry Kenny, I did not see you.

Mr Gibson: Last week you chinned me because I always jump in first and ask a question, so I thought that I would wait until nearer the end for a change.

Does the STUC general council have a view on

the number of inspections that should be carried out each year, whether in nursing homes or the homes of childminders, and whether they should be unannounced?

Anne Middleton: In any organisation, if it is known that the inspector is calling, everything will be found to be shipshape, so inspections should not be announced. Two inspections each year are required in local authorities. The recommendation is that there should be a minimum of one inspection, but discretion to have more. Inspectors will know whether they need to go to an establishment more than once.

Mr Gibson: I agree with that. You talked about the number of registration centres. Do you have an optimum figure for the number of centres? Should the areas covered have coterminous boundaries with local authorities and health boards?

Anne Middleton: There are 15 health boards, which includes the islands, whereas there are 32 local authorities, so there is a difficulty. If there is a willingness to try to get some sort of parity between the boundaries of health authorities and local authorities, some of the most difficult areas will be in the west of Scotland. For example, Greater Glasgow Health Board covers a number of local authorities. However, such a change is not impossible.

If you were to consider just health boards, that would direct you to 15 centres. Because they cover large geographical areas, health boards have arrangements to deal with staff who work far outwith the main administrative centres, so there are opportunities for us to link in to that in deciding where to base staff. That would go along with the spirit of partnership that we are looking for in respect of the dual function of community care.

The Deputy Convener: If you have nothing else to add, I thank you for your evidence.

Anne Middleton: Thank you for the opportunity to present it. We hope to be welcomed back.

15:15

The Deputy Convener: I welcome the Central Council for Education and Training in Social Work, from which we have Kate Peart, Sandy Cameron, Professor Cherry Rowlings and Douglas McKelvie. We received the information that you sent us. Would you like to speak for five or 10 minutes? Then we will ask you some questions.

Sandy Cameron (Central Council for Education and Training in Social Work): I will do the introduction. I chair the Scottish committee of the CCETSW, and I am a member of the CCETSW council. We strongly welcome the introduction of the Regulation of Care (Scotland)

Bill and the proposal to establish the Scottish commission for the regulation of care and the Scottish social services council. We are pleased that we have been involved at the early stages of the bill, and that we have had an opportunity to give our views through the extensive early consultation.

We want to focus in particular on part 2 of the bill, since that deals with the functions that currently are statutorily held by the CCETSW but will transfer to the new body when the legislation is passed. Establishing a regulatory body for the work force in the personal social services sector has been advocated by the CCETSW for a long time, at both Scotland and UK levels, and we have been involved from the earliest movement towards establishing the bodies that are now coming out of the legislation.

Having said that we will concentrate on part 2, we wish to note that we strongly support the intention to establish a body, in the form of the commission, to regulate the service. The commission's substantial powers, which are laid out in the bill, will be important in protecting the well-being of service users. We also welcome the drawing up of national standards for the protection of our most vulnerable citizens.

It will be essential for the council and the commission to work together closely. We are pleased to note that the bill lays a duty on them to co-operate. Effective functioning of those highly interdependent bodies will be important, particularly in the early years following the passing of the legislation, if their public credibility is to be established and maintained.

We have a number of points to make on the general principles of part 2. We welcome the duty that the council will have to promote high standards of conduct and practice among the social services work force, both in its work and in its education and training. Throughout its life, the CCETSW has emphasised and promoted the link between high standards in practice and in education and training, and we wish that link to be continued by the new body.

It would be valuable to add a power for the council to provide advice to ministers. Ministers will be free to accept or reject it, but none the less there should be a power for the council to provide advice to ministers on good practice in its areas of knowledge, expertise and experience.

We are concerned that, although the bill and the explanatory notes refer to a wide register, the pace at which it is envisaged that it will be put in place is less rapid than is desirable. The registration requirements should be fully inclusive of the whole social services work force. That is the only means by which the policy objective of

protecting the public can be met. The partial nature of a qualifications-based register will be inadequate to prevent unsuitable people from finding their way into the work force. We would urge consideration to be given to extending the scope of the registration requirement to the entire work force.

