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REGULATION OF SOCIAL CARE WORKERS

The Health and Personal Social Services Bill (Bill 3/00) was introduced in the Northern Ireland Assembly on 2nd October 2000 and received its second reading on 23rd October 2000. Part I of the Bill, Regulation of Social Care Workers, is a parity measure which will make provision for Northern Ireland corresponding to that made for Great Britain at Part IV of the Care Standards Act 2000, which received Royal Assent on 20th July. The Bill contains provisions for the creation of a Northern Ireland Social Care Council the main responsibilities of which would be to: regulate the standards and conduct and practice of social services staff by promulgating codes, registering key groups of staff, and regulating professional social work education and training for social care workers.

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SUMMARY

This paper, which is structured in five parts, provides an overview of the development of proposals to establish a regulatory mechanism for the social care workforce. The paper also summarises the content of the Health and Personal Social Services Bill, which implements in Northern Ireland those proposals requiring primary legislation, and highlights a number of key issues relating to the proposals and the Bill.

Part 1 provides a review of the policy background to both the Care Standards Act 2000, which implemented proposals for modernisation of the social care workforce in England and Wales, and the parity legislation in Northern Ireland, the Health and Personal Social Services Bill.

Part 2 sets out the governments interpretation of the existing state of regulation and training of the social care workforce and its proposals to promote high standards of conduct and practice among social care workers.

Part 3 sets out the central proposals contained in the DHSSPS '*Regulating the Social Services Workforce*'. Central to this policy position paper is the establishment of the Northern Ireland Social Care Council (NISCC) which will establish registers of particular groups in the workforce, publish and promulgate codes of practice for all the workforce and employers, and regulate the education and training of social care workers.

Part 4 provides a clause by clause description of Part I of the Bill, which covers the regulation of Social Care Workers.

Part 5 concludes this paper by highlighting a number of key issues identified from examination of the parliamentary debate in Westminster during passage of the Care Standards Act 2000, consideration of open documents relating to modernising proposals, and examination of the Bill itself.

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1. POLICY BACKGROUND

- 1.1. In November 1998, the UK government published two white papers setting out its proposals for social services in England and Wales¹. The papers set out the need for modernisation and proposed a *'third way'* for social care *'which moves the focus away from who provides the care, and places it firmly on the quality of the services experienced by individuals their carers and families'*. Central to modernisation of social services were proposals for improving standards in the social care workforce².
- 1.2. In the *Modernising Social Services* White Paper, the UK Government recognised that *'people who work in social care are called on to respond to some of the most demanding, often distressing and intractable human problems'*. The White Paper set out the problems which it wished to tackle:
- 80% of the large workforce, which works directly with very vulnerable people, have no recognised qualifications or training;
 - there are no national mechanisms to set and enforce standards of practice. Health Care Professions have had such mechanisms for a number of years. A General Teaching Council has just been established. Yet for social workers and other social care staff there has been no comparable body, even though they often have access to people's confidential and intimate lives; and
 - the standards and suitability of some education and training in social care do not enjoy general confidence.
- 1.3. In order to improve standards and public confidence and to give those working in social care recognition for the work they do, the government judged that institutional change was essential. *Modernising Social Services*, therefore, set out the governments proposals to:
- create a new General Care Council which will replace the Central Council for Education and Training in Social Work (CCETSW) in regulating the training of social workers, set conduct and practice standards for all social care workers, and register those working in social care; and
 - develop a training strategy centred around a new national training organisation.
- 1.4. Proposals relating to the regulation of the social care workforce were implemented by The Care Standards Act 2000³, which received Royal Assent on 20th July 2000. These included the establishment of the General Social

¹ Modernising Social Services (Cm 4169) published in 1999 and Building for the Future (Cm 4051), published in March 1999.

² Modernising Social Services (Cm 4169) Ch 5 - Improving Standards in the Workforce.

³ Care Standards Act 2000

Care Council (GSCC) for England and the Care Council for Wales (CCW) (Cyngor Gofal Cymru)⁴.

- 1.5. On 30th April 1998, the Department of Health & Social Services (DHSS) published *Fit for the Future*, a consultation document on the future of health and personal social services in Northern Ireland. In the document the DHSS stated that it would consider making arrangements for the regulation and training of the social care workforce through the establishment of a General Social Care Council. In October 1998, the DHSS published *Improving Social Services: A discussion paper*⁵, which set out proposals to establish a Social Care Council in Northern Ireland. The Department of Health Social Services & Public Safety (DHSSPS) followed this up in August 2000 with the policy position paper, *Regulating the Social Services Workforce*⁶. This paper stated that '*it is proposed that a new statutory body, to be called the Northern Ireland Social Care Council (NISCC), to regulate the social services workforce be established*'.

