1 PURPOSE

1.1 To provide Committee with an update of the main developments as a consequence of this legislation; and

1.2 To note work in progress in aspects of staff development and infrastructure issues for the local authority.

2 SUMMARY

2.1 The Regulation of Care (Scotland) Act 2001 was introduced in April 2002. The main aspects are the National Standards for care provision, workforce planning and training, and independent registration and inspection of services and staff.

2.2 The main regulatory bodies are the Scottish Commission for the Regulation of Care to regulate and inspect care services in Scotland (‘the Care Commission’) and the Scottish Social Services Council to regulate social service workers and to promote and regulate their education and training (‘the Scottish Council’).

2.3 There are implications across services and staff in terms of the new developments, in addition to those known and being progressed regarding existing provisions.

3 RECOMMENDATION(S)

3.1 It is recommended that Committee note the developments outlined in section 4 to this report, and the activities being progressed by the Service in response to these, and

3.2 Receives further reports in due course as more detailed implications are identified.
4 CONSIDERATIONS

4.1 A report to Care Committee in March 2001 provided Members with the outline of resource implications arising from the Scottish Commission for the Regulation of Care (‘the Scottish Commission’) and the Scottish Social Services Council (‘the Scottish Council’). Committee noted that analysis of impact was necessarily ongoing as further secondary regulations, and final guidance and procedures continued to be issued by these two regulatory bodies.

4.2 This report offers Members an update on the most recent developments, particularly, the Rules and Procedures issued by both these agencies, and an overview of the implications and broad impact for the local authority in its service development and delivery as a result of these. It has not been possible to undertake more detailed work at this stage and this will be required over time before exact resource implications will be available.

4.3 The Scottish Commission

Care Provision

- Direct delivery of Residential and Day Care services will be in the first tranche to be subject to the independent inspections. However, since Stirling Council’s internal services have long been inspected to the standards for the independent providers, this in itself is not expected to create difficulties.

- Resource implications for the Council’s remaining Care Homes have been built in to new developments wherever possible. The timescale for Care Standards to be fully achieved is 2007. A feasibility study will be undertaken in this financial year which will highlight how far existing provision can fully meet the future standards. This is primarily in the area of en suite facilities. The single room occupancy has already been achieved.

- It will not be possible to determine significant issues with the external care providers in this regard until inspections commence and they in turn identify individual plans. A key issue for the independent sector and thus the Local Authority, will be one of potential costs involved in meeting the standards. Current levels reflect discussions between CoSLA, Care Provider representatives and the Scottish Executive. All extra funding received by Stirling Council has been passed on to the independent sector homes. Further developments for 2003/04 are currently awaited from the Executive.

- From April 2003, Home Support Services will require to be registered. This is now one of two key areas where developments include preparation for this. The other key area relates to the need to develop a Recruitment and Retention Strategy and a robust base for workforce planning. All are interrelated.

- Of particular note is section 31 of the Act which requires Local Authorities (and Health Authorities) to use/contract only with those services which are registered. Thus if a care provider is not successful in achieving registration, this will have an impact on the Council’s ability to provide services. We are currently working with external home support providers, including a review of their rates.
• Approximately 3350 hours per week is being purchased from external providers, equating to a full year purchase of £1.4m. (By comparison, the internal Home Support Services are providing approximately 4,300 contact hours per week). The need for all provision to meet registration standards can be readily identified, as can the potential impact for the Local Authority in meeting is duty to deliver services if this is not achieved.

• A further area that is as yet unclear relates to services which come within the general category of support to individuals as opposed to personal care services. This relates for example to the “Streets Ahead” model of service. It also relates to the work currently being progressed in relation to ‘Supporting People’. It is not yet possible to report on how these will be viewed by the Care Commission. However, in initial discussions with the Regional Manager for this area, he has stressed that they are looking to achieve a ‘consistent approach’ to Registration and Inspection, in order to be necessarily fair across all care providers.

• In terms of regulations, the Care Commission also is required to notify the Local Authority prior to issuing an enforcement notice on any care provider. One of the main aspects for the Commission will therefore be to work with the statutory, contracting and regulatory functions of the Local Authority, while separately acting as independent regulators of Council provision. This statutory element is to be progressed through a formal protocol between the Commission and Local Authorities. The timescale for this work to commence has not yet been notified to Stirling Council.

4.4 Complaints Procedure

• The final Complaints Procedure for the Commission is now available. Work will require to be undertaken to map the communication interfaces with the Local Authority’s own Social Work Complaints Procedure. It should be noted that complainants do not have to pursue a complaint through the local service provider’s own Complaints Procedure prior to lodging a complaint with the Care Commission. However, the Care Commission are likely to encourage individuals to do this wherever possible.

