These notes refer to the Care Standards Act 2000 (c.14) which received Royal Assent on 20 July 2000

CARE STANDARDS ACT 2000

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part Iv: Social Care Workers

142. **Part IV** concerns the functions and procedures of the General Social Care Council (GSCC) and Care Council for Wales (CCW) (Cyngor Gofal Cymru), referred to collectively as "the Councils". Sections *54 and 55* set out the definitions relevant to this Part of the Act. The Councils will maintain registers of social care workers, and the procedures for this are set out in *sections 56 to 60*. *Section 61* enables the title of "social worker" to be protected, by making it an offence to describe oneself as a social worker with intent to deceive, if not registered as a social worker with one of the Councils. *Section 62* concerns the Councils' responsibilities to develop and promulgate codes of practice for social care work. *Sections 63 to 66* set out the Councils' functions with regard to regulating the education and training of social workers, including requirements in respect of applicants with qualifications gained outside England and Wales.

143. The Councils will both be established as non-departmental public bodies, with the GSCC being sponsored by the Department of Health, and the CCW being sponsored by the National Assembly for Wales. The Councils will operate according to rules, which they will draw up and which will need the approval of the Secretary of State for the GSCC in England, and the National Assembly for Wales for the CCW in Wales. Individuals will have a right of appeal to an independent Tribunal against the Councils' decisions not to register them or to remove them from the register.

144. In the remainder of these notes, a reference to "the Council" means, in relation to England, the GSCC, and in relation to Wales, the CCW.

Preliminary

Section 54 and Schedule 1: Care Councils

145. *Section 54* establishes the GSCC for England and the CCW for Wales. The constitution of the Councils is set out in *Schedule 1*, which as indicated in paragraph 43 of these notes is a combined schedule setting out the arrangements for the National Care Standards Commission in England in addition to both of the Councils. The following points in Schedule 1 are of particular note with respect to the Councils:

146. *Paragraph 3: General powers*. This paragraph gives the Councils general powers, which may be subject to direction by the appropriate Minister. These include an express power for the Councils to co-operate with other public authorities in the United Kingdom. If the Councils are to undertake their functions properly and protect the public the English and Welsh Councils must be able to co-operate with each other, and also with equivalent bodies that might be established in Scotland and Northern Ireland. The sort of area in which the Councils would be expected to co-operate would be in exchanging information about people who had been refused registration, removed from a register or allowed qualified registration. Co-operation will be especially important

where a person dealt with by one Council moves to another part of the UK. The power to co-operate with other public authorities will also give the Councils scope to co-operate with public regulatory bodies on other fields, such as the United Kingdom Central Council for Nursing, Midwifery and Health Visiting (the UKCC), where this can further the performance of their functions.

147. *Paragraph 5: Membership* The appropriate Minister will appoint the Chairman and members of each Council. In England, for example, it is intended that the GSCC will be only as big as is needed to secure the cost-effective discharge of its business, and is unlikely to exceed 25 people. The intention is that the Council will be composed of people representing all the key interests. Members will be appointed so that service users and lay members will be the majority of the Council. Appointments will be made after consultation with service user interests and by inviting applications from members of the public.

148. *Paragraph 7: Remuneration and allowances*. Remuneration and allowances for each Council will be matters for the appropriate Minister. For the GSCC, for example, it is intended to remunerate the chairman only. All members will be entitled to travel expenses and other costs associated with membership of the Council. It is not intended to make provision for pensions for the chairman or members of the Council.

149. *Paragraph 8: Chief officer*. The appropriate Minister will appoint the first chief officer of each of the Councils as this post will be filled ahead of the organisations being fully established to allow the first chief officers to assist their Chairmen with preparatory work including appointments of key staff. The Councils will appoint future chief officers themselves.

150. *Paragraph 13: Delegation of functions*. This gives the Council flexibility to discharge its business in the most efficient way, through the Council itself, its staff or others brought in for the purpose. Examples of outside assistance the Council might use are contracting with suitable outside bodies, using consultants or temporary staff on fixed term contracts depending on the work to be done. *Paragraph 14 (Arrangements for the use of staff)*, enables the Council to make arrangements with other bodies for use of their staff and *vice versa*.

151. *Paragraph 16: Payments to authorities*. The appropriate Minister can fund each Council from public money. Both Councils will be funded wholly through this route initially, although in time it is intended that once the registers of social care staff are established fees from registration will contribute to the cost of the registration function, taking into account a suitable registration fee to charge a generally low paid workforce.

Section 55 Interpretation

152. This section introduces terms used in this part of the Act. It provides a definition of "social care worker" for the purposes of the Councils, and allows for regulations to be made to include certain other classes of persons in this description. Social care worker is used as a generic term encompassing the majority of people who are employed in social care work.

