EXECUTIVE NOTE

THE REGULATION OF CARE (FITNESS OF EMPLOYEES IN RELATION TO CARE SERVICES) (SCOTLAND) (NO. 2) REGULATIONS 2009 SSI/2009/118

The above order was made in exercise of the "powers" conferred by section 29(1), (2), (5) and (13) of the Regulation of Care (Scotland) Act 2001 ("the Act"). The Order is subject to negative resolution procedure.

Policy Objectives

The Scottish Social Services Council (SSSC) was established under the Regulation of Care (Scotland) Act 2001 (the Act). The policy intention in setting up the SSSC was to regulate the social service workforce, to strengthen and support the professionalism of the workforce, raise service standards and practice and protect the users of social services. Policy documents made clear that registration would be required; a condition for employment, and continued employment in the sector. That intention remains.

One of the SSSC's main objectives was to set up and maintain registers of social workers and other social service workers, as prescribed by Scottish Ministers. Ministers announced the groups of workers to be registered and registration commenced in April 2003 with social workers. Since then, a phased approach has been taken to registration, with several parts of the register have being opened, following Ministers prescribing each group of worker. The groups have been prescribed based on the role they are employed for, in each particular 'care service' as defined in Regulation 2 of the Act.

Registration with the SSSC applies to all social workers and social services workers so prescribed, working in the public, voluntary and private sectors. The exception to this are those workers in the sector already registered with another recognised regulatory body e.g. nurses with NMC. Ministers made it clear that they did not support 'dual registration'. Another group is volunteers. Ministers did not wish volunteers to be registered.

The pace of registration has been very slow. Ministers and senior officials have written to Chief Executives, Directors and employers in the field reminding them of the policy intention of registration and encouraging them to support and encourage workers to apply. The SSSC has also held numerous registration meetings and issued guidance to the sector. Despite these actions applications for registration are not being made.

The need to ensure that workers register with the SSSC has been highlighted in reports detailing historic abuse of children in care homes. In February 2008 the Minister for Children and Early Years announced to Parliament that legislation would be brought forward to effect the policy intention of required registration. This Regulation effects that policy.

The intention of the regulations is that workers employed in the sector for the **first time** in one of the three specified groups will be required to apply for registration as soon as reasonably practical on commencement of employment, and be given a grace period to achieve registration. For **existing** workers in the sector, final dates have been set for each individual group by which time registration must be achieved. In setting these dates the phased approach to registration has been maintained to allow employers to plan training etc.

Recognition has also been taken of the numbers involved, the date the register opened for each group and the capacity of SSSC to process these new claims and maintain existing registrations. Further work will be undertaken before workers employed for the first time in other groups will be required to register. Failure to comply with the regulations without a reasonable excuse is an offence.

Consultation

A consultation exercise was issued on 9 October 2008 running until 31 December 2008. The consultation was published on the Scottish Government web site. Direct copies were also sent to Chief Executives and Directors of Social Work in all 32 local authorities, SSSC and Care Commission, Chief Executives of voluntary and private sector employer organisations in the social services sector. Events were held with voluntary and private sector to discuss the consultation. A total of 51 responses were received with the majority supporting the proposals. Issues were raised well after end of the consultation which highlighted some confusion around the requirement for workers new to the sector to register within 6 months of commencement of employment. This has been taken on board and only three groups of workers will be subject to this aspect of the legislation in the first instance. However, further work will be undertaken with the sector in respect of the manner in which other groups of workers, new to the sector, will be subject to registration

Financial Effects

Individual applicants will have to pay an annual registration fee to the SSSC. Current fee levels are £30; £20 and £15. The level of fee payable is dependant on the grade of worker. In setting fee levels account is taken of the salary levels in the sector and the fees are subsided by the Scottish Government. Applicants will also be required to pay for a Disclosure Scotland check on initial application and at the registration renewal stage, either 3 or 5 years.

A condition of registration is that the worker will have, or be working towards, attaining qualifications relevant to the job they undertake. In recognition of significant training requirements in the sector, in 2003 Scottish Ministers increased the social work training grant to local authorities to £5.5m per annum and that is continuing, although the money is no longer ring fenced and is included in GAE. Other funding streams such as Section 9 training grants and Voluntary Sector Development fund, circa £2m per annum, and £6m per annum to Centres of Excellence to support training continues. A training programme supported through European Social Funding was made available to small and medium employers for training. The SSSC is supporting the sector through publication of all funding streams available to the sectors to support training and working with partners to identify training opportunities.

Regulatory Impact Assessment

This was not considered necessary as this is not a change or new policy. An RIA was carried out during the passage of the Act and work is ongoing to monitor impact and costs on sector and SSSC running costs.

Scottish Government
23 March 2009