EDUCATION, CULTURE AND SPORT COMMITTEE

AGENDA

4th Meeting, 2001(Session 1)

Tuesday 30 January 2001

The Committee will meet at 2.30 pm in Committee Room 3

1. **Items to be taken in private:** The Committee will consider whether to take items 4 and 5 in private.

2. **Regulation of Care (Scotland) Bill-Stage 1:** The Committee will take evidence at Stage 1, on the general principles of the Bill, from—

   Who Cares, Scotland

   National Foster Care Association

   Scottish Pre-school Play Association

   Scottish Throughcare and Aftercare Forum

3. **Subordinate Legislation:** The Committee will consider the following negative instrument—

   The Teachers’ Superannuation (Additional Voluntary Contributions) (Scotland) Amendment Regulations 2000 (SSI 2000/444)

4. **SEN Inquiry:** The Committee will consider a final draft report.

5. **Regulation of Care (Scotland) Bill-Stage 1:** The Committee will consider issues arising from the evidence taken to date for a draft report to the Health and Community Care Committee.

Martin Verity  
Clerk to the Committee  
Room 2.7 Committee Chambers  
Ext. 85204  
Email martin.verity@scottish.parliament.uk

The following papers are attached for this meeting—  

Evidence from National Foster Care Association
(Agenda item 2)

Evidence from Scottish Pre-school Play Association  ED/01/4/2
(Agenda item 2)

Evidence from Scottish Throughcare and Aftercare Forum  ED/01/4/3
(Agenda item 2)

Clerk’s note on SSI 2000/444  ED/01/4/4
(Agenda item 3)

Regulation of Care (Scotland) Bill-Emerging Issues (Private paper)  ED/01/4/5(P)
(Agenda item 5)
Regulation of Care (Scotland) Bill

Introduction:

The National Foster Care Association exists to ensure that all children and young people who are fostered receive the highest standards of care.

AIMS

To define high standards of foster care.

To assist local authorities, agencies and individuals to work effectively in the best interests of fostered children.

To inform, influence and persuade policy-makers.

To improve public understanding of foster care.

The National Foster Care Association is a non-profit making organisation. It is membership based. Members are the adults concerned with children in care - foster carers, local foster care associations, local authorities and voluntary organisations - but it is the children who are the primary focus of the Association’s work.

NFCA is not a foster carer trade union. Its name was carefully chosen to reflect the bringing together of everyone interested in promoting high quality foster care for children and young people. We believe that only by carers, social workers, their managers, and other professionals working together will the service for children improve.
NFCA operates across the whole of the UK. We are currently reviewing our services in Scotland in the light of the Scottish Parliament and resources available. Similarly, we need to consider future developments for Wales. NFCA's influence spreads even further. NFCA material is regularly sold to Australia, New Zealand, Canada, USA, Holland, Norway, Sweden, Belgium, Germany, Finland, France, Eire, Japan, Channel Islands, Malta and Spain. The organisation is helping many developing countries to provide a better foster care service. The current Executive Director is president of the International Foster Care Organisation (IFCO).

NFCA is committed to the development of a partnership between foster carers, statutory, voluntary and independent agencies and, most importantly, families needing care for their children. We believe that the greater the involvement of children and young people, parents, foster carers and other relevant professionals in social workers' plans, the more likely it is that children and young people will have a satisfactory experience in foster homes.

In Scotland there are approximately 3,500 children and young people who are looked after by local authorities. The numbers fostered vary considerably between local authorities, ranging between 60% and 70%. These children are looked after for many different reasons. Some because they have been harmed or neglected. Others because their parent(s) can no longer cope with caring for them: this may be because of parents' illness or other problems within the family unit.
Foster care is now the majority provider for children looked after by local authorities, caring for two out of three children. Over the years, residential care has received a lot of publicity. There have been numerous enquiries into its effectiveness. A large proportion of a local authority’s finance goes into this service for a minority of children, often leaving the fostering service poorly resourced.

**Regulation of Care (Scotland) Bill**

The Association welcomed the proposals contained within the White Paper "Aiming for Excellence: Modernising Social Work Services in Scotland." We responded positively to the Consultation Paper in February 2000, setting out our broad agreement with the philosophy of the proposed legislation, whilst voicing specific concerns relative to certain issues.

To an extent these concerns remain unresolved despite the publication in July 2000 of the Policy Position Paper "The Way Forward For Care".