153. The section also defines "relevant social work", introduces the term social worker and provides a definition of a day centre. (See also notes on Part II – Registration).

Registration

Section 56 The register

154. This section provides for the Council to establish and maintain a register of social care workers. There is to be a separate part of the register for social workers and for any other description of social care workers specified by the appropriate Minister by order.

Applicants for registration must satisfy the requirements of *section 58*, including any training requirements imposed by the Council.

155. The social care workforce is large, diverse and mainly unqualified. This sector has approximately one million staff in England and Wales, 80% of whom hold no relevant qualifications. With these low levels of qualifications in the workforce it is envisaged that registration will be incremental, by occupational group. Professional social workers, virtually all of whom are qualified, will be the first group of staff to be registered. In England the Government is funding the training of residential child care workers, as a priority group, to National Vocational Qualification (NVQ) level 3 to ensure that they are among the early registrants with the GSCC.

Sections 57 Applications for registration

156. *Section 57* provides for the Council to make rules governing how applications to its register shall be made. The appropriate Minister will have to approve all rules made by the Council (see *section 71(2)*.

Section 58 Grant or refusal of registration

157. *Section 58* lists the conditions an applicant must satisfy in order to be registered with the Council. Applicants must satisfy any requirements imposed by the Council as to training, conduct and competence. The Councils must also be satisfied as to an applicant's good character and that he is physically and mentally fit to perform the whole or part of the work of persons registered in the part of the register to which his application refers. The Council must refuse an application for registration if it is not satisfied an applicant meets the conditions.

Section 59 Removal etc from the register

158. This section provides for the Council to make rules about the circumstances under which a person can be removed or suspended from any part of the register. The section also makes provision for the procedure to be followed and as to rules of evidence in proceedings, which may be in public, by which the matter can be determined.

Section 60 Rules about registration

159. *Section 60* provides a power for the Council to make rules governing registration. It is intended that the rules will cover evidence to be produced in support of an application for registration, the length of the registration period and renewal.

Section 61 Use of title "social worker" etc

160. *Section 61* provides for protection of the title "social worker" by the creation of an offence, punishable by a fine up to level 5 on the standard scale[1*] for a person who is not registered as a social worker to use that title or hold himself out as a registered social worker with an intention to deceive. An individual will not be guilty of an offence if they are registered with an equivalent regulatory body in another part of the UK. Registration as a social worker with the Council will give a stamp of approval to an individual as a professional and can give access to vulnerable people. This provision will be brought into force when the appropriate Minister thinks the time is right for it to add to the protection of the public.

1 See paragraph 97 of these notes for definition of standard scale

Codes of Practice

Section 62 Codes of Practice

161. By *section 62* the Council is required to produce codes of good practice for social care workers and for employers of such staff. No such nationally agreed codes exist at present. It is intended that drawing up and promulgating these codes will be the first task for the Council. Social care is a fast developing field, therefore the codes will not be static. The Council will be obliged to keep them under review and amend them where it thinks necessary, consulting representatives of social care workers. The appropriate Minister may incorporate relevant parts of them into the national minimum standards described in section 23 that will apply to services registered with the registration authorities.

Training

Sections 63 Approval of courses etc

162. The Council will take over the regulation of professional social work training and related post-qualifying training from the Central Council for Education and Training in Social Work (CCETSW). *Section 63* gives wide powers to the Council to make rules about the approval of courses with the intention of ensuring the consistency and quality of the education to be provided for social workers at pre- and post-qualifying levels.

163. It is essential that all social care training is appropriately regulated if standards in social care work are to be improved. This is part of the main intention behind the establishment of the Councils. CCETSW has the statutory duty to regulate professional social work training only. The new Councils will have functions in respect of training for all social care work. When CCETSW, which is a UK body, ceases to exercise its functions in relation to England and Wales, the regulation of professional social work training in England will be transferred to the GSCC, and training in Wales will be transferred to the CCW as the most appropriate bodies. Scotland and Northern Ireland will legislate separately to create new arrangements for CCETSW's functions.

164. National Vocational Qualifications (NVQs), the qualifications for the non-professional social care staff, are already regulated by the Qualifications and Curriculum Authority. It would not be sensible to remove social care NVQs from these overall arrangements for NVQs for separate regulation. The Council's function in respect of this type of training will be to make completion of particular NVQ courses a requirement to registration. An example in England may be the registration of residential childcare workers, which would be likely to require qualification at NVQ level 3, as discussed in the commentary on section 56 earlier in these notes.

Section 64 Qualifications gained outside a Council's area

165. The Council will register professional social workers on the basis of their having successfully completed a period of approved training. The GSCC will approve training in England, and the CCW will approve training in Wales. *Section 64(1)* provides for the GSCC to recognise, for the purposes of registration, qualifications gained outside England as being the equivalent of those gained through GSCC approved training in this country. *Section 64(2)* makes an equivalent provision for the CCW. As each of the UK countries will have its own regulatory body for social care, this section applies to qualifications gained in Scotland, Wales and Northern Ireland as well as those gained in other EEA States and in other parts of the world.