It is appropriate that students embarking on courses that are approved by the council—particularly those wishing to become social workers and social services workers—should also be included on the register. The nature of training means that students have access to vulnerable people. A consistent national approach to their entry into training would be a welcome element of the legislation.

We welcome the proposal that there should be a probationary period of practice following training. That would give an opportunity to consolidate the learning undertaken in the formal part of training. It is important to include some element of assessment in the probationary period. The employer's responsibilities towards workers during that probationary period should be set out clearly by the council. There are a great many matters of detail that are relevant to that, which will require consideration.

Consideration should also be given to requiring a health reference as an element of the registration process. The Care Standards Act 2000—the equivalent legislation in England and Wales—includes the requirement that an applicant must be

“physically and mentally fit to perform the whole or part of the work of persons registered in any part of the register to which his application relates”.

That is a matter that would benefit from a standardised approach across the United Kingdom. Having said that, we would emphasise that the council would have to be mindful of its duty not to be discriminatory. Over the 30 years of its existence, the CCETSW has paid particular attention to the development of anti-discriminatory practice. None the less, we consider that health factors may be relevant to the registration process and that consideration should be given to aligning the legislation in Scotland with that in the rest of the United Kingdom.

Section 31 of the bill refers to a person being “of good character” as a requirement for entry to the register. That is important, but it is crucial that the council makes a clear statement on its definition of “good character”. That must be transparent, both for the public and for prospective registrants.

The bill raises issues about people who have trained furth of Scotland or the UK. That is currently dealt with on a UK basis by the CCETSW. During the transfer period, it is intended

that the general social care council for England and the care council for Wales will deal with such matters. However, in the longer term, if that responsibility is to be taken over by the body in Scotland there will be resourcing issues.

We welcome the proposal in the bill that the title of social worker should be protected and limited to those people who hold the relevant qualification and who are on the register. However, alongside that, there should be protection and definition of the function of social workers to ensure that the public are protected as the bill intends.

The council should perhaps be given the responsibility to advise the Scottish ministers on the roles and functions that should be undertaken only by qualified, registered social workers and other registrants. A power should be given to make rules on that matter.

It would be helpful if there was greater clarity on the difference between a code of conduct and a code of practice. The codes of practice will apply to workers who are not registered, according to the current view of the registers. Questions arise, therefore, about what sanctions can be applied to people who are not registrants but who are found by their employers to be in breach of the code of conduct, and about how that information will be made available to future employers. Further consideration should be given to that. The commission should work closely with employers and with the council in dealing with such matters.

We endorse the requirement for the regulation of education and training in this area. It is important that there is a power to approve courses, but we suggest that, in addition, consideration should be given to approving institutions to offer such courses. That would enable the council to ensure that institutions had in place the necessary framework to support a course that would give entry to the register.

We welcome the power of the council to make grants and allowances for training to people resident in Scotland. The inadequate financial support for students in social work and related fields has been of growing concern and has an impact on the performance and overall well-being of students. It is a problem that has been repeatedly drawn to the attention of the CCETSW Scottish committee. Social work training includes practical work. To fund training, many students also work in social care, so that in many cases they are working by day on a placement and at night or at the weekend they are doing similar work to cover the costs of training. That is particularly worrying, because we have always placed an emphasis on ensuring the widest possible entry to social work training.

We believe that people's life experiences,

particularly those of people who have faced disadvantage, may mean they have an important contribution to make to social work. Social work training for such people is likely to mean a large personal commitment and often serious financial strain. We are concerned about falling applications for social work training courses. That is reflected in the growing concern in Scotland about our capacity to recruit qualified people to key posts. We hope that those issues will be given full and proper consideration. We await the planned policy position paper on the future of social work training in Scotland. We are concerned that the delay in the availability of that paper is causing some people to rethink their position on beginning training and we can ill afford a further delay in achieving adequate numbers of qualified staff.

