States of Jersey

The States of Jersey Department for
Health & Social Services

Health Protection Services
Public Health Department

REGULATION OF CARE (JERSEY) LAW 200-
Report of Stakeholder Consultation

JANUARY 2010

PROPOSED REGULATION OF CARE LAW STAKEHOLDER CONSULTATION

REPORT OF RESPONSES

1. EXECUTIVE SUMMARY

There is an expectation that health and social care services are safe and of the highest quality. The role of regulation is to provide assurance that health and social care services have appropriate systems in place to meet acceptable standards of safety and quality so that people can be confident in the services that they use.

In May 2006, following advice from the Law Officers, the Council of Ministers acknowledged that the current legislation underpinning care home and domiciliary care regulation in Jersey is no longer fit for purpose and approved drafting time for a new Regulation of Care (Jersey) Law 200-. Any new legislation will adhere to the principles of good regulation in that it will be proportionate, transparent, consistent, accountable, and targeted. These themes were raised consistently by respondents during the consultation.

Overall a range of stakeholders responded to the consultation process including representation from independent care homes, domiciliary care and home nursing, general practice, service managers, acute hospital clinicians, voluntary sector and service users. In general the responses showed broad support for the proposals as set out in the consultation document with the following key areas highlighted:

- All health and social care provision should be regulated
- Public services currently exempt from regulation should be included
- Regulation should be independent
- Legislation should be person centred and focus on outcomes for service users
- A single category care home for continuing nursing and residential care should be introduced
- Enforceable minimum standards should be included in the new Law
- Quality assurance and governance systems should be a requirement
- Inspection reports should be in the public domain
- There should be a flexible risk based inspection regime
- Regulation should not be entirely self funding however registration fees should be set at a realistic and proportionate rate dependent on the size and complexity of the service
- A stakeholder steering group should be set up to maintain dialogue during the law drafting stages and beyond

2. CONSULTATION PROCESS

Before embarking on drafting instructions for new legislation, the department undertook a stakeholder consultation to ensure that those people and organisations affected by the proposed legislation had an opportunity to be aware of the deficiencies in the current legislation, options about how these could be resolved and an opportunity to participate in shaping the future regulation of health and social care in Jersey.

Formal consultation took place between 14 January and 14 May 2008. A consultation document setting out the issues, a response questionnaire and information about how to participate was sent for dissemination to stakeholders listed in Appendix 1. Additional copies of the document were sent out on request.

In addition to circulating the consultation document, two meetings were held with independent advocacy workers from Mencap (Learning Disability) and Jersey Focus (Mental Health), and the Community Development Health Promotion Officer (Older People) to develop a methodology to engage service users in the process. This focussed on a qualitative service user approach dealing with similar issues to the main questionnaire. A list of the general questions used as a framework for semi structured interviewing is in Appendix 2. The precise format of the interaction was left to the individual advocacy worker to determine dependent on the users involved.

Meetings with individual stakeholders or organisations were held on request.

A presentation to which all listed stakeholders circulated with the document were invited was held on Tuesday 29 April 2008. This was followed by an open discussion with attendees.

3. OVERVIEW OF CONSULTATION RESPONSES

3.1 Written responses

A total of 54 written responses were received:

- 49 by completed questionnaire
- 2 by letter
- 3 by email

3.2 Meetings

- 3 meetings were held with individual managers/heads of service
- 1 meeting held with management team of a provider service
- 1 visit to and meeting with beauty salon owner
- 38 people attended a stakeholder presentation and open discussion

3.3 Service user feedback

- 3 Written responses received one from each Service User Advocate
- 2 written responses from Learning Disability service user carers

