

**Date:** 5 July 2000

**Venue:** Committee Room 2 , National Assembly for Wales

**Title:** Regulation & Inspection of Social and Health Care Services - Care Standards Bill - Update Report

## **Purpose**

1. The purpose of this paper is to:

**provide Committee Members with an update report to note on the Parliamentary progress of the Care Standards Bill.**

## **Background**

2. The Care Standards Bill when enacted will provide the primary legislative base to enable the National Assembly to act as regulator for a comprehensive range of social and non NHS health care services in Wales.

3. The Bill is being taken forward as England and Wales primary legislation - one of the first following devolution. The policy and principles underlying the Bill are common to England and Wales but there are some distinctive Welsh features that are being taken into account. The differences emanate from the Social Services White Paper 'Building for the Future' and decisions taken, following consultation across Wales, and discussion in the Health and Social Services Committee.

## **Main Provisions**

4. The main purpose of the Bill is to reform the regulatory system for care services in Wales and England and to improve protection for vulnerable people. These regulatory functions will be undertaken by the new Care Standards Inspectorate for Wales and by the Care Standards Commission in England. The new regulatory authorities will take over regulatory responsibility for all those services **currently** regulated by local authorities i.e.

- residential care homes;
- children's homes (for more than 4 children);
- independent boarding schools (welfare inspections only); and
- Nursing Homes regulated by Health Authorities.

5. The Bill provides that the new regulatory authorities should take on **new functions**: to include

- Local Authority care homes (on the same basis as those in the independent sector for the first time);
- domiciliary care in both the statutory and independent sectors;
- small children's homes (fewer than 4 children);
- independent fostering agencies; and
- maintained boarding schools (welfare inspections only).
- Private and voluntary sector health care

6. The "Care Standards Inspectorate for Wales" will be set up as part of the Assembly itself rather than as an independent statutory body as planned in England. For this purpose, the same regulatory functions that are being conferred on the Commission for Care Standards in England will be conferred on the Assembly itself ie the Assembly will act as regulator.

7. Arrangements for the regulation of child minding and day care provision for young children will also be reformed. New integrated arrangements for the regulation and inspection of early years services will be created, by bringing together the systems for regulating childcare and for inspecting early years education. In England this will be done by transferring the regulation of childcare to Ofsted, while in Wales, a robust partnership between Estyn and the National Assembly's Care Standards Inspectorate will achieve the same objective. In addition, those working with or coming into contact with older children will be required to demonstrate that they are suitable to do so.

8. The Assembly will have the general duties of encouraging improvements in the quality of care services and to make available information about these services to the public. These duties relate to recommendations by the Royal Commission on Long term Care for the Elderly. Under the revised arrangements in both Wales and England, regulation will be carried out to new national standards.

9. The Bill also provides for the regulation and training of the social care workforce, by establishing a Care Council for Wales/Cyngor Gofal Cymru (CCW), which will act under the direction and general guidance of the Assembly, and a General Social Care Council (GSCC) for England. These Councils will regulate the training of social workers and raise standards in social care through codes of conduct and practice and through other means. For the first time, a register of social care staff will be set up and maintained by each of the Councils. The Bill makes provision for the abolition of the Central Council for Education and Training in Social Work (CCETSW), which currently regulates training in social work throughout the UK.

10. The Bill imposes a duty on the Secretary of State for Health to maintain a list of individuals who are considered unsuitable to work with vulnerable adults. A single list will be established for both Wales and England. It will operate in a similar way to the list established under the Protection of Children Act 1999. Specified care providers, employment agencies and businesses which provide or supply individuals to work in care positions, will be under a duty to refer people to the list in certain circumstances. Care providers will also have to carry out checks of the list before offering employment to potential recruits in a care position working with vulnerable adults, and to refuse employment in such a position to any person included in the list.

11. The Bill provides for a right of appeal against the decisions of the new regulatory authorities and Councils established under the Bill and decisions of the Secretary of State for Health regarding the vulnerable adults protection list. Appeals will be considered by a new Care Tribunal which will cover both Wales and England.

12. Other provisions in the Bill include -

- Changes to the regulation of nurses' agencies in England and Wales, removing the nurses agencies' exemption from the Employment Agencies Act 1973 and the repeal of the Nurses Agencies Act 1957. Nurses agencies will also be required to register with the Assembly and the Care Standards Commission;
- the exemption on the requirement to register in the case of small private children's homes (which provide care and accommodation for fewer than 4 children) is to be removed. Such homes will be registered by local authorities until responsibility passes to the Assembly and the National Care Standards Commission in England;
- the Registered Homes Act 1984 is to be amended to require the registration under Part II of that Act of all dentists' premises where dental treatment is given under general anaesthesia. Responsibility for the registration of such premises will pass from the Health Authority to the Assembly and the Care Standards Commission;

### **Progress of the Bill**

13. The Bill was introduced in the House of Lords on 2 December 1999 and completed its Lords' stages on 4 April 2000. It was introduced in the House of Commons on 5 April and is currently in its Committee stage where it is expected to remain until early July. David Hanson MP, the Parliamentary Secretary at the Wales Office, is a member of the Commons Committee as is John Smith MP the member for the Vale of Glamorgan. Royal Assent is still expected at the end of July although the time-scale for achieving this is very tight.

### **Main Areas of Debate**

14. There has been strong all Party support for the principles underpinning the Bill and consensus about the importance of the measures to improve quality of services and give better protection to Vulnerable People.

15. Among the areas of debate have been:

- The degree of reliance in the Bill on Regulation making powers;
- the resource implications of the Bill;
- regulation of the Private and Voluntary Health Care Sector;
- the impact the draft National Standards for Care of the Elderly might have on the care home sector;
- the importance of robust regulation of day centres at an early stage;
- the use of OFSTED as regulator for Childminding/Day Care for Under 8s in England (different arrangements will apply in Wales)
- the consistency of charges for domiciliary care (where there will be new powers to issue statutory Guidance to LA);

16. The Government was defeated on only one amendment in the Lords on the Regulation of the Private and Voluntary Health Care Sector. Opposition parties argued for a single regulator (ie the Commission for Health Improvement - CHI) across all acute services in the NHS, voluntary and private sectors. This issue was debated again in Commons Committee where the Government overturned the Lords amendment so that there will be a general requirement on the National Commission/Assembly to work with CHI on this sector.

### **Children's Commissioner for Wales**

17. As the Committee will be aware, it has been agreed that the Bill will be used as the initial legislative vehicle for establishing the post of a Children's Commissioner for Wales. The amendments needed to give effect to this will be tabled during House of Commons Committee consideration of the Bill.

### **Secondary Legislative Programme**

18. Much of the detail of the Bill as it affects Wales will need to be fleshed out by Assembly Secondary Legislation. The Bill will give rise to a substantial programme of regulation making which is likely to begin in October and last well into next year. The implications of this are currently being considered and further advice will be provided to the Committee in due course.

### **Action**

19. The Committee is asked to note the progress of the Care Standards Bill through Parliament.

Jane Hutt  
Assembly Secretary

July 2000

**Contact Point**

Steve Milsom, Head of Branch, Social Care Policy Division

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