



Inquiry into regulation of care for older people:

Response to the Call for Written Evidence from the Scottish Parliament Health & Sport Committee

The UNISON Scotland Submission to the Scottish Parliament's Health & Sport Committee

August 2011

Introduction

UNISON Scotland welcomes the opportunity to respond to the call for evidence from the Health & Sport Committee regarding the Inquiry into Regulation of Care for Older People. UNISON Scotland has over 160,000 members, over 90,000 of whom work in local government and 50,000 in the health service. UNISON also represents members who previously worked for the Care Commission, now Social Care and Social Work Improvement Scotland (SCSWIS) and for Health Improvement Scotland (HIS).

General Comments

UNISON Scotland believes a major mistake in the provision care of the elderly was to allow profit to be part of service provision. The UK Government's NHS and Community Care Act 1990 allowed private service provision into the system and while there has been some overall improvement in standards of care, when it goes wrong it goes badly wrong. Private providers have an eye to profit and this means cutting costs where they can. Staff wages and training or food costs, costs of outings and activities, etc., are all aspects of care which can be affected. What usually follows is a decline in standards of care and residents suffering. It must be remembered that the new bodies are intended to improve standards, not just maintain them.

Questions:

- **Can we be confident that the regulatory system is picking up on care services where the quality of care is poor?**

UNISON believes that a major flaw in the current system of regulation is that it does not allow any checks to be made about an organisation's financial probity or behaviour. This lack of scrutiny has, for example, allowed the current situation with Southern Cross and other companies to occur. Southern Cross used a controversial lease-back business model, whereby it sold off its homes to private equity companies and then leased them back. The company could meet the ever-increasing rents when there was high demand for places in its homes, but when local authority demand for places diminished, due to cut-backs in their funding, Southern Cross could not continue to meet their liabilities.

The need to continue making profits can adversely affect the quality of the service delivered to service users, e.g. by food quality declining or there being no trips out of the home for residents. Some voluntary and private organisations provide excellent services but some not so. The difference seems to be in motivation. Many care providers seem only to want to increase profits, which does not allow them to provide an acceptable service. There is a need to increase the enforcement of proper standards on company behaviour but this will inevitably mean an increase in resources to monitor activity. In the current climate of public sector cutbacks, we believe this is unlikely to happen.

The decline in the standard of care has also been highlighted through the scandal at the Winterbourne View care home in Bristol, run by Castlebeck. This has led the English Care Quality Commission to call for stronger enforcement measures, such as unannounced, more frequent inspections.

UNISON has concerns that the inspection regime is too centred on paperwork, and that often the inspectors cannot see beyond this, i.e. if a box is ticked, it must have happened. The experience of some of our members does not always bear this out as

we have had reports that often basic nursing care is not being carried out, but that the paperwork states differently.

- **Are there any particular weaknesses in the current system?**

We believe that the decision to move to a risk based approach has left some services unlikely to be checked as regularly as they were previously. The removal of the duty to inspect twice a year means that some services will go some time without any objective examination of the service. These services will ostensibly be the well-run establishments, but a service can go downhill very rapidly particularly where there has been a change of manager and these changes could adversely affect the lives of vulnerable people. SCSWIS has a grading system in place so services that score highly are assumed to be working well (in the absence of complaints) and will therefore receive less attention. Older people in residential care are particularly vulnerable to change as most of them are frailer than would previously have been the case given the move to maintaining people in their own home as long as possible. Keeping people at home for as long as possible is a good policy, but it does mean that those arriving in care are weaker, more confused and consequently more vulnerable to changes in their environment and quality of care. It follows that we are now more likely to have things go wrong very quickly and if there is no visit to a service for some time then bad practice (and therefore bad care) can very quickly become the norm.

UNISON also has concerns at the lack of regulation of private care agencies which provide cleaning, meal preparation and other domestic chores, short of personal care. It appears that agencies such as these do not have to be registered with SCSWIS, although the service users can be vulnerable to abuse, theft, etc.

We also believe that some private homes do not take whistleblowers' concerns seriously. If staff members complain about issues, they can be branded as trouble-makers, as was the case at Winterbourne. In addition, if a visiting health professional, for example makes a complaint to the relevant inspection body their name will be published in any report to the establishment complained of, thus jeopardising their future relationship with the home and acting as a disincentive to report further incidents.

UNISON also believes that the inspection regime should consider staff involvement, training and pay and conditions, as this is necessary to improve the standard of care provided for service users.

- **Does the system adequately take into account the views of service users?**

The current system allows for service users and carers to be consulted. However the pressure on budgets means time spent by inspectors is becoming more limited. To fully consult service users and their families requires more time than is currently possible. We have some anecdotal reports of inspectors using their own time to complete and write up reports to their own satisfaction. This could however, be seen as an effect of the perceived insecurities in the workforce that have been created and exacerbated by the constant changes introduced by the Care Commission, now SCSWIS. Inspectors need time to be able to take on users and carers' views. Often, only a sample of the care given can be assessed in a home. Budget reductions are likely to prevent inspectors being able to fully take their views into account. We are also not convinced that all providers act upon the views of users and carers. There are many examples of carers complaining to the Care Commission about services because the provider has not properly addressed the concerns raised. Some

services users and carers just tend to give up when they meet intransigence and obstruction.

In addition, it has to be understood that the inspection regime looks at individual services provided, not what happens to individual service users to find out whether they are being offered the most appropriate care at home or in a residential home.

Whilst some views of services users are taken into account, they frequently do not realise their rights to have a higher standard of care than they actually receive or to make choices about which services they use. People usually go where they are told to and exert little choice over where their care is provided. This could contravene equality and human rights legislation.

It is also difficult to gather the view of those with communication difficulties, such as dementia. The time given for inspections does not always allow inspectors to have meaningful dialogue with many vulnerable people. Proper assessment is not as simple as asking the right questions, ticking the boxes and moving on.

Visiting professionals also report that some families of service users are afraid to complain in case their family member faces reprisals. Our members report that some family members do not have confidence that the system can deal with their complaints in a confidential manner as again, they do not want to be seen as causing trouble.

- **Does the registration and regulatory system provide an appropriate basis for the regulation, inspection and enforcement of integrated social and NHS care in the community?**

The current system gives us a base with the reservation that there is no way to control or monitor company behaviour. The system is focussed on care delivery but the performance/integrity/legitimacy of organisational behaviour is not assessed. This has been evident from some of the obstructive behaviour that some companies have engaged in when the regulator was trying to monitor them, e.g. complaining about the inspector when a report was not to their liking.

There is crossover in terms of Board membership between SCSWIS and HIS and there has been some joint work in terms of trying to have similar complaints handling processes but we are not sure that the approaches to the job will always be similar.

Regulators should have a place in ensuring that delayed discharges do not occur and that they are carried out in a planned way with the relevant services in place at home.

Conclusion

UNISON welcomes the opportunity to respond to this call for evidence. We believe that proper regulation is the key to improved care services for the elderly. However, as stated above, this must be adequately funded to allow inspections to be carried out using as much time and resources as is necessary to gain a full picture of the care being provided, and must not be merely a tick-box exercise.

In addition, UNISON also believes that the inspection regime should consider staff involvement, training and pay and conditions, as this is necessary to improve the standard of care provided for service users.

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