• The Care Commission aim to work with other regulatory authorities, such as the Clinical Standards Board for Scotland, local authorities, the NHS, and the Mental Welfare Commission. The Commission intends that working relationships will thus be defined in a ‘Memorandum of Understanding’ with each organisation. It will be vital that such protocols take account of the increasing joint working between the other agencies, not just the interface of the Commission and each individual agency. For example the degree of integration that will be achieved through the ‘Joint Future’ agenda and emerging arrangements between the NHS and local authorities. Future single management structures and aligned or pooled budgets bring governance and accountability issues, including issues for the handling of complaints. Locally, a Joint Protocol for Multi-Agency Complaints is in use between Stirling Council and NHS Forth Valley and will be pertinent in certain communications with the Commission. This local protocol is currently under review and will help to inform the Care Commission’s work on their protocol locally.

• Similarly, the Local Authority’s own Social Work Complaints Procedure is currently being reviewed. New Guidance from the Executive is currently awaited by our NHS partner agencies on their Complaints Procedure. What is being highlighted is the need to carefully map out the distinct
accountability of each particular organisation in relation to its own functions, and the accountability where work patterns are joined up. This mapping will be vital with the Commission’s Complaints Procedure, to understand the lines of accountability and systems required for recording interfaces and contact. While hopefully achieving a sufficiently coherent response to the complainant.

4.5 **Registration and Inspection**

- Final agreed Inspection methodologies have yet to be confirmed, but Care Commission Regional Managers are currently timetabling the first round of announced inspections. Their intention is that a pre-inspection pack will be sent out in advance of each visit, with a self-evaluation form (to be returned prior to the visit) which focuses on targeted standards. Given that the financial year is almost half way through, it now seems likely that there will now require to be more intense inspection activity in the latter half of the year to meet the statutory targets.

- The Act allows for inspection of a care service or the agency providing the service at any time. The Care Commission will inspect care services providing 24 hour care at least twice a year and one of these inspections will be unannounced. Other care services will be inspected at least once a year. Newly registered care services and care services about which there are concerns are likely to be inspected more frequently.

4.6 **The National Advisory Forum (Care Commission Forum)**

The Care Commission, through its National Advisory Forum, is undertaking a series of public meetings during September/October. The Forum is the Commission’s Committee tasked with listening and consulting with users, making reports to the Care Commission and providing feedback to users on the Commission’s work. These open meetings are also targeted at carers, advocates of users and carers, providers of care services and purchasers of care services. Stirling Council’s social work services will be represented at these meetings.

4.7 **Regional/ Locality Office Liaison**

The Head of Community Care Services/Chief Social Work Officer has recently had an initial liaison meeting with the Regional Manager and Stirling Locality Manager of the Care Commission. Specific areas for discussion included understanding the progress of the Commission in establishing themselves locally; their future plans for joint protocols; respective structures; areas of services to be registered in due course and potential areas of complexity. Further meetings are being arranged with appropriate service management.

4.8 **The Scottish Social Services Council**

**Draft Codes of Conduct and Practice**

The Act requires the Scottish Council to prepare and publish Codes of Practice laying down standards of conduct and practice expected of social service workers and of persons employing or seeking to employ such workers. The draft Codes were attached with the March 2001 report to Care Committee on Regulation of Care. The final versions of the Codes are not yet available but are expected this autumn following approval by Ministers.
4.9 **Consultation on Draft Registration and Conduct Rules**

- The next key task of the Scottish Council will be to establish a register of social workers and other social service workers. The register will open in the spring of 2003 and the process of registering all social service workers will take several years to complete.

- Consultation has started on the draft registration and conduct rules, released end of June by the Scottish Council. The most important point for the local authority within the draft rules is that unless an allegation of misconduct self evidently requires immediate referral to an Investigation Committee, the Scottish Council will await the exhaustion of local authority investigative/disciplinary procedures conducted by the employer.

- The draft rules have been shared across all areas of the social work service and with the trade unions, and a response will be made to the consultation by the Chief Social Work Officer on behalf of Stirling Council.

4.10 **Consultation on the Registration of the Social Services Workforce**

In Scotland, the categories of workers who will be registered in phase one of registration have been set by the Scottish Executive. These are:

- Social workers, those with Diploma in Social Work or equivalent

- Registration and inspection staff of the Care Commission

- All staff in residential child care

- All heads of residential care homes

- All heads of adult day care services.

This current consultation from the Scottish Council focuses on two aspect of registration:

- The qualifications criteria for workers who will be registered in phase one; and

- The level of registration fees in phase one.