We consider continuing professional development to be essential for social workers and social services workers, to ensure that they keep up to date in knowledge, skills and modern practice. We welcome the power that the council will have to introduce regulations on that. A requirement for continuing professional development linked to registration should be introduced and employers must make it a priority to ensure that their employees are able to comply with that requirement. It would be best for awards for approved vocational courses to be made by approved institutions rather than by the council, although a role for the council as an awarding body will be important as a fallback position.

Arrangements will have to be made on the appointment of "visitors", as they are described in the bill, who will be involved in the overall quality assurance arrangements. The CCETSW has paid particular attention to ensuring the quality of social work training and to looking in detail at the quality of courses. We believe that the arrangements for that in the bill are very important.

15:30

The powers that ministers can delegate to the council include many of the functions of the current Training Organisation for the Personal Social Services—known as TOPSS—which is hosted by the CCETSW. The TOPSS functions are integrally related to the quality of the service received and to the range, scale and training of the work force. Those functions will be most appropriately delegated by Scottish ministers to the council as a way of continuing work that is well under way in Scotland.

Registrants should be represented on the council. The bill at present includes persons who provide care services, but they would not necessarily be registrants. Building in a requirement that its registrants should form part of the membership of the council would create

ownership of the duties of the council among registrants. If, as we have urged, the entire social services work force was brought under the auspices of the council, that issue would be resolved.

Those are the broad issues that we feel are important to draw to the committee's attention. We are happy to answer questions.

Mr McMahon: You welcomed the duty placed on the council and the commission to consult each other. Does that go far enough? Can it be guaranteed that because a duty is placed on two organisations to speak to each other effectively and arrive at decisions that will be to the betterment of all concerned, that will take place? Should there perhaps be one body?

Sandy Cameron: We know that a number of organisations have suggested that. We have no formal position on that, but as we have considered the issues we have been acutely aware of how interdependent the two bodies are. As a minimum, the requirement in the bill is important. Many of the duties that will transfer from the CCETSW to the council will rely heavily on the work of officers of the commission, which suggests a closer link. We would certainly urge consideration of whether that requirement is enough and whether one body would be more satisfactory so that those linkages were built in.

Mr McMahon: Do you believe that there should be guarantees of consultation before ministers use their powers to change the definition of care services and so on?

Sandy Cameron: Yes—in line with our view that the council should have a responsibility to advise ministers, although of course ministers have the right to ignore that advice. We would expect that ministers would take sound advice from the range of interests represented on the council, which will include service users, carers and people from the work force and from training and education. That consultative process, which has got off to a good start with the approach to the bill, should be enshrined in it. There should be a clear expectation that ministers will consult before they make significant changes to regulations.

Iain Smith: You mention in your written submission that there is no agreed work force planning system to cover social work and social care. Does the bill address that issue? I believe that it gives the Scottish ministers the power to ascertain work force numbers. Should that power be given to the council?

Sandy Cameron: We have said that we urge the Scottish ministers to delegate that power to the council. The power is important. Douglas McKelvie will talk about that, because TOPSS deals with it at present.

Douglas McKelvie (Central Council for Education and Training in Social Work): Within the CCETSW, TOPSS has begun several projects on work force planning. We recognise that we probably do not have the full power to achieve that at this stage and that we are one of several interested parties. In our current position, we do not have control over the resources, so we may calculate that a number of workers of one kind are needed, but we do not have the levers to pull.

I dare say that the Scottish social services council might not have the levers to pull, so striking the balance between making a credible analysis of the work force and the qualifications that are needed and determining the plan that needs to be put in place, particularly by employers, will be a collaborative venture. We have already started that. It is vital that that function is performed—and much more systematically. To be honest, it was not done like that before. We have made a beginning. It is important that the function exists. It sits well within the SSSC and the model could be made to work.

Margaret Jamieson: I will pick up the point about work force planning. Will the registration and inspection of individuals for a level playing field in the delivery of care be able to indicate the level and qualification of staff needed to provide care? That might assist in determining the future needs of the new defined care sector from year one right up to year five, and give an opportunity for reviewing that with the council. Is that a possibility?

Sandy Cameron: That is a possibility. The occupational standards should be driven by the care standards. We must emphasise the definition of how people will be cared for and the quality of that care, then work hard to define the occupational standards. The education and training can be built round that.