Section 65 Post registration training

166. It is common in other professions for continued registration with a regulatory body to be linked to continuing professional education and development. Continuing education is no less needed in social care, where safe, legal practice depends on an individual's

updated knowledge of research advances and developments in best practice. *Section 65* therefore makes provision for the Council to be able to make rules requiring registered persons to undertake additional training. The Council will consult relevant persons before making or later varying these rules.

Section 66 Visitors for certain social work courses

167. As part of its powers to approve and monitor the effectiveness of individual training courses in social work, the Council will need to be able to visit and report on the places delivering this training. *Section 66* gives the Council powers to be able to appoint and pay the visitors to undertake this work on its behalf and to visit the place offering the training. Provision is made in respect of visits to both higher education institutes, which deliver the academic element of the training, and social services agencies that provide the practice placements where students can develop their practical skills.

Section 67 Functions of the appropriate Minister

168. *Section 67* gives certain functions to the appropriate Minister, who can delegate such functions to the relevant Council. In addition, the Secretary of State may authorise any person to exercise his functions, and will be able to choose an appropriate person to carry out the function efficiently and effectively. In Wales, the Assembly can similarly authorise any person to exercise its functions.

169. *Subsection (1)* gives the appropriate Minister responsibility to ascertain the training needs of the social care workforce and the financial and other assistance required to promote such training. He is also given responsibility to encourage provision of assistance, and for the drawing up of occupational standards in social care. In England these powers are intended to be delegated to the *Training Organisation for Personal Social Services* (TOPSS)[2] *England*. In Wales, these functions will be delegated to TOPSS-Wales.

170. *Subsections (2) and (3)* establish the promotion of social care training as a function of the appropriate Minister, which he can devolve to the relevant Council. Promotion of social work training is one of the functions currently undertaken by CCETSW. This section extends the function so that it encompasses the promotion of training for all social care not just for professional social workers. Promotion of training includes publicising training opportunities, attracting potential students to training and providing information for social care staff and recruits enquiring about training. It is intended that in England, this function will also be devolved to TOPSS as the most suitable body.

171. *Subsection (4)* of this section gives the appropriate Minister the power to pay grants and allowances to students and grants to organisations involved in training. In England it is intended that the Secretary of State will devolve the power to pay these grants to the GSCC.

Miscellaneous and supplemental

Section 68: Appeals to the Tribunal

172. This section gives individuals the right of appeal to an independent Tribunal, defined in *section 121(1)* as the Tribunal established under the Protection of Children Act 1999. Individuals will have a right of appeal against decisions by the Council, in respect of registration, (for example, a decision not to register them or to remove them from the

---

2 *TOPSS is the National Training Organisation (NTO) for the social care sector. NTOs are an initiative by the Department for Education and Employment to provide each sector of industry with an employment-led body that has national responsibilities for workforce and training issues. TOPSS was established with assistance from the Department of Health and was established as an independent employment-led organisation from 1 April 2000. Employment interests from all sectors of social care are already represented on it. TOPSS has produced a National Training Strategy for England, which was distributed widely in the social care field in November 1999 for comment. TOPSS-England is the England arm of this UK body. The Welsh arm will be incorporated into the Care Council for Wales.*

register). Such decisions could affect an individual's ability to secure employment so access to an independent tribunal is essential.

Section 69: Publication etc of the register

173. *Section 69* requires the Council to make its register publicly available. It is intended that the Council will make the register available on the Internet and will also publish it in hard copy annually.

Section 70 Abolition of CCETSW

174. *Section 70* abolishes CCETSW in relation to England and Wales. It enables a scheme to be made under an Order in Council to make provision in consequence of CCETSW ceasing to exercise functions in relation to a part of the United Kingdom. The scheme may provide for the transfer of staff and for disposing of the assets and liabilities of CCETSW. Scotland and Northern Ireland will legislate separately to set up new arrangements for dealing with the functions of CCETSW in those countries.

Section 71 Rules

175. This section refers to the power of the Council to make rules about the issues in Part IV of the Act, allowing the Council flexibility in how far any particular rule may extend. For example, rules may be made in relation to all cases to which a power to make rules extends, or in relation to cases that are specified in the rules. *Subsections (2)* and *(3)* concern rules about the charging of fees in connection with the Council's functions. For example, fees may be charged for registration, approval of courses, provision of training or providing codes of practice or copies of or extracts from the register. *Subsection (4)* provides that all rules made by the Council under this Part are subject to the approval of the appropriate Minister.