These concerns relate solely to the implications for the foster care service in Scotland, following the inauguration of both the Scottish Commission for the Regulation of Care, and the Scottish Social Services Council. Our overriding concern is that the proposals contained within the White Paper, the Consultation Paper, and the Policy Position Paper do not adequately address the situation with regard to the Foster Care Service in Scotland.
In particular there remains a number of salient omissions these are as follows:

**Scottish Commission for the Regulation of Care.**

It remains the case that the Fostering Service will be amongst the last care services to be subject to regulation by the Commission. Given the fact that this service is the largest provider with regard to the children looked after away from home it does seem rather odd that it is not one of the first to be regulated, rather than the last. If one considers the relative isolation of children in foster care, as compared to children in care homes, it could be argued that children in foster care are more vulnerable to abuse, neglect, etc than their counterparts in care homes. This situation would surely have warranted an earlier inclusion of foster care services within the ambit of the Commission, especially when throughout the White Paper, and in the subsequent papers, public confidence in the care services is a particular aim.

In our response to the consultation paper we highlighted the fact that no mention was made of the UK Standards in Foster Care specifically as a starting point for care standards. In England, Wales and Northern Ireland, the Government had announced their intention to use the UK Standards, as a basis for inspection. We note that in "The Way Forward for Care" (Para 56) this situation has been addressed, and the UK Standards are now confirmed as the basis for future care standards in Foster Care.
We also note that within the same paper (Para 84) it is stated that inspections by the Commission will involve the views of users and their advocates. This is a crucial aspect of any inspection of the Foster Care Service as only by talking to both Children and Young People, and Foster Carers will the Commission obtain a rounded picture of the service.

**Scottish Social Services Council**

We welcome the concept of the Social Services Council. However, with regard to the councils regulatory scope, we note the absence of foster carers within any of the proposed workforce regulation.

In terms of the proposed Register of Social Services Staff we note the continued absence of foster carers.

Given the nature of the "fostering" task we would view inclusion on the proposed register as of vital importance.

Foster carers look after some of the most difficult, damaged, and vulnerable of Scotland’s children. They undertake this task in their own homes, within the context of their own families, and communities. Recent research commissioned by the Scottish Executive confirms both the primacy of this service but also the perceived lack of status, recognition, and reward leading inevitably to recruitment difficulties across Scotland.
In recognition of the vital role undertaken by the workforce and its isolated nature, we view inclusion on the proposed register as of critical importance to the future of the service if it is to maintain public confidence.

In terms of "qualifications" the Scottish Qualifications Authority is about to launch the Scottish Progressional Award at Level 3 in "Caring for Children and Young People". This award designed specifically for the foster care service would allow registration through a qualifications route should this be deemed appropriate. The award itself is obtainable over a relatively short time scale and is the result of joint work by SQA, NFCA, and a number of local authorities. If this award were to be adopted as a core qualification it would begin to address the inconsistencies across Scotland in terms of reward, training, support, and conditions. It would also, by definition, increase the skills and confidence of this critical workforce to the benefit of children in care.

As presently envisaged foster carers would not be subject to Codes of Conduct or Practice as they do not have and would not be able to attain professional status. However, adoption of the Scottish Progressional Award phased in over a number of years would, it might be argued, allow for this anomaly to be overcome.

This is a critical moment in the development of the foster care service in this country. Inclusion on the register would mark the start of a journey towards greater
accountability, quality of care, and lessen the confusion over the role that foster care is expected to play in the Scotland of tomorrow.
**Regulation of Care (Scotland) Bill**

Scottish Pre-school Play Association (SPPA) welcomes the introduction of the Regulation of Care (Scotland) Bill. As a voluntary organisation working across Scotland in thirty two local authority areas, the Association has had many years experience of the current fragmented regulatory framework, and the difficulties it has caused.

SPPA is an association of voluntary sector providers of pre-school care and education, comprising some 1700 plus groups spread across the country from the islands to the cities. The children using the groups are aged between birth and five years, and therefore our response will focus only on those sections of the Policy Memorandum SP Bill 24-PM which relate directly to our work and our client group.

SPPA considers the introduction of a more modern regulatory system, which will enable consistency across Scotland, to be both timely and appropriate particularly in light of the recent and continuing expansion of the pre-school sector.