⁴ The Way Forward for Care: a policy position paper (Scottish Executive – July 2000) states that in Scotland the body to regulate the social care workforce will be called the Scottish Social Services Council. The British Association of Social Workers (BASW) Scotland, in response to consultation on modernisation of social services, urged the that 'social care' does not appear in the title of the Council and suggested that the title General Social Work Council be adopted (<http://www.basw.co.uk/policy/regcoun.htm>)

⁵ Improving Social Services: A discussion paper. (DHSS, 1998)

⁶ Regulating the Social Services Workforce – a policy position paper (DHSSPS 2000)

2. CURRENT POSITION

- 2.1. The DHSSPS reports⁷ that in Northern Ireland more than 30,000 people work in social work or social care settings. Of these 30,000⁸ more than 80% hold no relevant qualifications. Less than a third of the total workforce is employed in statutory social services, with the remainder being employed mainly in voluntary and private social care agencies and a few in the education sector. Whilst the social care workforce is expanding overall, the share of the total workforce employed in the public sector is declining due to: the expansion of independent sector social care agencies and the introduction of direct payments⁹ which enable people to purchase their own care; and the growing number of people buying their own care.
- 2.2. Currently two bodies are primarily responsible for the training and education of the social care workforce: The Central Council for Education and Training in Social Work (CCETSW) and The Training Organisation for the Personal Social Services (TOPSS).
- 2.3. CCETSW is an executive Non-Departmental Public Body¹⁰ (NDPB) responsible for promoting and approving education and training for social work and social care staff in the personal services throughout the UK. CCETSW's aim is to promote training in social care, by seeking to secure suitable training facilities and courses, and by attracting people to them.
- 2.4. CCETSW (NI) acts on behalf of the governing Council, in accordance with policies and procedures laid down by it, to develop and oversee the implementation of plans for the development of social work and social care education, training and qualifications within Northern Ireland.
- 2.5. The CCETSW (NI) Committee comprises up to 18 members (Annex 1) drawn from the key sectors involved in the education and training in social work, social care and probation services. Members are also drawn from those responsible for the provision and/or commissioning of these same three areas¹¹. In addition to these members, Northern Ireland representatives on the central Council (up to a maximum of 5) also sit on the CCETSW (NI) Committee.
- 2.6. In 1998 CCETSW was licensed by the Department for Education and Employment as the National Training Organisation (NTO) for Personal Social

⁷ NIA Bill 3/00 – Explanatory and Financial Memorandum – (The Stationary Office, 2000)

⁸ Within the statutory sector, systems are in place, which provide for relatively accurate information on the numbers of social care workers. The same does not appear to be true in the voluntary and private social care sector. A Workforce Analysis project is currently being undertaken by TOPSS NI to encourage the development of systems to monitor the social care workforce in order to facilitate workforce planning.

⁹ The Personal Social Services (Direct Payments) (Northern Ireland) Order 1996 permitted direct payments, in place of personal social services. Clients receive cash with which to buy for themselves the services they need - for example, a personal assistant or home help. The Personal Social Services (Direct Payments) (Amendment) Regulations (Northern Ireland) 2000 provided that persons to whom direct payments may be made under the Order may include persons aged 65 and over.

¹⁰ CCETSW is a statutory body established in 1972 and currently operating under the Health and Social Services Security Adjudications Act 1983.

¹¹ Whilst there is no statutory requirement in Northern Ireland for probation officers to hold a professional qualification, it is a matter of policy that the Probation Board for Northern Ireland requires applicants for Probation Officer posts to hold a professional social work qualification.

Services (TOPSS)¹². The mission for TOPSS is to improve the confidence of: *employers in the competence of their workforce, employees in their knowledge and skills and users in the quality of service provided.*

- 2.7. TOPSS is structured, through devolved policy setting committees which work together in a partnership basis, to reflect devolved constitutional arrangements. Membership of the TOPSS Northern Ireland Committee is drawn from the following groups: Employers (private, statutory, voluntary, and criminal justice sectors); Education and Training; Service Users; Carers; Professional Bodies; and Unions. Following consultation facilitated by CCETSW (NI), TOPSS (NI) published *A First Class Strategy* setting out its training strategy for the period 2000-2003¹³.
- 2.8. The following targets for improvements across the social care workforce in all sectors are contained within *A First Class Strategy*:
- ACHIEVEMENT OF AWARDS WITHIN ONE YEAR OF REGISTRATION FOR NVQ¹⁴ LEVEL II AND WITHIN TWO YEARS FOR LEVEL III;
 - forty per cent of currently unqualified social care staff across all sectors should hold vocational qualifications by the year 2003 (This target does not include domiciliary care staff¹⁵); and
 - increase intake levels to social work qualifying training to meet existing agreed intake targets.
- 2.9. Whilst doctors have the General Medical Council (GMC), nurses have the UK Central Council for Nursing Midwifery and Health Visiting (UKCC), and teachers have General Teaching Councils (GTCs) to register and regulate their professions there is currently no equivalent body for the social services.
- 2.10. The DHSSPS runs a pre-employment consultancy service (Annex 2) which includes a register of people who have been reported as being unsuitable to work with children and adults with a learning disability. The register at present contains 16 names and the DHSSPS intends to consult on the potential to build on this by putting the service on a statutory basis and broadening its scope¹⁶.

¹² The Government's Learning to Succeed White Paper (Cm 4392 - June 1999) defined a pivotal role for NTOs in ensuring that education and training deliver the skills needed by employers. The objective of every NTO is to improve current and future competitiveness by improving workforce competence. 75 NTOs have been recognised by the government to date, each representing an individual industry (such as construction or hospitality), or occupation that affects all sectors (such as information technology or management). NTOs cover the whole of the UK. They are owned and supported by employers and serve organisations of every size.