Alongside that, we must be mindful of the number of people who will be required to provide the standards of care that will be defined. The committee will be aware from other submissions and from what we have said that concern about recruitment into the work force is growing. The jobs that we ask people to undertake are demanding and highly skilled. Often, people are not terribly well paid and experience a great many stresses in the workplace. We must be sure that an adequate number of people come through constantly, to deal with the expanding services to the appropriate standards, which must be driven by the national care standards. That is another issue that highlights the need for close co-operation at least—if nothing more than that—between the two bodies. That little bit of discussion highlights the fact that the more we examine the issues, the more those linkages

emerge.

Margaret Jamieson: In your submission, you say that you would like to extend registration to the whole work force and to students. You then mention a probationary period. Given that you are considering the issue from the social work perspective, we must expand that comment into the defined full-care sector. Some students will already have been through the necessary processes to ensure that they are fit to undertake training. How far do you want to go? Are you serious about wanting every person who is employed in care to go through that process?

Sandy Cameron: It is clear that—sadly—people whose motives are entirely improper occasionally find their way into every aspect of the work force, not just as so-called professionally qualified staff. People find their way to having contact with vulnerable people and can then exploit their position. The same standard must apply across the whole work force.

Mr Harding: Do you have any views on the arrangements for funding the council?

Sandy Cameron: The council needs to be properly funded. We do not oppose the idea of registrants paying fees for their registration, but consideration must be given to whether that will be sufficient funding for the full range of duties. Careful consideration must be given to the costs of delivering to the standard that the bill will require from the body.

Mr Harding: So you do not think that the fees will be sufficient to make the registration process self-financing.

Sandy Cameron: If we are to extend the range of regulation, we must be mindful of the fact that many of the work force are not in highly paid jobs. Fees must be set at a level they can afford. That will have to be offset against the total cost of delivering the quality of work.

Mr Harding: All the organisations that have given evidence have emphasised the fact that quite an increase in funding will be required for the training. Has your organisation made any assessment of the level of funding that will be needed?

Kate Peart (Central Council for Education and Training in Social Work): The funding that the Scottish Executive already makes available to the CCETSW will transfer to the social services council. More detailed work continues and requires to be done to establish what further funding will be required for the council, to enable it to meet its responsibilities.

The adequacy of funding needs continuing close examination. The access of the work force to training raises a great many issues and requires to

be resourced. For example, the CCETSW provides some funding to organisations in the voluntary sector to enable them to give their staff access to vocational qualifications and the diploma in social work. One issue that frequently arises concerns the replacement costs for organisations and the hidden costs of giving staff access to training.

A root-and-branch examination of the funding requirements is needed for the work force that we envisage. We wish the register to be inclusive. The implications for workers and their employers will require considerable examination. Without an adequate funding base, the system will be in danger of not getting off the ground.

Professor Cherry Rowlings (Central Council for Education and Training in Social Work): The funding of students is vital. It is clear that the problems with funding students are having an impact on those who join qualifying social work courses. Another aspect to training involves the funding of appropriate placement opportunities in agencies.

There is a lot of anecdotal evidence of how difficult it is to provide a sufficient quantity of practice placements that are of sufficient quality. The funding of placements is an essential part of the general funding of social work education.

15:45

Sandy Cameron: Adequate funding of social work training is important and something that the new body should advise Scottish ministers on. For many years, the CCETSW has pressed the case for extension of social work qualifying training from two to three years. That has been rejected on the ground of cost; we now believe that there will be some movement and an extension.

The quality of training has often been criticised but, because of the complexity of the social work task, fitting the training into two years is very difficult. If we want a properly trained and skilled work force, training must be properly funded. We hope that that will be recognised and that there will be dialogue between the new body and the Government on what the proper funding basis should be to deliver the work force that is needed to care for people.

Mr Paterson: Do you see a danger of charging a fee for registration becoming a revenue exercise?

Sandy Cameron: I hope that the new body will not make a profit—it would have to keep the level of the fee under review to ensure that it is sufficient to meet the funding requirements without being unduly onerous on those who have to pay it.

