REPORT NO 263/02

ANGUS COUNCIL

SOCIAL WORK COMMITTEE

26 FEBRUARY

CONSULTATION ON DRAFT REGULATIONS AND ORDER APPLYING TO CARE SERVICES AND TO PROCEDURES OF THE SCOTTISH COMMISSION FOR THE REGULATION OF CARE

REPORT BY THE DIRECTOR OF SOCIAL WORK

ABSTRACT

This report advises members of the consultation exercise on draft regulations and order applying to care services and to procedures of the Scottish Commission for the Regulation of Care. These regulations and order are all to be made under the Regulation of Care (Scotland) Act 2001, which will be fully implemented on 1 April 2002. The regulations apply to social work, as those services that are currently inspected, by the Social Work Department, will be subject to regulation by the Care Commission from 1 April 2002.

Copies of the draft regulations and order have been placed in the Members’ Lounge.

1. RECOMMENDATION

   It is recommended that the Social Work Committee:
   
i) notes the contents of this report outlining the potential implications of the regulations and the order.

2. INTRODUCTION

   Members were advised at a Social Work Committee meeting, on 14 August 2001, of the contents of the Regulation Care (Scotland) Act 2001. The Act establishes a new body, the Scottish Commission for the Regulation of Care (SCRC), to regulate care services in Scotland (reference is made to report no: 876/01). The Commission will take over the regulation of care and support services, including those services provided by local authorities. The new system of regulation will encompass the registration and inspection of care services against a set of national care standards and the taking of any enforcement action. Regulatory functions currently carried out by local authorities and health boards will transfer on 1 April 2002 to the Commission.

3. DRAFT REGULATIONS AND ORDER

   The draft order relates to applications to the Commission for:-
registration of a care service;
cancellation of such registration;
variation or removal of a condition of registration;
new certificate of registration;

The draft order also prescribes bodies to whom the Commission must provide advice when asked.

The three sets of draft regulations cover the following:

- Certificates of registration, the keeping of registers by the Commission, and access to these Registers.
- The requirements on care services in respect of management, staffing, premises and general conduct, and the promotion and protection of the health and welfare of people using the services.
- Minor and technical changes to the appointment provisions in the Scottish Social Services Council (Appointments, Procedure and Access to the Register) Regulations 2001.

The consultation paper incorporates a partial Regulatory Impact Assessment (RIA).

4. REGULATED CARE SERVICES

The following care services will be regulated by the Care Commission from April 2002:

- support services (day care for adults)
- care home services
- school care accommodation services (independent special schools with boarding provision and grant-aided special schools)
- independent health care services (independent hospitals, private psychiatric hospitals, currently registered clinics, and hospices)
- nurse agencies
- secure accommodation services
- adoption services
- child minding
- day care of children.

The following services will be regulated by the Care Commission after 2002 (from dates yet to be decided):

- support services (home care)
- school care accommodation services (independent schools with boarding provision, education authority special schools with boarding, school hostels)
- independent health care services (other clinics, medical agencies)
Housing support services will be regulated from 1 April 2003 to coincide with the introduction of the new Supporting People arrangements.

A single set of regulations and orders apply broadly (with occasional exceptions) to all service types.

5. THE IMPACT OF THE REGULATIONS AND THE ORDER

The regulations and the order prescribe in detail the actions to be taken by all providers of care, including local authorities, when seeking registration of, changes to, and cancellation of registration in respect of care services. These procedures must be followed whether the service is provided solely by the local authority or in partnership with other agencies.

This means in practice that local authorities must provide information to the Care Commission on the services they intend to provide (and those they currently provide), in the form of a Statement of Functions and Objectives. They must provide detailed information about the management of the services and the managers must undergo an assessment of their ‘fitness’ to manage a care service. The Care Commission must be notified of any proposed changes to the services. These requirements will inevitably bring new burdens to local authorities, in the form of additional external scrutiny beyond the Council’s existing procedures.

The regulations and the order impact on the planning for, and development of, services in that adequate time must be allowed for the statutory processes, prescribed in the order and the regulations, to be complied with. Providers must give notice of their intention to make any changes to the service provision and the proposed date that they intend these changes to come to effect. In a situation when the provider plans to cease providing a service, they must notify the Care Commission of any arrangements they have made to ensure that service users will continue to receive a similar service (including, where appropriate, accommodation) from the provider or another person. Therefore, it is anticipated that any future plans for service re-design may take longer to implement than is the case at the moment.

6. FINANCIAL IMPLICATIONS

There are no immediate cost implications arising from the recommendations made in this report. It is difficult to estimate the possible additional costs involved in complying with the regulations and the order, until the local authority provision has been registered. This will take place during 2002-03.
7. **HUMAN RIGHTS IMPLICATIONS**

There are no human rights implications arising from the recommendations contained in this report.

8. **CONSULTATION**

The Chief Executive, the Director of Law and Administration and the Director of Finance have been consulted in the preparation of this report.

9. **CONCLUSION**

This report has advised members of the consultation exercise on draft regulations and order applying to care services and to procedures of the Scottish Commission for the Regulation of Care. These regulations and order are all to be made under the Regulation of Care (Scotland) Act 2001, which will be fully implemented on 1 April 2002. The potential implications for social work are outlined in this report.

14 February 2002

W B Robertson

Director of Social Work

**NOTE**  No background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information) were relied on to any material extent in preparing the above report.