¹³ A First Class Service: the pursuit of competence and confidence in the social care workforce – Training Strategy 2000-2003 TOPSS (NI), April 2000

¹⁴ S/NVQs are work based vocational qualifications which reflect 'good practice' and are written by the relevant NTO. They are recognised across the United Kingdom.

¹⁵ The strategy states that, following consultation, recommendations on education and training targets for domiciliary staff should be made by 31/3/01

¹⁶ Part VII of the Care Standards Act 2000, which received Royal Assent on 20th July 2000, introduces provisions by which the Secretary of State will establish and operate, in relation to both England and Wales, a list of persons who are considered unsuitable to work with vulnerable adults. Providers of care services, including care homes, domiciliary care agencies and prescribed services within both the NHS and independent healthcare settings will be required to refer individuals for inclusion in the list.

PROPOSALS

2.11. THE NORTHERN IRELAND SOCIAL CARE COUNCIL (NISCC)

The central proposal contained within *Regulating The Social Services Workforce* is the establishment of a new statutory body to be called the Northern Ireland Social Care Council (NISCC). The statutory duties of the NISCC will be to promote high standards of conduct and practice among social care workers, and high standards in their training. The NISCC will do this by:

- establishing registers of particular groups in the workforce;
- publishing and promulgating codes of practice for all the workforce and complementary codes of practice for their employers;
- regulating the education and training of social services workers; and
- undertaking the functions of TOPSS (NI).

In order to carry out these functions, the NISCC will be empowered to:

- register, discipline, impose conditions (e.g. by requirements to retrain) or de-register individual members;
- set standards for education and training;
- recognise courses leading to professional social work qualifications;
- require employers to demonstrate that they meet requirements for employment, supervision and training of staff and secure the supply of employment based training arrangements for qualifying training;
- co-operate with related bodies within the UK and as appropriate, with related international bodies; and
- levy registration fees and charge for services.

2.12. STATUS AND MEMBERSHIP OF THE COUNCIL

The NISCC will be established as an executive non-departmental public body (NDPB – Annex 3) and will be under direction of DHSSPS.

It is proposed that, in addition to a Chair, the NISCC will be made up of between 20 and 24 members. Membership of the NISCC should be comprised:

- one third - lay people, users of service, carers and members of the public;
- one third - registrants; and
- one third - stake holders (e.g. employers, unions, professional associations).

Those who serve on the NISCC will do so in an individual capacity, and will not formally represent any particular constituency.

2.13. FUNDING

The DHSSPS will provide initial funds, which will include the present provision of almost £500,000 to CCETSW, to establish the NISCC. The cost of regulating the workforce will be made up from annual fees paid by registrants. It is proposed that a sliding scale of fees will take account of different pay scales and registration categories and that such fees will produce an annual income of at least £300,000.¹⁷

2.14. ESTABLISHING REGISTERS

The NICSS will establish a qualifications based register which covers all social care workers, not just the 20 percent of the social care workforce who at present have professional qualifications. It is intended, however, that registration will begin with all people with a professional social work qualification¹⁸ (Annex 4). Other groups of staff, which will be included on the main register in the first instance, will be:

- all people carrying out a designated social worker post in any sector;
- team leaders and all care staff in residential child care; and
- all heads of residential homes and day care not registered with other professional regulatory bodies.

A transitional section to the register will also be opened, within a timetable to be set by Government, for staff without qualifications and students undergoing professional training courses. These groups will be required to register on the transitional section of the register on the basis of having signed up to codes of practice. A time limit will be set for achieving the appropriate qualification for their particular job and, on achieving this, they will be transferred to the main register.

2.15. RE-REGISTRATION

The Council will have an important role in promoting continued development of the workforce. Individual workers have a responsibility to make sure that their knowledge and skills are fully up to date and based on current evidence of standards of best practice. There will, therefore, be a requirement for periodic re-registration linked to evidence of continuing professional development.

¹⁷ NI Assembly Official Report (Hansard) 23 Oct 2000 pp 429-440

¹⁸ Social work training at professional qualifying level in Northern Ireland is the Diploma in Social Work (DipSW). This is the qualification for social workers in all settings (residential, field, day, domiciliary, health care, education, and criminal justice) and sectors (statutory, voluntary and private). The DipSW is a UK qualification and requirements for programmes leading to the DipSW in England, Scotland, Wales and Northern Ireland are substantially the same, but take account of differences in legislation, language, and the ways that services are provided.

2.16. DE-REGISTRATION

The Council will have powers to suspend, vary or remove registration when individuals are unfit to practice on grounds of misconduct, bad practice, negligence, abuse or ill-health. The proposals indicate that there will be powers for urgent suspension from the register in serious cases prior to a full hearing of the issues. The Council will be expected to do these jobs in ways that are 'robust and efficient, recognise the responsibilities of employers and meet the requirements of natural justice'.

2.17. CLOSING OF REGISTER

It is proposed that following consultation with the NICSS the DHSSPS may close a part of the register. It is not envisaged that the part being closed would at any time be a part to which people would be seeking access. The power will allow the NISCC to take account, over time, of the changing patterns of service provision¹⁹.