Mr Paterson: Do you see students paying a

registration fee, or would it come in only when they qualify?

Professor Rowlings: Students should pay a fee, although it should be in accordance with their income. It is very important that, from the very beginning, people who intend to be social workers are directly involved with the responsibilities of being a social worker. Those responsibilities include sound and ethical practice. The sooner they are brought tangibly into that process, the better.

Mr Gibson: Are there significant omissions from the bill?

Sandy Cameron: There are no major omissions. Our concerns are more about how the bill is taken forward and its shape, particularly the relationship between the two bodies and the scope of the register to ensure that people are brought into the work force properly, from an education and training point of view and in relation to public protection.

Mr McMahon: Is the balance between the national care standard and flexibility at a local level to adapt to local needs right? Will the proposed complaints procedure assist in developing proper regulation of care?

Sandy Cameron: It is important that there is a national care standard—a line below which no service will fall. The commission must ensure that it has proper and effective local liaison and that it is able to reflect different patterns of service delivery in different parts of the country, because the way services are designed and delivered varies. Provided that services are not falling below the national standard, we should ensure that they are designed to allow flexibility to local requirements.

There must be clarity about how members of the public or other relevant interests can raise complaints. If there are to be two bodies rather than one, there should be a one-stop approach to complaints. Again, it is a question of linkages. The council would have an interest in complaints to the commission about employees, and vice versa. We must ensure that the commission is set up in such a way that people can access their right to make complaints, either about services or about registrants or employees, and that complaints are dealt with clearly and straightforwardly.

The Deputy Convener: Thank you for giving us your evidence.

Our next witnesses are Councillor Rita Miller, who chairs the social work network of the Convention of Scottish Local Authorities and is deputy leader of South Ayrshire Council; David Wiseman, an adviser on the Regulation of Care (Scotland) Bill; and Bernard McLeary, of the

Association of Directors of Education in Scotland, who is director of education on Inverclyde Council.

You have provided a detailed paper. I now invite you to speak for five or 10 minutes about your views on the bill. We will then ask you some questions.

Councillor Rita Miller (Convention of Scottish Local Authorities): I thank the Local Government Committee for inviting the Convention of Scottish Local Authorities 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 care work force in Scotland.

We have been particularly pleased at the level of involvement that we have had in the period leading up to publication of the bill, and 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 flow from the establishment of national care standards. However, it is important that the bill itself provides a guarantee of continuing consultation on those matters.

Members will not be surprised to hear that COSLA will be seeking 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 for local authorities of the financial memorandum.

COSLA also has concerns about the proposed move to self-financing through fees from 2004-05. We believe that that is unrealistic, as 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 commission—will not make best use of the community care pound or of any moneys 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, and most welcome, Scottish Executive increases in total revenue grant to local authorities over the next three years may not be sufficient to meet all the additional burdens that are being placed on us, including those arising from the bill.

We recently raised 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 be learned from the most recent experiences of local government reorganisation and the establishment of the children's reporters administration. For a limited period only, we suggest that an independent body be established 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 to ensure continuing local involvement by way of advisory committees and adequate joint working at a local level. The working relationship with local authorities and groups, at the place of local knowledge, is critical 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, covering England and Wales—introduced the post of a children's commissioner for Wales, reporting to the National Assembly for Wales. COSLA believes that the Regulation of Care (Scotland) Bill should include a provision for the establishment of 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 with 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 a best-value approach.

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, a need remains for a UK-wide commission, with Scottish representation, to consider the important interface

between the benefit 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 at least two inspections a year. We feel that the reduction may result in a lower quality of regulation for services that are currently regulated.

COSLA welcomes 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, while the public perception is likely to be that they are protected. Some clarification is also required on the status of staff from an education or children's services background, regarding their registration with the Scottish social services council.

I will draw members' attention to the fact that—as the convener rightly said—we have provided a written submission that covers a number of points that are additional to the ones that I have just covered. We would welcome your questions. I may say that I am a councillor and therefore not a professional being. My two professional advisers will therefore field most of the technical questions.