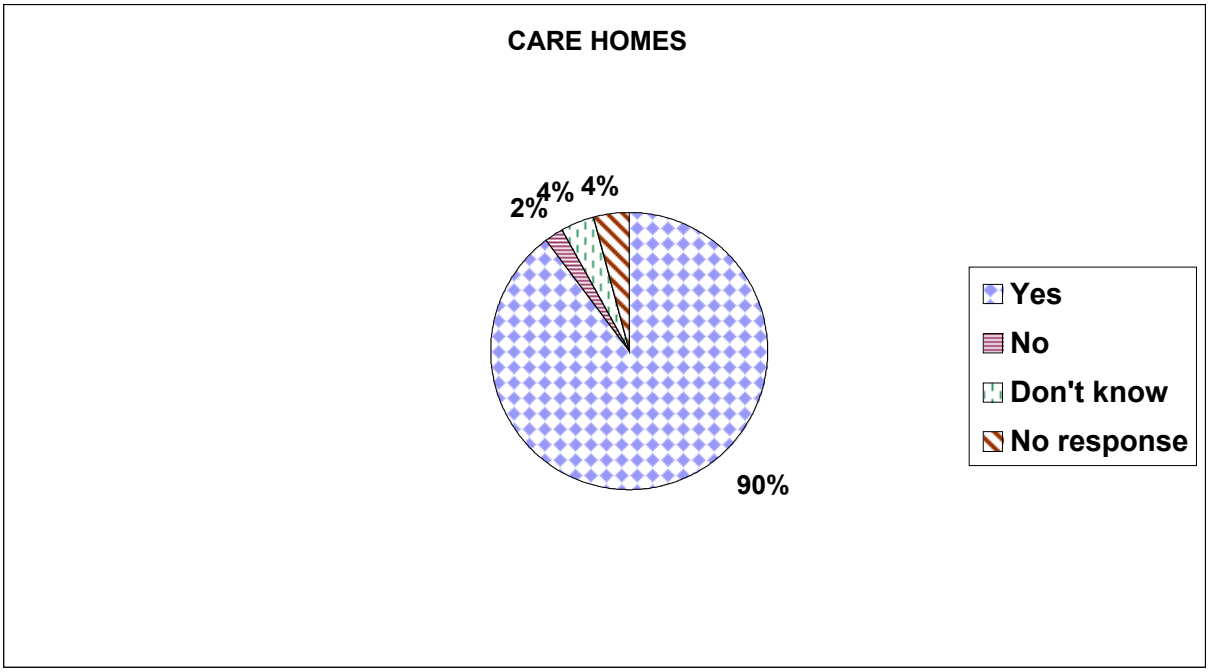
3.4 Respondents

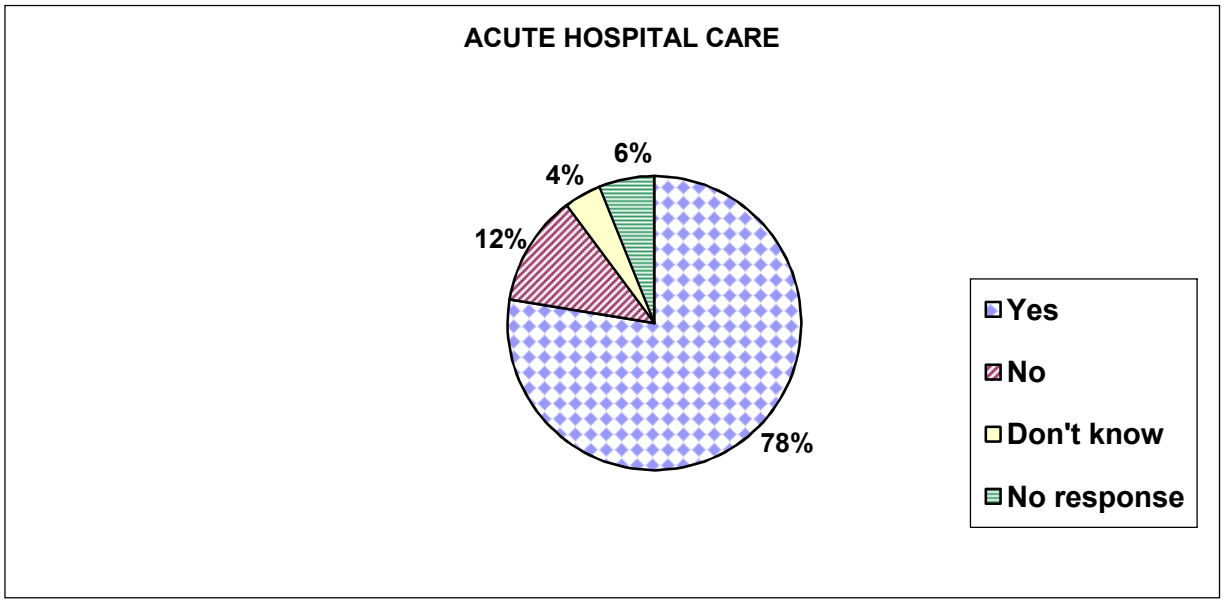
- Written responses were received from:
  - 13 Care Home Managers
  - 10 Care Home Providers
  - 6 General Practitioners
  - 3 Home Nursing/Care Providers
  - 7 Home Nursing/Care Managers
  - 4 Hospital Consultants
  - 2 Other States Department
  - 5 Voluntary Organisations
  - 2 Service Chief Executive Officers
  - 1 States Member
  - 1 Scrutiny Panel (Health, Social Security and Housing)
- Presentation Attendees included:
  - 22 Representatives from Care Homes
  - 6 Representatives from Home Care Services
  - 3 Representatives from the Voluntary Sector
  - 2 Representatives H&SSD
  - 1 Representative E&SSD
  - 2 States Members
  - 1 Parish Representative
  - 1 Service User Advocate