2.18. JOB RESERVATION

In some professions or occupational groups it is common practice for restrictions to apply which allow only registered staff to carry out certain work. For instance, only a nurse registered with the UKCC may work as a nurse in the NHS. Some existing jobs within the social care sector are currently reserved in Northern Ireland by statute (Mental Health Approved Social Workers) or by departmental circular (social worker posts, including team leaders in residential childcare). The proposals state that *'It is intended to retain such job reservation as is currently in place and to extend this when it is considered appropriate. This will allow highly specialised areas of practice involving the use of statutory powers, such as those for children's services, to be undertaken only by social work practitioners with specified training and qualifications'*.

2.19. PROTECTION OF TITLE

Allied to the proposal on job reservation, it is proposed that it will be a criminal offence to use the title of social worker when one is not registered as a social worker or to imply that one is registered as a social worker when this is not the case.

2.20. CODES OF CONDUCT AND PRACTICE

The NISCC will be required to draw up codes covering the standards of conduct and practice expected of both social care workers and employers. The Office of Public Management (OPM) has been commissioned to develop draft codes of practice on behalf of the four Care Councils in the UK.

¹⁹ NI Assembly Official Report (Hansard) 23 Oct 2000 pp 429-440

Responsibility for ensuring that such codes are fully implemented will lie with employers and codes will be enforced through registration and inspection arrangements.

2.21. REGULATION OF EDUCATION AND TRAINING

It is proposed that CCETSW be abolished and that the NISCC will take over the regulation of basic and post qualifying social work training²⁰. It is also intended that, following the abolition of CCETSW, TOPSS NI will cease to function. The NISCC will, therefore, be responsible for the development and promotion of training for the social care workforce. It is intended that this arrangement will *'ensure productive links between the NTO functions (development of occupational standards, workforce training strategies) and the regulatory functions of the Council (codes of practice, standards for practice and training, qualifications in social work and the social care/social work registers)'*.

²⁰ The Health and Personal Social Services Bill (NIA Bill3/00) provides for a shadow body for the Council in the period until it can be formally established.

3. HPSS BILL PART I - SOCIAL CARE WORKERS

- The Bill sets up the Northern Ireland Social Care Council (NISCC) whose duty it will be to promote high standards of conduct and practice among social care workers and high standards in their training. The Council has to exercise its functions in accordance with directions given in writing by the Department of Health Social Services and Public Safety (DHSSPS). (Clause 1)
- The constitution of the NISCC is set out in Schedule 1.
- Social care workers are defined to include social workers, people employed in children's homes and adults care homes and people supplied by a domiciliary care agency to provide personal care for people in their own homes. *The Bill makes provision for Regulations to add to the categories of people who are to be considered as social care workers.* (Clause 2)
- The NISCC is required to maintain a register of social workers and of any other category of social care worker specified by order by the DHSSPS. There are to be different parts of the register for different categories of social care workers. The DHSSPS is given power to close a specified part of the Register. The DHSSPS must consult the NISCC before making, varying or revoking one of these orders. (Clause 3)
- Applications to the NISCC must be made in accordance with rules made by it. (Clause 4).
- The NISCC must grant the application (conditionally or unconditionally) if it is satisfied that the applicant is of good character, physically and mentally fit to perform all or part of the relevant work, and satisfies certain conditions. In the case of a social worker, these are specified in the Bill and include, for example, having successfully completed a relevant course of training. In the case of others, they must satisfy such training conditions as the NISCC may by rules impose. The NISCC can also impose rules about requirements as to conduct and competence.(Clause 5)
- The NISCC is required to draw up rules relating to de-registration and re-registration (Clause 6) and may make rules relating to the registration procedure and maintenance of the register. (Clause 7)
- Using the title 'social worker' without being registered or implying that one is so registered, with intent to deceive, is a criminal offence carrying a fine not exceeding level 5 on the standard scale²¹. The DHSSPS may make regulations for it to be mandatory for those filling certain positions of employment to be registered with the NISCC (Clause 8)
- The NISCC is required to prepare (and keep under review) codes of practice relating to standards of conduct and practice for social care workers and employers of such staff. The Bill sets out provisions relating to the codes, including a requirement placed on a public body to take into account, unless

²¹ The current penalty for a fine not exceeding level 5 on the standard scale is £5,000

otherwise directed by the DHSSPS, the code when deciding about the conduct of a social care worker. (Clause 9)