A copy of the Consultation document is attached as Appendix 1. The Professional Development Co-ordinator is currently finalising revised Staff Development action plans with each Community Care Development Manager to cover a rolling programme of staff training. These need to take account of meeting the National Care Standards for specific service areas in relation to staff qualifications, and training in specified policies and procedures required as part of the new national Standards; and to meet the qualification requirements for registration with the Scottish Council.

4.11 Community Care received £15,000 in specific grant for social work training from the Scottish Executive for the year 2002/2003. The Council contributed £8,800 to make a total budget of £23,800. This year the Scottish Executive released a one off supplement to the specific grant, of which Community Care has an allocation of £19,500 for training for front line staff. This will pay for the following extra training:
• extra SVQ assessment in residential and day care;
• training in the management of challenging behaviour;
• dementia training for Residential and Day Care staff;
• Person Centred Planning Training for residential, day care and assessment and care management;
• 1 return to learn course for residential and home care;
• 2 places for Assessment & Care Management staff on Stirling University's Post Qualifying Certificate in Community Care Studies;

all of which are directly relevant to meeting National Standards. Additional funds meet the necessary cover when staff are released for training.

4.12 It is clear from the consultation document that there would be implications in relation to required qualifications for managers in Residential Care and Day Care Services. It is important to note that heads of residential homes means managers who will be the subject of the Care Commission's 'fit person' requirements, the implication being that the named qualifications will become a condition of the manager meeting this requirement. If the 'fit person' requirement is not met, the establishment will fail registration standards or be de-registered.

4.13 Within Stirling Council, steps have already been taken within the Social Work Services to enrol managers on courses of study ie Social and Vocational Qualification (SVQ) level 4 and the Diploma in Social Work (DipSW) to gain relevant qualifications. The Scottish Social Services Council has suggested that Managers must have the registered managers award and a relevant professional qualification (SVQ4, DipSW or equivalent). The 'Registered Managers Award' can be achieved by doing some additional work on top of SVQ4, potentially around an extra 3 months or so which would make meeting this qualification criteria more viable. It is also possible that a Higher National Certificate (HNC) in Management would be accepted as an appropriate equivalent to the Registered Managers Award, as would the National Examining Body - Supervisory Management (NEBS) course. (Several Managers already have these qualifications).

4.14 As an overview, currently in Residential Day Care Services:
• there are 6 managers who have DipSW/nursing qualifications or who have embarked on the SVQ4/DipSW (or equivalent);
• there are 2 managers who would require to start the SVQ 4 and go on to the Registered Managers Award;
• in relation to senior care workers, 1 has completed the SVQ4 and 4 are presently on the award. 10 staff would be eligible to go on to the award in the coming period;
• the SVQ4 takes 18 months and the extra work to complete the Registered Managers Award would take about 3 months;
• the source required would be candidate time and assessor time.
4.15 As with other provisions, the impact of the proposed qualification requirements is unknown in terms of the Independent Sector. As inspections by the Care Commission and staff registration by the Scottish Council roll out, the pattern of impact will be clearer.

5 POLICY IMPLICATIONS

5.1 The Act’s provisions and the latest supplementary Rules and procedures detailed in section 4 to this report will impact across all areas of Social Work Services and the other Council services which support the delivery of their functions. Externally, the provisions will impact on partner agencies, the voluntary sector and independent care providers and will have implications for the Council in relation to its role of purchaser and commissioner of services.

6 CONSULTATIONS

6.1 Ongoing consultation is taking place within the Council’s Social Work Services, Finance and Information Services, Personnel Services, and with the Professional Development Co-ordinator (who works across community care, children’s and criminal justice social work services). Plus Regulation of Care developments are also raised at the Community Care meetings with the trade unions.

6.2 Discussion on aspects of the Act’s provisions and the implications for purchasing, commissioning and joint working is also taking place with NHS Forth Valley, local housing providers and independent care providers.

7 RESOURCE IMPLICATIONS

7.1 Information to date provides sufficient focus for resources aimed primarily at human resource developments and to be achievable with current funding levels. A major short/medium term issue is related more to the availability of staff, both in terms of social work and social care provision, in order to support staff release for essential development and training opportunities.

7.2 It should be possible to further update Committee by January 2003 with a projection for ongoing developments and resources for 2003/04.

8 BACKGROUND PAPERS

8.1 The Regulation of Care (Scotland) Act 2001, Care Committee 21 March 2001.

8.2 Scottish Commission for the Regulation of Care (The Care Commission): Complaints Procedure, June 2002

8.3 Consultation on Draft Registration Rules and Draft Conduct Rules, plus Registration of the Social Services Workforce Scottish Social Services Council, June 2002 Scottish Social Services Council, June 2002
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