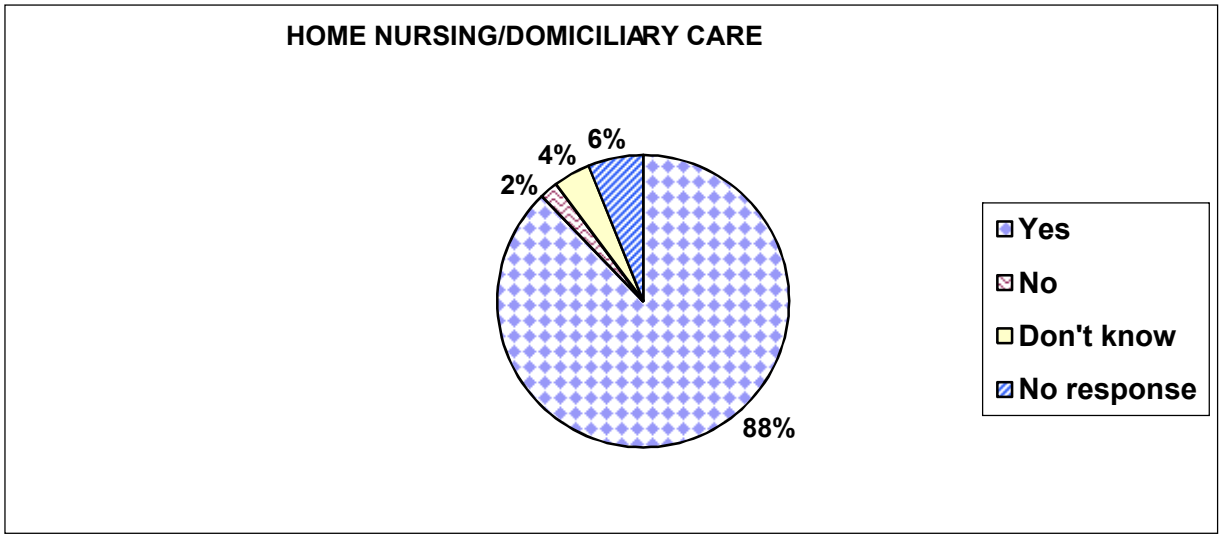
4. RESULTS OF FEEDBACK FROM STAKEHOLDER QUESTIONNAIRE

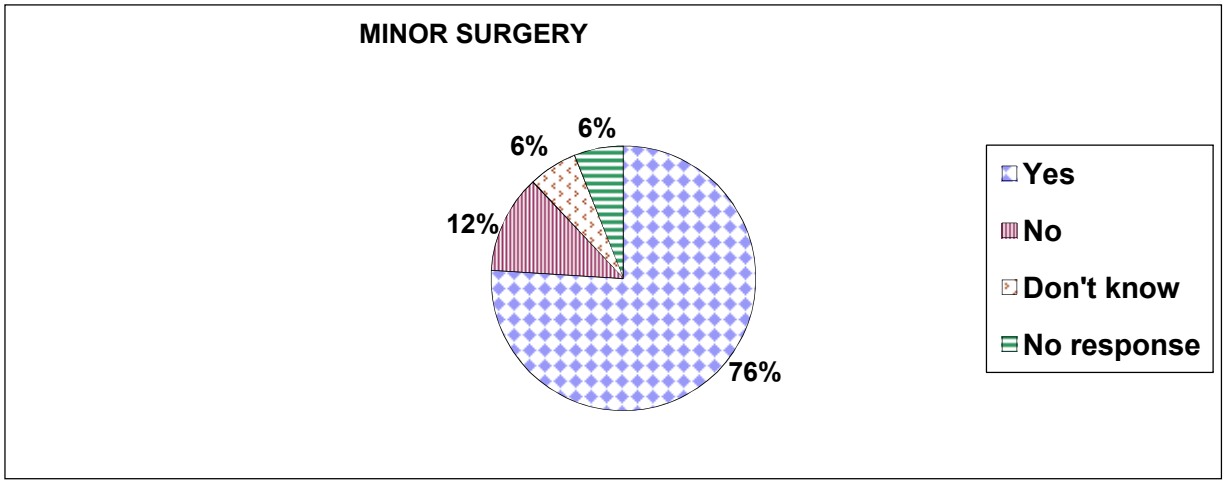
4.1 Question 1

Do you think the following facilities should be independently regulated?









Comments from submissions attached to responses

Any environment which has the potential to render an individual vulnerable and/or

dependent on others should be regulated.

Regulation provides protection for vulnerable individuals.

Will enable more transparent view.

Agencies. This will provide a more equitable and consistent framework to work towards and can only enhance the quality of life for those people using care services.

All these services deal with vulnerable people.

Drug and Alcohol Rehabilitation Centres. All vulnerable sectors should be independently regulated.