**The Scottish Commission for the Regulation of Care**

This association welcomes the introduction of the Scottish Commission for the Regulation of Care (specifically Early Education and Childcare)

We consider that the new Commission will enable the development of appropriate flexible services which recognise and respond to the needs of children across Scotland. In addition we consider that the development of appropriate relationships with the Commission will enable SPPA, and other voluntary sector organisations, to contribute through our work, to the development of high quality pre-school services. However, whilst cohesion across the country is desirable, careful attention needs to be paid to ensuring different types of setting are catered for individually. For example there is a much higher involvement of parents in some types of pre-school group, which follow SPPA’s Code of Practice, than that operated in local authority pre-school provision, and it could be shortsighted not to take account of the different kinds of setting and environment.

SPPA considers that the transfer of the regulation of childcare (day care and childminders) from local authorities to the Commission, will ensure uniformity of standards, through regulation which “requires achievement against certain core indicators by all providers; expects full delivery of the curriculum from providers of pre-school education; and a commitment from all to work towards improvement in quality.”
SPPA also welcomes the fact that the development of existing good practice and standards throughout the country, which will draw on standards and indicators such as the Child at the Centre, will enable users and providers to identify one clear set of expectations.

We accept and agree that the continued inspection of those pre-school centres commissioned to provide publicly funded pre-school education, will provide accountability both to parents and to the funding providers and that the inclusion of all service providers will offer users the opportunity to access quality provision to meet their individual needs.

We have been pleased to see the establishment of the National Care Standards Committee and to note that SPPA has a representative on the Early Years Education and Childcare Working Group which exists to ensure that children are provided with uniformly high standards of care and education.

SPPA also welcomes the fact that the views of users and their carers will be given greater emphasis and notes that there is a parent representative on the National Care Standards Early Education and Childcare Working Group.

With regard to lack of independence of the present system, SPPA would share the concerns of other voluntary sector organisations who have experienced a system where private and voluntary sector service providers have been regulated by local authorities who may themselves have simultaneously been a service provider. We anticipate that the new system under the Commission will eliminate the potential for this theoretical conflict of interest.

SPPA considers that the intention for the Commission to remain independent in its day to day operation, with no interest in providing services itself will be vital in the maintenance of its regulatory functions.

Our primary concern around the establishment of the Commission is anchored in the long term funding of the Commission's services and the potential for this to be levied from care providers. We consider that if this option were to be pursued, the voluntary and private sectors of early education and childcare would suffer disproportionately, and would in many cases be driven out of operation. We agree that the Commission must be properly resourced, but would ask that every effort be made to ensure that funding is not solely derived from care providers.
The Scottish Social Services Council

SPPA welcomes the creation of The Scottish Social Services Council and the fact that it will work closely with National Training Organisations, including the Early Years Training Organisation and the Sport and Recreation Industrial Training Organisation which "will retain responsibility for setting national occupational standards for early years staff and playworkers."

In its work to secure the commitment of the workforce to high standards of conduct and practice, it is hoped that the Council will take account of the many experienced and valued staff within the voluntary sector who currently do not hold professional qualifications. Further it is hoped that the Council will establish appropriate measures of professionalism which take account of that experience. There is a huge resource question in relation to the cost of training and the ease with which the voluntary sector can release staff to undertake training.

SPPA considers that the move to "professionalise" the workforce within the sector should be welcomed. We are delighted to see the establishment of this national regulatory body, to raise standards within the workforce, and to improve accessibility to education and training opportunities, but would suggest that consideration must also be given to accessible financial resources to enable this to happen. From our present experience we have concerns over the timescales to be achieved as there are currently considerable difficulties in accessing some of the appropriate qualifications, (SVQ level 4 in Early Years Care and Education is currently not widely available across Scotland) Please see attached Article "Qualification, no longer an option".

In its work specifically with the Early Years National Training Organisation, we would anticipate that the Council would give clear direction on acceptable levels of achievement, in an effort to dispel the current confusion which exists within the workforce. The EYNTO is currently involved with this process, but the support of the Council would ultimately benefit the whole.

SPPA welcomes the fact that the Council will work to gain the co-operation of employers in support of good practice, and will seek to exclude from the workforce those in breach of the standards. We would consider it essential that in the process of working with employers, account will be taken of the special nature of the voluntary sector and use would be made of those existing support mechanisms such as SPPA.

SPPA welcomes the move to the development of codes of conduct for sector staff, and would support the further development of codes of ethics, but would caution that these codes must match the actual provision and groupings within the workforce or they will be ineffective and indeed damaging.
Finally, in addition SPPA welcomes the following related policy issues

**Childcare and family support powers**
We are pleased to see the statutory basis for central expenditure on childcare strategy and related matters as we consider this strengthens the position of the childcare strategy for future development, but would suggest that early clarification be given on the impact, if any, that this may have on pre-existing funding streams. In addition formal guidance on "related matters" will be invaluable for the sector.