- Taking over functions currently carried out by CCETSW, the NISCC may approve courses in relevant social work. This must be done in accordance with rules made by the NISCC. The Bill lists a number of matters on which rules may make provision, such as the content of a course and the number of people who may participate on it. (Clause 10)
- The Bill makes provision for recognition of qualifications gained in countries outside Northern Ireland. As each of the UK countries will have its own regulatory body, this clause applies to qualifications gained in England, Scotland and Wales as well as those gained in other EEA States and in other parts of the world. (Clause 11)
- NISCC may make rules requiring post registration training (Clause 12);
- In order to enable the NISCC to carry out its functions in relation to the approval and monitoring of individual training courses, the NISCC will need to be able to visit and report on places delivering training. The NISCC may make provision for visiting social work courses and for appointing 'visitors' to act on its behalf in this respect. (Clause 13)
- Certain functions of the DHSSPS can be delegated to the NISCC or the DHSSPS may authorise any person to exercise its functions. Subsections (1), (2) and (3) establish the promotion of social care training as a function of the DHSSPS. The DHSSPS is required to encourage people to take part in courses approved by the NISCC and where it appears to the DHSSPS that training provision is not adequate, it may provide or secure the provision, of a relevant course. This function was previously carried out by CCETSW. The DHSSPS is given power to make grants, pay travelling expenses and other allowances. (Clause 14)
- Appeals against decisions of the NISCC are to the Social Care Tribunal (formerly the Registered Homes Tribunal) established under the Registered Homes (Northern Ireland) Order 1992. (Clause 15)
- The NISCC must publish the register and provide copies or extract on request, on payment of such fee as it may determine or free whenever it considers that appropriate. (Clause 16)
- The Central Council for Education and Training in Social Work (CCETSW) will cease to exercise its functions in relation to Northern Ireland. (Clause 17)
- The NISCC is permitted to make rules in respect of reasonable charges for its services. In particular, fees may be charged in connection with registration, course approval, the provision of training, and the provision of codes of practice or copies from the register. (Clause 18)
- If the DHSSPS feels that NISCC has failed to either discharge any of its functions or comply with directions or guidance given to it, then the DHSSPS has a two-fold default: it can first order NISCC to take action within a specified timeframe. If NISCC fails to act the DHSSPS can then use its second default power whereby it can carry out the functions itself or nominate a person/organisation to discharge the function on its behalf. (Clause 19)

- Clauses 20, 21 and 22 provide interpretation for terms used within the Bill: children's home; residential care home; nursing home; child; day care setting; domiciliary care agency; personal care; residential family centre; school; and undertaking.

4. KEY ISSUES

A number of key issues surrounding regulation of the social care workforce proposals are evident from: (1) examination of the parliamentary debate in Westminster surrounding passage of the Care Standards Act 2000; (2) consideration of open documents relating to modernising proposals; and (3) examination of the Bill itself.

4.1. STATUS OF COUNCIL

Like CCETSW, it is proposed that the NISCC will operate as an executive NDPB. Consistent with its proposed status as an executive NDPB, the DHSSPS will be able to issue the NISCC with directions, should it prove necessary. Other bodies to which reference was made by the UK government in setting out its proposals for regulation of the social care workforce, namely the GMC, the UKCC, and GTC are self regulatory bodies.

4.2. MEMBERSHIP OF SOCIAL CARE COUNCIL

The UK government's proposed 'third way' for social care was intended to '*move the focus away from who provides the care, and places it firmly on the quality of the services experienced by individuals their carers and families*' and this was reflected in proposals relating to membership of the General Social Care Council. In *Modernising Social Services*, it was proposed that there be majority lay membership of the General Social Care Council and that a lay member be appointed as Chair. The current proposals for the NISCC do not provide for lay members being the majority but do provide for one third lay membership. This may affect the confidence which professions have in the body.

In relation to user representation on the NISCC, the issue of how those who are 'involuntary' users of services (e.g. services relating to child protection, mental health, social protection) will be represented has also been raised²². This issue is of particular relevance in Northern Ireland, where the social care workforce includes staff providing services in the criminal justice system.

4.3. DEFINITION OF SOCIAL CARE WORKERS

There was a significant amount of debate at the committee stage of the Care Standards Act 2000²³ on the most appropriate definition of the term social care worker. In drawing up the definition used in the Care Standards Act (which is essentially that employed in the Bill) the UK Government's stated aim was to:

'...have the necessary tools to do the job properly to draw the line in the right place, not to exclude people who should not be brought within the

²² The British Association of Social Workers (Scotland) response to consultation paper on Modernising Social Work available at <http://www.basw.co.uk/scotland/policy/regcoun.htm>

²³ House of Lords Standing Committee G 22nd June 2000

scope of the GSCC and to keep outside those for whom inclusion would serve no purpose’.

Any definition had, therefore, to go beyond those providing personal care and to include managers and support staff but to exclude those such as cleaners and technicians who, whilst working in care settings, did not provide personal care.

The Bill states that that the term personal care has the same meaning as in the Registered Homes (Northern Ireland) Order 1992.

Article 3(4) of the Registered Homes Order states:

‘In this order personal care includes the provision of appropriate assistance in counteracting or alleviating the effects of any of the matters mentioned in paragraph (1)(a) to (d) and, in particular, includes –

- (a) action taken to promote rehabilitation*
- (b) assistance with physical or social needs; and*
- (c) counselling.’*

Matters referred to in paragraph 1 are: (a) old age and infirmity; (b) disablement; (c) past or present dependence on alcohol or drugs; and (d) past or present mental disorder.