Freelance carers. All care providers and facilities should be inspected. Premises must be fit for purpose.

Agencies who provide HCAs and RN staff. To assist in ensuring best practice is followed for the best interest of service users and employees have a safe working environment and skills to perform the work they are expected to carry out.

If all the above facilities were independently regulated it would ensure the protection and health and safety of vulnerable adults in care and the general population.

All should be regulated to ensure good practice.

The regulation of all above will help reduce abuse and provide an improved service for elderly population of Jersey.

Agencies providing day care, day centres, dentists, chiropractors, tattooists, providers of minor surgery, GPs, complementary therapists, chiropodists, cosmetic interventions e.g. Botox.

Very important to have 'outside' regulators - observing standards of all types of care in Jersey.

Beauty Salons.

Unclear if this means independent of H&SS. This must continue to be regulated by H&SS as we each offer specific services relating to specific placements. In turn offering a more tailored service for individual clients.

If minor surgery in General Practice is to be independently regulated, dentistry and chiropody should also be included but we are talking about caring in the home and Nursing Homes not General Practice.

It is very important that all facilities are regulated independently for the benefit of service users. Users will always be suspicious of non independent regulation.

Hospital departments and GP practices already have their own professional and stringent guidelines. We do not feel it is necessary to oversee these. However long stay wards (e.g. Overdale) might be considered to come under the regulations.

The regulations that are already in place are sufficient and the assertion that minor surgery in general practice needs independent regulation over and above guidelines that already exist are insulting to the profession.

States run long term medical/psychiatric care included.

I believe this is essential if highest professional standards are to be maintained.

Equal playing field for all re quality of care.

Private home care only looks after people in their homes so the above does not apply to them.

Private practice, cosmetic surgery, laser eye surgery. I fully support a regulatory process for care facilities.

H&SS, FN&HC, other areas where laser treatment is carried out. Standardised care promoting best practice. Fair and equitable across services to the public.

GPs. All groups who are providing services associated with health and social services/care should be regulated.

As each of the above have different roles and responsibilities they should be regulated accordingly, however I would see that there would be some core areas which would be common to all.

To establish standards of care. Starting block to monitor standards.

Family planning clinics, private clinics, dental clinics, cosmetic surgery done in clinics, piercing and tattooing.

Community service (FN&HC).

Hospital practice already regulated via clinical governance and GMC. All other inspection should be from outside island e.g. Health Care Commission.

With regulation governance etc hospital services already monitored independently, no need for yet another tier which will only further reduce clinical activity in order to comply.

But many of the departments are already independently regulated by external agencies e.g. CPA for pathology and another regulator is not needed.

Yes and expanded for additional protection including fair contract legislation and requirement to publish fees. The purpose of regulation is to provide independent assurance that systems for safety and quality are in place and working well.

Additionally the public must be fully informed of what to expect in terms of safety and standards. For a resident there are limited statutory rights and fee charges for such services can be ambiguous. People do not always know how to access services and nursing and respite care have no accessible access policy or appeal mechanisms. It is planned to introduce some form of long term care funding scheme and this will need a means of identifying establishments that would be eligible, appropriate and safe to receive public funding in respect of residents. Currently the existence of a registration process ensures that residents who receive public funding to subsidise their care fees are guaranteed a minimum standard of care. The Social Security Department has no direct involvement in the funding or provision of acute hospital services. On a general level, it would be expected that all such services should be regulated.

Dental, chiropody, Drs in private practice, physiotherapy. Many GP practices do not have access for disabled people, clinical waste, sterilisation etc. The current system assumes professionals will strive for the best but no guidance given.

I support appropriate and enforceable standards of care within all these areas - being independently regulated is likely to enhance standards of care.

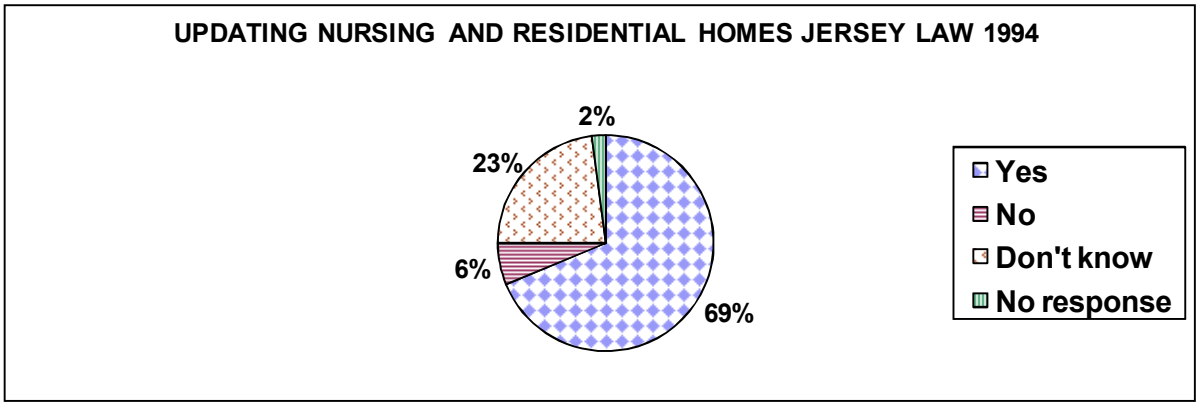
Any regulation needs to be practical and effective, not just a copy of UK regulation which has led to many nursing/residential homes closing, something which Jersey cannot afford. The elderly and infirm just cannot be shipped off to the next town.