**Extend authority to make grant payments**
With regard to the extended authority to make grant payments to voluntary organisations, for those organisations to distribute in whole or part to other organisations, we consider that further clarification of this authority, and its impact on pre-existing grant streams would be useful.
Scottish Throughcare & Aftercare Forum

Ian Cowan, Assistant Clerk
Education, Culture & Sport Committee
The Scottish Parliament
Room 2.07, Committee Chambers
George IV Bridge
Edinburgh, EH9 1SP

15th January 2000

Dear Mr Cowan,

Regulation of Care Bill

The Scottish Throughcare & Aftercare Forum is submitting the following written evidence on the Regulation of Care Bill proposals for the Education, Culture & Sport Committee, which is due to meet at the end of January.

Background

The Scottish Throughcare & Aftercare Forum aims to improve support for young people leaving residential or foster care. The Forum works in partnership with young people, practitioners, service managers and policy makers to:

- Raise awareness of the needs of young people leaving care.
- Promote good practice for the development of services.
- Share information on throughcare & aftercare developments.
- Ensure that young people leaving care have their views and experiences heard at all levels.
- Create and support networks across Scotland.

Regulation of Care Bill

The Forum welcomes the overall proposals in the Regulation of Care Bill, especially the acknowledgement that children and young people in residential or foster care should receive safe and good quality services.

Draft National Care Standards

The Forum has participated in the consultation for these national standards, particularly on the standard for young people moving on from care.

The Scottish Throughcare & Aftercare Forum is presently supported by: NCH Action for Children Scotland, National Foster Care Association, The Church of Scotland Board of Social Responsibility and the Scottish Executive

Recognised as a Scottish Charity. Scottish Charity Number: SC 030322
The Forum has given input from its own framework for throughcare & aftercare standards 'The Key to Success' (a copy has been enclosed). Several local authorities and voluntary organisations have obtained this document and are using it as a tool to review their services.

The Forum strongly believes that young people across the whole of Scotland should have the same entitlement to high quality standards of care, support and personal development. National care standards should ensure that young people experience excellent levels of care, wherever they live.

The Way Forward for Care

The Forum was pleased to see this policy position paper make clear reference to the need to improve throughcare and aftercare support for young people leaving care. Unfortunately, there were no specific references made to this particular area in the Regulation of Care Bill Policy Memorandum.

The 'Way Forward for Care' stated that "Scottish Ministers wish to improve the life chances of care leavers" and they intend to "permit better regulation for young people formerly looked after away from home by local authorities." (p.56, para.167)

The Forum is concerned that the needs of young people leaving care may be overlooked if clear references are not made at this stage of the Regulation of Care Bill. There are policy developments currently being discussed by the Scottish Executive's Throughcare & Aftercare Working Group (TAWG), which are apparently due to be introduced at a later stage of the Regulation of Care Bill.

Throughcare & Aftercare Working Group (TAWG)

TAWG was set up by the Scottish Executive to look at the implementation of the transfer of DSS resources to local authorities for 16-18 year old care leavers. At its first meeting, TAWG widened its remit to also consider improving the level of throughcare & aftercare support across Scotland. TAWG agreed that it was not possible to look at financial support for care leavers in isolation of wider practice and policy implications.

From recent TAWG meetings, it is understood that the Regulation of Care Bill will provide the regulatory framework for improving throughcare and aftercare services for young people leaving care. Discussions and developments through the TAWG must keep pace with the introduction of the Regulation of Care Bill. It must also be clarified and stated at the earliest opportunity, which sections of the Regulation of Care Bill will contain any new throughcare and aftercare regulatory powers.

TAWG should consider which areas are already set out in the Children (Scotland) Act 1989. Many local authorities have not fully applied their powers under the Children (Scotland) Act 1989 for care leavers, and several are not acting upon the duties clearly laid out in this Act.

Children (Leaving Care) Act 2000 in England and Wales

Many practice developments will take place in England and Wales, following the introduction of the new Children (Leaving Care) Act in October 2001.
This Act will introduce new powers and duties, including:

- Offer new financial support arrangements from local authorities for 16 & 17 year olds.
- Provide every young person leaving care with a Young Persons Adviser and a Pathway Plan.
- Extend support up to 21 years old, and in some cases beyond 21.

The only element of the Children (Leaving Care) Act 2000 that will directly apply to Scotland are the plans to transfer DSS finances that are currently spent on benefits for 16 & 17 year old care leavers, to local authorities to administer.