Margaret Jamieson: You spoke about having one organisation for registration and regulation. In coming to that view, has COSLA considered the nature of some other organisations? The United Kingdom Central Council for Nursing, Midwifery and Health Visiting is responsible for the registration of individuals and for ensuring that they undertake the necessary continuing professional development. It also advises UK ministers of the role and responsibilities of nursing staff. Do you think that the proposal in the bill will benefit people who work in the service and those who will receive the service?

16:00

David Wiseman (Convention of Scottish Local Authorities): Let me deal with that question and come to the crunch of why we feel consideration must be given to having one body rather than two. We are concerned that there should be effective co-operative working and communication, and we feel that a single body would enable that. Cost savings could also be achieved if there were a single body. An overall body can contain a structure that allows a social service regulation committee and a work force regulation committee while still making cost savings by having only one chief executive and common support services.

Integration between the functions is important. The one-stop approach for the public and for care

employees will enable matters to come into a single body but be dealt with by the relevant sections within that organisation. We certainly think that there are strong overlapping areas between the functions of the commission and those of the council. That suggests to us that one body would provide a clearer and simpler way of dealing with the issue.

Mr Gibson: In your submission and in your presentation you mentioned that the total revenue grant to local authorities over the next three years may not be sufficient to meet all the additional burdens that are being placed on them—and not just those arising from the bill. Which additional burdens do you envisage being imposed?

David Wiseman: Funding is a complex issue. That is why our finance staff are considering the financial memorandum in detail. Members will be aware that a number of announcements have been made by the Scottish Executive over the past year about the improvement that it wants in social work services. All those announcements have been wrapped up in a belief that the cost of those improvements will be met by the additional revenue that is being provided by local authorities. We still have to do quite a bit of work to determine whether those figures add up to the total that has been provided to meet additional burdens.

Apart from the separate burdens that might be related to developments in learning disability, mental health and drugs services, and to the response to the Royal Commission on Long Term Care, there are also demographic pressures. For example, social work expenditure on services for older people needs to increase by 1 per cent in real terms to meet the additional demand resulting from the increasing number of very elderly people in the population.

Mr Gibson: Is that 1 per cent each year?

David Wiseman: According to the current population projections, yes.

We are aware of research on the situation in England that was undertaken by the University of Leeds and is relevant to Scotland in this context. It shows that adults with learning disabilities survive into middle age and old age, often outliving the parents who have been the main source of informal care.

Medical improvements have led to increased survival chances for many children born with conditions such as cerebral palsy and other severe impairments. That means that services provided or purchased by local authorities are required for longer periods and sometimes at a higher cost because of the increased dependency. The research estimated that 1.2 per cent of growth is required because of demographic changes in the context of those situations.

When we add up all those figures—which is part of the exercise that we have undertaken—we begin to worry that there will not be enough money to match the promises and pledges.

Mr Gibson: Thank you for your comprehensive reply.

On page 5 of your submission, you say:

“The Project Team’s paper refers to a working group being set up to identify transitional issues . . . It is suggested that, for a time-limited period, an independent body is established as soon as possible in order to assure a smooth process of implementation and an independent voice, which can help resolve any disputes.”

Do you have any views on the structure and membership of that independent voice?

David Wiseman: Without going into detail, we are saying that we should take lessons from the local government reorganisation. Reference has been made to the role of the staff commission and we are considering a body with a similar role.

Mr McMahon: On the setting up of the social services council, you seem to have concerns that there is not enough clarification of the part that staff from services other than social work—especially children’s and education services—would play. Can you expand on the practical implications of those concerns?

Bernard McLeary (Convention of Scottish Local Authorities): The COSLA submission comes from a social services perspective, and its joint integrated approach must be welcomed. However, in Scotland, there are 15 education or integrated children’s services, which perhaps have different management and staffing structures. There could be some difficulties with teachers who are employed in early years education who want to register with both the General Teaching Council and the other council.

Furthermore, there are issues about the terminology of career structures; for example, everyone will be termed a “social services worker”, which might cause sensitivity. More important, such issues might have implications for training, staff development and professional development.