Cosmetic surgery, opticians and dentists.

We are not sure how you would regulate minor surgery in general practice but if we start obstructing the minor surgery dealt with by GPs there will be a huge increase in hospital treatment required. GPs are reputable enough to take decisions. If we are to regulate this section then we should be considering the same treatment for chiropodists, dentists, school sick bays, prison sick bays etc.

4.2 Question 2

Do you think that the current Nursing and Residential Homes Jersey Law 1994 needs updating?



Comments (What changes would you like to see included in a new law?)

Police checks for staff.

The new law should take into account all services provided in the island to include home care agencies H&SS facilities and GP surgeries.

Announced and unannounced inspections. Mandatory dementia care training, social activity training. More stipulation under the law with regards activity provision.

Requirements for nursing and residential care to have a single category home. A clear requirement to ensure service users are protected from abuse. To provide risk based inspections. To provide regulation of acute hospital services and minor surgery in general practice. To further improve the requirements for pre employment checks on staff.

Changes as proposed in section 4.3 seem appropriate.

Staff supervision.

1. *Implementation of pre employment check*
2. *Risk based inspection*
3. *Transparency - Inspection report available to public for all care homes and H&SS departments.*

Changes to allow competent RN staff caring for those in nursing beds to care for those in their care who are on the residential part of an establishment's registration. The law needs to take into account the need of disabled people as much of what is termed nursing is for them an ordinary part of their life, often carried out previously at home by family members.

To ensure that all providers work within recognised regulated care standards.

The inspection is extremely environment focused and needs to be more resident based.

Clear consistent standards for all, based on evidence based practice.

To compare the 1994 law with proposed 200- law.

Change mental to acute care perhaps. Fine should be automatic and perhaps 'closed down' on home. More staff regulation. All residential care homes should be allowed 2/3 end of life beds.

Data protection should be included police and pre employment checks on staff and provision for clear enforceable standards.

As in 4.3 page 6. (of the consultation document)

I believe the Law should be brought into line with UK standards.

Agree with all points in consultation paper. However question whether the regulator should sit within public health and H&SS.

All nursing ad care homes should be registered. All staff including care assistants should be registered.

As in 1 (Private Home Care only looks after people in their homes so the above does not apply to them).

Domiciliary care and States facilities.

The introduction of regulations to include private care agencies (those who provide social care to vulnerable clients in their homes that trained nurses have a record of minimum standard competencies and up to date skills).

I would like it updated to follow best practice and standards of care supported by governance as it is vital the care delivered for an aging population is of the highest standard.

I am unsure if they need completely updating but it would be best practice to review this 5 - 7 yearly.

Independent monitoring and standards. Public should have this information when selecting care option.

Bring in line with best practice from the UK. Include hospital type services in the new law.

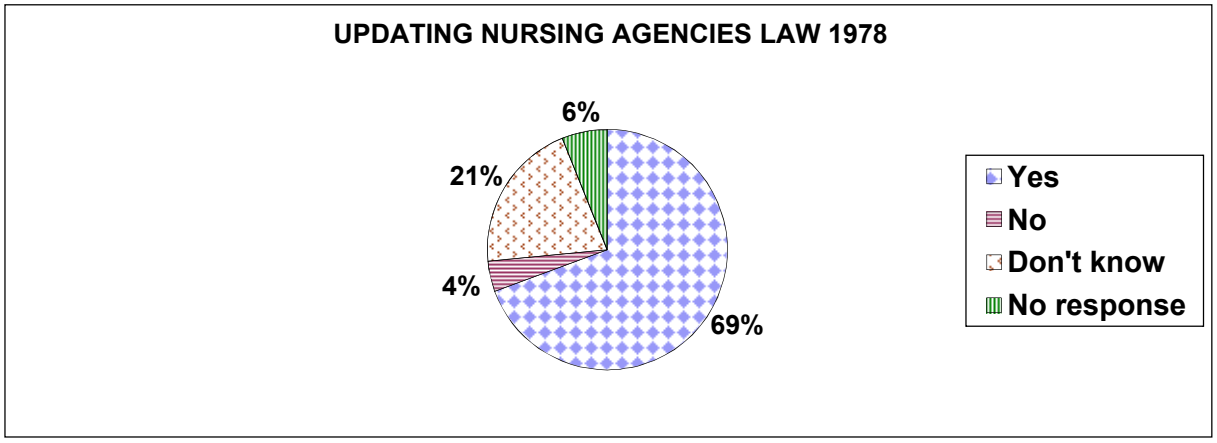
Protection of vulnerable adults, compulsory police checks, removal of exemptions, defining client groups, provision and protection of personal allowance, specific clinical need in line with community care law, specific obligations and duties of authorities defined, fair charging, complaints, right of appeal, registration to CSCI standards, guidance in regulation, island minimum standards set by independent statutory body.