During debate on the definition of social care workers, the status of voluntary workers was raised and the Government set out its position in the following way:

‘The essential issue is what the volunteer is doing. If the volunteer is providing services that could constitute personal care, in the way that we understand that term, it is right that in principle, such a worker should fall under the remit of the General Social Care Council. I am not saying that we would want volunteers to register with the General Social Care Council, because that is not the point. The point is that we would want volunteers to be covered by the codes of practices that the General Social Care Council will develop because that will ultimately provide the necessary public safeguards and standards’²⁴.

4.4. REGISTRATION

No time scale has been set out for registration of the social care workforce. However, proposals for a transitional register for those who are unqualified should mean that a large proportion of the workforce would be bound by codes of practice. Moving from the transitional to the full register would appear to depend on three conditions being met: a suitable form of training exists; an education/training supply side is capable of delivering that training; a large enough proportion of the people in the group concerned have completed the training to make the register viable. At present no target exists

²⁴ House of Lords Standing Committee G 22nd June 2000

for the training of domiciliary care workers, as the TOPSS NI training strategy aims only to set training targets for this group of workers by March 2001.

One group of social care workers which would appear to meet the requirements for full registration, but which have not been prioritised for inclusion on the register, are Counsellors. The United Kingdom Register of Counsellors (UKRC) is part of the British Association for Counselling (BAC)²⁵ and is open to such classes of person, organisation and association approved by the BAC Management Committee. Registered Practitioners (registrants) have attained a standard of training, competence and experience in counselling as advised by the UKRC and agreed by BAC Management Committee.

4.5. MANDATORY REGISTRATION

Representatives of the social work profession have argued that registration should be a mandatory requirement for all those practising in social work and social care.²⁶ The Bill does not make registration mandatory but allows the DHSSPS to make regulations, which would prohibit persons from working in certain positions unless they are registered with the NISCC.

4.6. RELATIONSHIP WITH OTHER BODIES

CCETSW was a UK wide body and the UK Governments original proposals were for a UK wide Social Care Council. Whilst for the purposes of enforcement registers maintained in England, Wales, and Scotland shall be taken as relevant registers, there is no specific duty on the Councils to work together. The Department may, however, specify how the Council should carry out its functions.

The relationship between the Council and other bodies, such as the NTO Healthcare UK or the UKCC²⁷ are not specified in the Bill. It is unclear, therefore, how those social care workers who were already registered by and accountable to other regulatory bodies will be dealt with by the DHSSPS and NISCC.

4.7. RESTRICTIONS ON ACCESS TO THE REGISTER

The Bill gives the DHSSPS direct and the NISCC indirect powers to restrict access to the register.

The DHSSPS has the power to close a part of a register so that no further persons can be included in it. However, the Minister for Health, Social

²⁵ <http://www.bac.co.uk>

²⁶ <http://www.basw.co.uk/scotland/policy/regcoun.htm>

²⁷ The UK government is currently consulting on proposals, based on recommendations from an independent review, to replace the UKCC and four National Boards with a new Nursing and Midwifery Council.

Services and Public Safety has indicated²⁸ that a register will only be closed if there is no longer any demand to be admitted to it.

Having responsibility for the approval of courses for those who are or wish to become social workers, the NISCC will have the power to make rules which will determine the numbers of persons who may participate in courses. At present the number of Northern Ireland registrations for Diploma in Social Work (DipSW) courses are below the maximum intakes agreed with the DHSSPS. In order to meet its statutory responsibility to attract persons to courses and to increase the number of candidates applying to DipSW programmes, CCETSW has recently undertaken a publicity campaign.

4.8. PROTECTION OF TITLE

It will be a criminal offence to call oneself a social worker with the intent to deceive when one is not registered or to use a title to suggest that one is registered as a social worker when this is not the case. However, the same is not true of the title social care worker, and it has been argued that the distinction between a social care worker and a social worker might not be easily understood. In rejecting the argument for the title social care worker to be treated in the same way as social worker, it was argued during debate on the Care Standards Act 2000 that:

*'One of the most important purposes in this context is to give proper recognition to the professionalism and expertise that has been developed in the social work profession.'*²⁹

4.9. NORTH/SOUTH AND EAST/WEST CONSIDERATIONS

The explanatory note which accompanies the Bill states that no adverse impact on relations, co-operation or common action on a North/South or East/West basis is indicated in relation to the bill. However, having responsibility for approving courses in social work, the NISCC will have the opportunity to address the issue of mobility of social workers between Northern Ireland and the Republic of Ireland. A comparative research project³⁰ carried out jointly by CCETSW NI and its counterpart in the Republic of Ireland the National Social Work Qualifications Board (NSWQB) stated that *'...differences between the DipSW (NI) and the NQSW³¹ (RoI) have impacted on cross-border employment opportunities for social workers and have raised issues within the context of professional mobility in the European Union (EU)'*. EU directives 89/48 & 92/51 provide the regulatory frameworks of mobility of workers within the European Union. The 89/48/EEC *'Council Directive of 21 December 1988 on a general system for the recognition of higher-education diplomas awarded on completion of professional education and training of at*

²⁸ NI Assembly Official Report (Hansard) 23 Oct 2000 pp 429-440

²⁹ House of Lords - Standing Committee G 13th Sitting 22nd June 2000.

³⁰ Comparative Analysis of Social Work Qualifications in Northern Ireland and the Republic of Ireland (CCETSW NI & NSWQB).

