

SCOTTISH PARLIAMENT HEALTH AND SPORT COMMITTEE INQUIRY INTO THE REGULATION OF CARE FOR OLDER PEOPLE

RESPONSE TO INQUIRY

Does the regulatory system ensure care services for older people are providing good quality and appropriate care?

SCSWIS is in its infancy as an organisation and it will take time for it to bed in and amalgamate the needs and requirements of the three organisations that it was formed from. The Association of Directors of Social Work can see both the need and the benefits of the regulatory system and the positives that have come out of it. In recent years the introduction of QAF in care homes, unannounced inspection visits and gathering third party intelligence on care services have all led to improvements.

However, the Association also has some substantial concerns over the way the regulator works, the remit it covers and the legal framework it operates within.

ADSW has a good relationship with SCSWIS and is committed to working in partnership with SCSWIS to enable the improvements we all want to see in outcomes for older people.

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

The Regulator in the main does identify areas where the quality of care is poor through both announced and unannounced inspection visits and also through intelligence provided by third parties e.g. service users, families, local authorities and other stakeholders including complaints and reports of adult protection concerns.

However, in some instances poor quality of care has not been identified through these processes e.g. recent TV undercover reports and therefore some discussion of how these can be made more robust would be helpful.

The Association believes that there are a number of reasons for this:

1. The regulator is hindered in its efforts by lack of adequate resourcing, which has led to a reduction in the frequency of inspections.
2. RSA framework too weak: it relies too much on self assessments and complaints which can prevent poor quality care services, where service users don't complain from being picked up.
3. Care Service providers have no right of appeal about complaints and the complaint is published whether or not it is admitted by the provider. This lack of transparency and fairness brings the integrity of the system into question.
4. There are significant issues over the length of time it takes for reports to be published, meaning that information does not get to the people who need it as quickly as it should. The reports also tend to be cumbersome and do not allow for easy reading.
5. TV exposés employ a variety of undercover techniques and an intelligence led approach to RIPSAs authorised interventions should be considered.

Are there any particular weaknesses in the current system?

The membership of ADSW has identified a number of weaknesses in the current system:

1. There can on occasions be confusion regarding communication and responsibility between the Regulator and councils where there are concerns over the performance of a care home. For example, a care home may be given what the council interprets as a bad

report by the Regulator, but the Regulator will stop short of making a judgement on whether or not the care home should be closed to new admissions.

It would be more useful, consistent and safer if the Regulatory body was to be more decisive about the impact of a negative report given that they have assessed that particular establishment. Clarification over the relationship between the council's contracting responsibilities and the Regulator would assist with this.

2. Given the recent concerns about Southern Cross and Choices closer monitoring of the financial viability of services and of the fit and proper person needs to be developed. This should include close scrutiny when a care home is "taken over" by another business and regular monitoring of their financial position. It may be that tighter controls are required to enable intervention at an earlier point in time.
3. Care home fee levels are also a weak point in the current system. Clarity of how we regulate charges by care home owners per place and how much they can increase fees needs to be considered. In one LA area fees were increased by £100 per week without any explanation causing great distress to relatives who clearly do not want to move relatives and feel disempowered. Trading Standards teams could have a role here as while many bodies are involved in this area few have powers to deal with these discrepancies
4. The regulations need to be amended and updated to address the following issues.
 - There is a clear mismatch between legislation and policy around definitions of residential and nursing homes – too open to interpretation by the sector and leading to confusion within primary care and commissioners (e.g. a nurse does not need to be on site 24/7)
 - More reference to National Care Standards is needed for consistency
 - Clearly set out service user rights and due process would clarify things for service users
 - The human rights of people in care homes need to be strengthened
 - The regulatory framework needs to specify that named GP's need to support care homes
 - The regulations relating to the management of personal finances are too weak in the current system and SCSWIS has no powers of compulsion
 - It would be helpful if the expectation of multi-agency working was formalised
5. The Regulatory system relies too much on councils taking pre-emptive actions because it is so slow. SCSWIS needs to be more robust in dealing with poor practice and following up on improvement and enforcement notices and the timescales for these.
6. The remit of the Regulator is also problematic: SCSWIS needs to be resourced to regulate the whole system of care and support especially in care homes. At the moment areas we are concerned about that are not necessarily properly regulated include practices relating to:
 - moving and handling
 - nutrition
 - tissue viability
 - dementia
 - mental health
 - palliative care

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

Service user views are taken into account as part of the inspection. Service user views are sought in every inspection and the quality element of the care home fee is tied to performance in inspection reports which include service user views.

However adoption of the Talking Points approach which is currently being piloted and focusing on outcomes would be a useful development in inspections and would ensure greater focus on the views of service user and their quality of life.

The Association is concerned that SCSWIS, during inspections, does not look at the needs of individuals. The Association believes that they should go into more depth e.g. look at publishing one or two more holistic case studies?

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

Currently Social work regulatory bodies can only regulate social work services. However, SCSWIS do regulate care homes where nurses are employed and they use the services of a chief nursing officer. SCSWIS also regulate the work of OTs in social work settings, so provided the inspection team has the right background, there is no reason to presume it could not adapt to the inspection of integrated services. This would be welcomed to reduce the burden of inspection on joint services. However there are issues with the number of specialist inspectors available for this work.