The law should include Health and Social Services premises and Education - States premises. I also support simplification of the provisions for residential and nursing homes under one heading where possible to improve clarity.

As laymen we are not fully familiar with the various laws at present in place but we did attend the meeting last week and from the presentation given it would appear that the present laws need updating.

4.3 Question 3

Do you think that the current Nursing Agencies Law 1978 needs updating?



Comments (What amendments, additions should be included in a new law?)

Inspection of care practitioners within a client's own home with the same standards applied.

Police checks for staff.

A minimum skill for carers, access to clients' views, published reports.

The law to include personal care agencies. To ensure regulation of these agencies. Changes proposed in section 5.3 seem reasonable.

Supervision.

A process in place to screen staff is necessary. Agency staff must hold record of training and competency as they are often working alone and dealing with very vulnerable clientele.

Reduce the risk of vulnerability for abuse to people in their own home.

Care assistant register.

Staff employed by agencies should be trained to UK minimum standards and follow best practice in a bid to protect a very vulnerable group. Training should include food hygiene, first aid, health and safety, COSHH guidance, safe handling, confidentiality, infection control guidance, safe administration, storage and disposal of medicines, police checks and references.

I would like to know that all agencies are governed by the same law. It would give the home more confidence knowing that employment checks have been correctly made and that the agency nurse being provided is fit to practice.
Unable to get onto the website.

All should be police checked - all agencies not just nursing should be included.

Needs to be more comprehensive and include agencies providing personal care in peoples' homes.

At present there is no legislation governing agencies.

All staff must be trained, refs/pova. All staff must be assessed and deemed competent to care for elders. All staff should be police checked (CRB). There must be a pova list on the island in partnership with the UK.

Agencies are specific within their category and we are not qualified to comment on this.

District Nurses should be included. Fines should be increased. All records should be kept for five years.

As in 5.3 page 8.

I would like to see nursing and home care agencies incorporated into one law.

As indicated in consultation paper.

As in 1 (Private home care only looks after people in their homes so the above does not apply to them).

As in Question 2 (Domiciliary Care and States run facilities).

More details about the minimum standards required to set up nursing agency - mandatory training for nursing staff in agencies.

Yes and the service and care they provide must be best practice and in an island where there are a number of agencies providing care to any individuals it must be delivered at the same high standard.

I am unsure if the law has changed however 1978 is a long time ago and practice and usage has changed therefore a review is long overdue. Provision for 5 - 7 yearly review should be made.

Law to enable care agencies to be assessed and monitored by an independent agency and can then enforce standards that have been agreed.

The law should be in line with best practice. Inspectors should have greater powers. All personal care agencies should be included in the law.

Would like to see domiciliary and community based services regulated. Include duties and obligations to include responsibilities for adaptations and equipment, POVA and police checks, mandatory training, inspection, health and safety, safe handling, removal of licence to practice.

The penalties for offences 5(1) and 5(2) and 5(3) very low and need updating. States departments should be included.

It's important that staff working for such agencies are properly vetted with qualifications confirmed.

See question 2 (As laymen we are not fully familiar with the various laws at present in place but we did attend the meeting last week and from the presentation given it would appear that the present laws need updating).

4.4 Question 4

Currently the Nursing and Residential Homes (Jersey) Law 1994 has separate registration and different requirements for Nursing and Residential Homes. It is intended to simplify this by having a single category care home with one set of regulations and standards. What are your views about this?

Comments

It has to be broad enough to ensure that all types of care settings are able to be included such as community group homes. There should not be penalties for more naturalistic settings.

Agree.

This would work well as the current legislation naively expects nurses (RN) to always care for people to a high standard.

Totally agree.

I fully agree.

A single set of regulations and standards with a reasonable number of additional regulations and standards for homes with nursing would be preferable. A single category of home would not be helpful, better to have a care home and a care home with nursing.

I think this would provide good clarity and guidelines.

A single category for care homes would be more acceptable especially for home with dual registration.

It would give greater clarity.

For dual registered homes it would be better.