There are no proposals for a Scottish Leaving Care Bill, just additions to existing or newly proposed legislation. Meanwhile, Northern Ireland is considering whether they will introduce their own Leaving Care Bill.

The Forum is concerned that without a specific Leaving Care Bill for Scotland, the needs of young people leaving care could be overlooked, not given enough emphasis or not acted upon.

Will the Regulation of Care Bill be able to go far enough to ensure young people leaving care are well supported into adulthood?

The emphasis in the recent Policy Memorandum appears to focus mainly on the needs of 0-14 year olds. The Scottish Througcare & Aftercare Forum is concerned by the lack of focus on the needs of young people over 14 years old.

During a conference in September 2000, the previous Minister for Education acknowledged that young people aged 16 and over who are leaving care, are most vulnerable if they are not supported during their transition to adulthood.

The Scottish Througcare & Aftercare Forum would like to see more emphasis made within the Regulation of Care Bill on the need to improve support for young people who are moving on from residential or foster care. Hopefully during discussions, the Education, Culture & Sport Committee can consider some of the issues outlined.

The Scottish Througcare & Aftercare Forum would be keen to engage in any future discussions with Members of the Scottish Parliament, to look at improving the life chances of young people leaving care. If the Education, Culture & Sport Committee requires any further information or clarification of particular points, please do not hesitate to contact myself.

Yours Sincerely

Alison Caulfield-Dow
Development Officer
### Papers circulated

| Evidence from National Foster Care Association | ED/01/4/1 |
| Evidence from Scottish Pre-school Play Association | ED/01/4/2 |
| Evidence from Scottish Throughcare and Aftercare Forum | ED/01/4/3 |
| Note by Clerk on SSI 2000/444 | ED/01/4/4 |
| Regulation of Care (Scotland) Bill- Emerging Issues | ED/01/4/5 (P) |
1. The Teachers’ Superannuation (Additional Voluntary Contributions) (Scotland) Amendment Regulations 2000 (SSI 2000/444), was laid on 20 December 2000, and is subject to negative procedure. It came into force on 1 February 2000, and will remain in force, unless it is annulled by the Parliament within 40 days of being laid before the Parliament, excluding the recess period i.e. until 15 January 2001.

2. The purpose of the Instrument is to amend the Regulations: the main features of the alteration relate to:- Introduction of Investment Linked Pensions, deferred payments of AVC payments and the transfer in of Free Standing AVCs to the in-house provider. Full details are contained in the Executive Note attached to the Instrument.

3. The Education, Culture and Sport Committee is the lead committee for this Order, and should report to the Parliament by 12 February 2001. There are no other committees to report to this Committee. The Minister responsible is Jack McConnell, Minister for Education, Europe and External Affairs.

4. The Subordinate Legislation Committee have reported on this Instrument and determined that the attention of the Parliament need not be drawn to this instrument.

5. A copy of the SSI, an explanatory note which is not part of the Order, and a separate Executive Note are attached.

6. The Committee is invited to consider whether it wishes to make any recommendation in relation to the instrument. The Order is not subject to amendment.

7. A procedural note is attached.

Ian Cowan
Assistant Clerk

Martin Verity
Clerk to the Committee
Procedural Note

Standing Orders

1. The procedures for dealing with Scottish Statutory Instruments (SSIs) are covered by Chapter 10 of Standing Orders. SSIs are laid by being lodged with the chamber clerks, and are published in the Business Bulletin. They are referred to the Subordinate Legislation Committee, the appropriate subject committee (the ‘lead committee’), and, where relevant, any other committee.

SSIs subject to annulment: ‘negative instruments’

2. Where an SSI is subject to annulment, it comes into force on a specified date and then remains in force unless it annulled by the Parliament. Any MSP may by motion propose to the lead committee that the committee recommend that nothing further is to be done under the instrument. Such motions are lodged with the chamber clerks.

3. The lead committee debates such a motion for no more than 90 minutes.

4. The lead committee reports to the Parliament, setting out its recommendations. If it recommends annulment, the Bureau will propose to the Parliament a motion that nothing further is to be done under the instrument.

5. All the above must take place within 40 days of the instrument being laid, excluding recesses of more than 4 days.

6. To date, no motion to annul SSI 2000/407 has been lodged with the chamber clerks.

Proceedings in the committee

7. This committee is invited to discuss the SSI. Members will then be asked whether the committee wishes to make any recommendation in its report to the Parliament.