Iain Smith: Most of our questions have been answered by your very decent and helpful paper. However, can you expand on why COSLA feels the need for a UK-wide commission; what the remit of such a commission would be; and, in particular, what that commission would do that the Scottish commission cannot do?

David Wiseman: That has been COSLA’s position since the royal commission reported. Our concern is that the benefits system is an integral part of examining the funding of care and that, as benefits are not a devolved matter, we need a UK commission on which there should be adequate

Scottish representation. That is the crux of the issue.

Iain Smith: So are you concerned that the English equivalent would end up doing that job, which would mean that there would be no Scottish voice? If that happened, do you feel that the various devolved assemblies and English equivalents should get together to examine the issues jointly instead of setting up a separate UK commission?

David Wiseman: There is a need for a commission that is somewhat independent from the Parliament and Government to examine the issues. That is why we favour the establishment of a UK-wide commission. If that did not happen, the devolved assemblies would have to get together, otherwise there would be difficulties with the integration of the benefits system into examining the funding of care.

The Deputy Convener: What is your view on the importance of the proposed regional centres that will bring the various agencies together? You have also highlighted how the advisory committees can bring various sectors together to make advice available. Is there any connection between the centres and the advisory committees, and are five such regional centres sufficient?

David Wiseman: There is a connection between the two, which I would like to highlight.

In addition to the advisory committees, we discussed the need for local working relationships to be strong because of the critical joint work that can be done to safeguard vulnerable adults and children and to achieve continuous improvement. We recognise that there would not be a wish to have advisory committees at the same level as at present, with the current number of individual registration inspection units. However, some form of advisory committee would be needed.

We also feel that local offices—underneath the regional structure—are necessary. We are concerned about the proposal for five regional offices, and about the basis on which the figure five was chosen. That figure should not be considered precious; what is adequate in the context of any regional structure is what is required.

The question of coterminosity has also been raised. The least that we ask is for another layer, which would require even more complex structures, not to be added. We realise that there is no satisfactory solution that offers complete coterminosity, but we ask, at least, for the number of tiers to be minimised, particularly in the context of local authorities and health boards.

Underneath the regional structure, there should be local offices. They would enhance the quality of

the service without detracting from the national identity of the new structure—the opposite of the view that has been communicated to us by the Scottish Executive.

Local offices will be needed for a number of reasons, the first of which is the support that will be required for the staff who will work in the regulation process. That will apply particularly if there is to be a combination of home working and office-based working. We echo some of the concerns that have been voiced about home working, but we do not oppose it in principle. If an organisation is started on a principle of home working, people who are able to work in that way should be recruited. If a huge number of staff are transferred in, it must be recognised that they may not be able to work at home, because of personal circumstances, and that some people cannot work at home because of the nature of their work.

We are concerned that regulation, as a function, is often sensitive and sometimes tense and difficult. As a result, there is a need to support staff, who may be under a great deal of stress if they move into a situation that involves taking action against a provider—perhaps at a stage of near closure.

We are concerned that, although information technology might help glue the systems together, we should not rely on it. We need only consider events at the Scottish Qualifications Authority to recognise that IT does not always provide the solution to specific problems. We need to link the IT support that is provided to staff, the local office's ability to bring together potential childminders and its capacity to do group work with the development of providers. Providers have sometimes required a lot of support, not just to meet the required standards for their own provision of training to staff or for changing their work practices, but to fulfil their commissioning role, which is linked to their registration role in service provision.

The Deputy Convener: If no other members wish to ask questions and if the witnesses have nothing further to add, it remains for me to thank them for their contribution today.

Budget Process 2002-03

The Deputy Convener: The second item on the agenda is the budget process for 2002-03. The paper in front of us relates to the appointment of an adviser to the Local Government Committee. I assume that members have read the paper. Are there any objections to its recommendation on how we proceed with the appointment?

Members: No.

The Deputy Convener: There is full agreement. We can now proceed with the suggestion under the paragraph headed "Next steps": we will bring together

"detailed terms of reference, person specifications and other information"

as soon as possible.

I thank everyone for attending.

Meeting closed at 16:14.

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