A good move, dual registered homes who have RN staff on duty could then assist a residentially registered client and would relieve some of the strains placed on FNS RN staff who are required to assess as competent their RN colleagues to perform a task they are already doing for those in their establishment on the nursing register.

Simplification of requirements will ensure that regulation would be easier. It would also make compliance to the regulations and standards easier.

Obviously nursing homes will need slightly different regulations and standards because of the more dependent type of patients but to come under an umbrella is not a bad move.

This work well in England. We still need to apply for different categories e.g. dementia.

Support unified law.

Disagree with this proposed approach as it would provide a blunt instrument and a one size fits all approach whereas different providers/settings require a more considered and complex range of regulations to meet different client needs.

No residential and nursing homes do have different requirements for residents and staff and therefore should remain separate entities.

This would be a very good idea.

Single category is a good idea if sensibly managed. Umbrella policies are good, but this must be applied to everything. Common sense must prevail and individual needs and services offered must be accounted for.

Yes a single category home for nursing and residential homes but with extra regulations for nursing homes.

All care homes. Nursing homes are simply care homes providing extra the benefit of nursing, the regulations and standards of which can be bolted onto a single care home set of regs and standards.

We support the view that a single standard of care should be applied to all nursing homes, respite care, residential homes both in the States and private sector. We believe the same standard of care should be provided for all.

Seems to be sensible.

No view.

Simplification of administrative process to something I am always in favour of. The abundance of unnecessary regulation which is sometimes contradictory is making compliance only more difficult.

Good idea.

If nursing care standards and staffing levels are identical to R. homes then the costs of residential homes may rocket upwards and providers may fold leaving a big gap in the market that the States may have to provide and tax payers will foot an enormous bill.

I am in favour of any legislation that simplifies understanding and compliance.

A single category would appear relevant, providing that the process of assessment and monitoring is achievable. Guidelines need to be clear.

This is an excellent idea.

As in 1 (Private home care only looks after people in their homes so the above does not apply to them).

I would agree with the change.

This is a good idea. I think that if nursing staff are required to be updated on skills then what duties they are able to undertake in residential homes should be reconsidered. Trained nurses should be able to undertake nursing tasks in RH and be professional enough to ask for help when required.

I agree a single category for both nursing and residential homes having both types of beds allowing the person to remain in the home to the end of their life.

This would allow flexibility in use of homes and would provide the capability for patients living in residential homes who develop nursing problems to remain in their home to die as do those clients who are not in residential care. It will allow for equity which is not currently available.

Basic standards should be across the board. However for more intensive care standards should be developed and enforced.

Should be care regulations and standards for care homes regardless of whether nursing or residential. Clients should expect to receive the same standards regardless of placement. Also some homes have dual registration - things become confusing if standards and regulations are different.

Regulation and standards should apply across the whole spectrum of services provided to Jersey residents.

They are different institutions. Any regulation should reflect this.

Very different organisations, one model won't fit all, may result in further loss of places in an already stretched service.

No a single set of standards could be inappropriate in respect of some of the specialist services provided in Jersey. It is inevitable with a small population that there will be establishments that combine hostel type accommodation for some residents with additional care being provided to other residents. The current registration process lacks flexibility resulting in considerable additional public spending being incurred. A new law should include sufficient flexibility to allow registration of hostels and similar establishments in order to maintain minimum standards, without imposing the full blown residential care standards on such establishments. Also there are a number group homes in Jersey that provide accommodation for adults with learning disabilities. The new law should provide for flexibility to ensure that group homes are run effectively and safely but take into account the small numbers of residents, relatively low care needs and the domestic environment in which they live.

How do you stop people being placed inappropriately in the cheapest option!

I fully support having one set of regulations and standards - simplifying the current law must be to everyone's advantage.

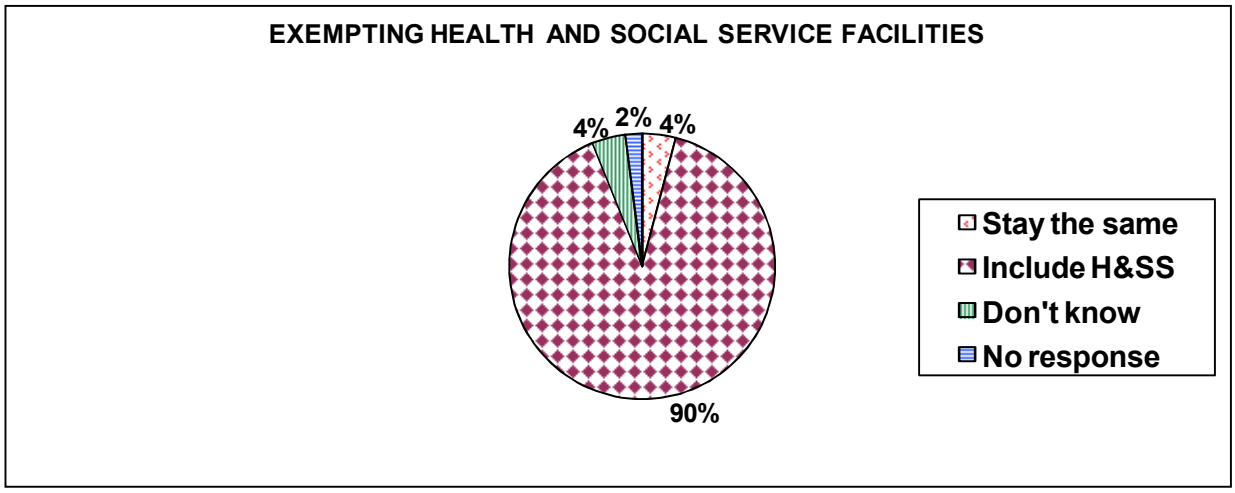
Agreed.