³¹ National Qualification in Social Work.

least three years duration', provides a regulatory framework for professional mobility within the European Union. Social work in the UK falls outside this Directive as the DipSW is a two-year programme³², although it is set at the level of a diploma in higher education.

4.10. EQUALITY OF OPPORTUNITY

The explanatory note which accompanies the Bill states *that 'The impact of the Bill on equality of opportunity between those groups listed in section 75 of the Northern Ireland Act 1998 has been considered, and no adverse or differential effects were identified'*.

However, as sections of the social care workforce, such as those providing domiciliary care, are likely to be occupied predominantly by female workers, requirement to register or to pay fees may have a differential and potentially adverse impact on women.

³² The Review of the Diploma in Social Work: Report on the content of the DipSW conducted as part of the Stage Two Review of CCETSW (J M Consulting Ltd – March 1999) recommended that the education outcomes required for registration as a professional social worker should be revised. The curriculum should be significantly expanded and would normally require a student with no prior experience or learning to complete the equivalent of three years in higher education. The third year might be employment based for some students but the programme would be of degree level. (report available at <http://www.doh.gov.uk/scg/qualitystrategy.htm>)

ANNEX 1 – MEMBERSHIP OF CCETSW NI

CCETSW Northern Ireland Committee Membership October 2000

Sector	No Of Nominations	Nominating Organisation	Nominee	Job Title	Organisation
Chair CCETSW	1 (ex officio)	Chair CCETSW Council	Ms Ziggi Alexander		
Chair	1	CCETSW Council Member	Mr Roy Blair	Director of Social Services	SHSSB
Council Member	1	CCETSW Council Member	Mrs Eleanor Taggart	Assistant Director Adult Services	Home First Community Trust
Unions / Professional Associations	5	1 – NI Public Service Alliance	Mr Ricki Reid	Social Worker	EHSSB
		1 – British Association of Social Workers	Mr Ian Montgomery	Principal Social Worker	SHSSB
		1 – National Board for Nursing, Midwifery & Health Visiting (NI)	Prof. Jennifer Boore	Co-ordinator for Academic Affairs in Nursing	University of Ulster
		1 – Social Care Association (in lieu of)	Mr Raman Kapur	Director	Threshold
		1 – Association of Directors of Social Services (NI)	Mrs Mary Wilmont	Director of Social Services	NHSSB
Partnerships	3	1 – Diploma in Social Work Partnerships	Mr David Vance	Assistant Director of Social Services	EHSSB
		1 – NI Post Qualifying Education and Training Partnership	Prof. David Bamford	Professor of Social Work	University of Ulster
		1 – NVQ Interests	Mr Brian Clarke	Training Manager	Young Help Trust
Purchasers	2	1 – Health & Social Services Boards	Mr Brendan Johnston	Assistant Director of Social Services (Training)	WHSSB
		1 – Education and Library Boards	Ms Alex Barr	Chief Education Welfare Officer	SELB
Employers / Providers	5	1 – Probation Board for NI / Training	Mrs Elaine Peel (to	Assistant Chief Probation	PBNI

		Schools / Voluntary Agencies in the Criminal Justice Sector	31.10.00)	Officer	
		1 – Private Sector	Mr Mervyn Duncan	Managing Director	Mantlin Care
		1 – Voluntary Sector	Mr Rainer Pagel	Deputy Director	NICVA
		2 – Trust / Directly Managed Units	Mr Jim Loughrey	Director of Child & community Care / Executive Director of Social Work	Causeway HSS Trust
			Ms Jan Maconachie	Assistant Director of Social Services (Training)	NHSSB
Other Education and Training Interests	3		Mrs Siobhan Bogues	Co-ordinator	Voluntary Organisations Forum

ANNEX 2 - THE PRE- EMPLOYMENT CONSULTANCY SERVICE (PECS)

1. The Pre-Employment Consultancy Service (PECS) was established in 1981. This followed the enquiry into Children's Homes and Hostels occasioned by cases of abuse at Kincora Boy's Hostel. Under PECS prospective employers can check the suitability of those applying to work with children, or adults with a learning disability. PECS is operated by the DHSSPS. On the basis of information provided about those seeking to work with children or with adults with a learning disability, checks are carried out against the following:
 - (a) Criminal records: Statutory bodies wishing to obtain police clearance apply directly to the RUC for a criminal record check. Voluntary organisations apply to DHSSPS and the request for a criminal record check is passed to the RUC by the Department. Where the information on the person seeking employment indicates a previous address in Great Britain or the Irish Republic, the RUC will liaise with their opposite numbers and will include details of convictions in the other jurisdictions.
 - (b) PECS Register: The PECS Register is maintained by the DHSSPS. It is compiled from information provided by voluntary and statutory organisations in relation to workers (paid employees and volunteers) who have been dismissed, transferred to other work, or who have resigned in circumstances where it is considered that they posed a risk to children or adults with learning disabilities.
 - (c) The Department of Health Consultancy Index: This is the broad equivalent to our PECS Register in England and Wales.
 - (d) List 99: This is the Department for Education and Employment's list of those banned by the Secretary of State from working in schools.
2. There is no statutory basis for the PECS Register. Referrals for names to be included come from employers including voluntary organisations and HSS Trusts. They are expected to refer only serious matters that suggest the person is fundamentally unsuitable for work with children or adults with a learning disability. Guidance for using the service is contained in a Departmental publication entitled "Making the Right Choice" and training is provided for voluntary organisations by the Northern Ireland Volunteer Development Agency. Referrals and requests for checks may only be made by approved organisations to avoid misuse of the system.
3. The decision to add a person's name to the PECS Register is made by the Department in consultation with the Social Services Inspectorate. Any person referred is told about the referral and given an opportunity to make representations to the Department as to why his or her name should not be added to the Register. Where a decision is made to add a person's name to the Register, he or she is informed.
4. Where a check is carried out and the person's name is found to be on the Register, the prospective employer is advised to obtain a reference from the organisation, which made the referral to the Register. No information is provided by the Department about the reason for an inclusion on the Register. It is left to the prospective employer to consult with the organisation, which made the referral, and to decide whether to employ the person. Organisations requesting

PECS checks are also provided with the criminal record (if any) of the person concerned and are informed if his or her name appears on the Department of Health Consultancy Index or List 99. It is important to note that the PECS system does not prohibit a person from working with children or adults with a learning disability. The decision to employ an applicant remains a matter for the prospective employer.

5. At present there are only 16 names on the PECs register.

ANNEX 3 - NON-DEPARTMENTAL PUBLIC BODIES (NDPBs)

A Non Departmental Public Body (NDPB) or "quango" is officially defined as a body which has a role in the processes of national Government, but is not a government department or part of one, and which accordingly operates to a greater or lesser extent at arm's length from Ministers. More simply, this means a national or regional public body, operating independently of Ministers, but for which Ministers are ultimately responsible.

NDPBs operating in devolved areas in Scotland, Wales and Northern Ireland are the responsibility of the [Scottish Executive](#), the [National Assembly for Wales](#) and the [Northern Ireland Executive](#). NDPBs operating in non-devolved areas remain the responsibility of the UK Government. Details on all NDPBs currently operating within the UK are available from the Cabinet Office's [quango directory](#).

The Government is committed to keeping the number of quangos to an absolute minimum and to ensuring that those which remain are open, accountable and effective. As such, Public bodies should have in place appropriate codes of conduct for board members. These codes will set out the standards expected from those holding public office and will make provision for handling any conflicts of interest. They will also require registers of interests to be maintained and made publicly available. Similar codes should be in place for staff. Copies of individual codes can be obtained direct from the relevant public body. However, most bodies' codes will be based on model codes issued by the Cabinet Office (and, for NHS bodies, by the Department of Health).

These model codes are listed below:

[Code of Conduct and Code of Accountability for NHS Board Members](#)

[Guidance on Codes of Practice for Board Members of Public Bodies](#)

[Model Code for Staff of Executive Non-Departmental Public Bodies](#)

[Model Code of Practice for Board Members of Advisory Non-Department Public Bodies](#)

[Model Code of Practice for Board Members of Advisory Non-Department Public Bodies](#)

There are currently just over 1,000 quangos in the UK, with 29 executive bodies in N.I. During the 1998/99 financial year, total quango expenditure accounted for around £23,500 million. Of this, approximately £18,500 million was funded by the Government. There are currently around 35,000 people - drawn from a wide variety of backgrounds - who serve on the boards of quangos. All public bodies are expected to be open, accountable and effective. All those who serve on the boards of public bodies - or are employed in the public sector - are expected to adhere to the highest personal and professional standards.

ANNEX 4 - PROFESSIONAL SOCIAL WORK TRAINING

Diploma in Social Work (DipSW)

The DipSW is the professional qualification for all social workers in the UK and for probation officers in Northern Ireland. The DipSW is a *professional* qualification and it is always linked to an *academic* qualification. DipSW programmes are based at over 200 universities and college of higher education throughout the UK and last for a minimum of two years. DipSW programmes are available on full-time, part-time and distance leaning routes and involve a combination of academic learning and practice placement in social work settings.

Admission requirements

Mature Applicants who are over 21 do not always need formal academic qualifications, but the selection panels for the DipSW programmes expect applicants to demonstrate their ability to study at higher education level, probably by evidence of recent study or a written test. (Applicants might do a part-time or evening course such as an `A` Level, advanced GNVQ/GSVQ or NVQ/SVQ Level 3 in care, the Open University Foundation module or an access to social work course to improve skills and confidence before submitting an application).

Applicants who have a degree or hold a qualification which is considered to be equivalent to a degree, are eligible to apply to a postgraduate route.

Applicants aged under 21 on the date a DipSW programme starts must hold either:

- 2 A Levels and 3 GCSEs; or
- 5 passes for the Scottish Certificate in Education including 3 at Higher Level; or any other educational, professional or vocational qualifications (e.g. NVQ/SVQ Level 3, GNVQ/GSVQ Level 3) considered by CCETSW to be equivalent.

Experience

Most DipSW programmes require applicants to have some relevant work experience in social work or social care, which can be either paid or voluntary. Selection panels will consider an applicant's suitability for and commitment to social work.