One law with standards for each category.

Would a single enabling law with power to produce specific regulations not be a better idea?

4.5 Question 5

The current Nursing and Residential Homes (Jersey) Law 1994 specifically exempts any facility that is operated by Health and Social Services or any other States Department from regulation. Under new legislation should this:



Comments

Institutional abuse, rigidity and complacency cannot be challenged in environments closed to outside review. All care settings should be transparent in what they do and how they do it.

All should be regulated to provide protection for vulnerable people.

All areas should be included; the legislation should be island wide in order to provide standards of care in line with best practice guidelines that are applicable wherever care is given.

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Therefore level playing field for private and public sector.

This will enable independent transparent scrutiny to take place and should ensure the health and safety of service users are best met. It will also provide a level playing field for all health care providers.

In order to maintain high standards for everyone all should be under the same legislation.

Health and Social Services and other States departments operating care facilities must be regulated and should not be exempt from inspection. Must have a similar inspection process to the independent sector.

All health care departments should be independently inspected to ensure that good practice and service is provided constantly - Areas not inspected have a tendency to fall below par and provide a poorer quality of service to staff, patients and the public purse.

The present system is unfair, if they were subject to the inspection process Overdale would not have got into the state of neglect as it did.

If no regulations are in place, faults which should/could be rectified can go unnoticed as staff priorities are on patients. This can exacerbate infection control issues based on basic cleanliness of departments as well as timely repairs. Hospitals like care homes require audits necessary updates can be missed by staff where as an outsider can often see the bigger picture.

There should be a level playing field. With the current changes with H&SS placing patients within the private sector all facilities either private or H&SS should b governed by one and the same law. A regulation of standards would ensure that standards are met across all sectors.

If H&SS were not exempt perhaps standards in some areas would not be so low.

Needs to be a fair playing field, residents in those areas also need protection from someone.

To support governance, equity and probity.

To create a level playing field, there is no logical reason to exempt H&SS and other States departments. H&SS should be required to meet the same standards as the independent and charitable sector.

All areas that involve the care of individuals should not go unmonitored.

Every person/persons on the island whether States or Private should not be exempt from regulation. Haut de la Garenne is a prime example.

As long as this is sensibly managed, not to cost the taxpayer a fortune, States departments should be regulated. It will also allow within reason a slightly less restricted operating scale for private homes within reason. Not separate code for Private and H&SS.

The Law must include private and H&SS facilities.

It is enormously important that users are given the confidence that all provision is regulated to the same standards.

New legislation should cover all residential/nursing homes both in the states and public sector to ensure all patients/residents can expect to receive the same standards of care.

Don't see why there should be a difference. All services provided should be assessed to be of appropriate standard.

It should be that one standard should apply across the board obviously. This standard should be based on practicality as well as what is deemed gold standard. Unfortunately those two may not tally and an assessment should be made of what is possible with the resources available.

Should be a level playing field. Cost comparisons would be easier. If States run establishments are more costly than private then civil servants or states employees may become accountable.

I believe that we should all be working from a level playing field and that no organisation or department should be exempt.

To have continuity of care, regulation should occur in al areas, especially due to Jersey's current commissioning process, where conflicts of interest occur.

Why should they be exempt?

As in 1 - leave to others to decide this.

All should come under the same process.

It is important that everyone works to the same standards and guidelines.

Regardless of who is the provider all departments should be regulated and standards met allowing for an equitable island wide approach.

I don't know if it should come under the same law but feel that Health and Social Services etc should be subject to some form of assessment/regulation and not be exempt as at present.

All areas of care should be monitored and assessed and reported on. This should then go in the public domain.

H&SS should be leading the way and setting the best example. Transparency is vital for public confidence and as funding from the public purse, surely the public have the right to know that H&SS facilities are regulated and meeting agreed standards.

As per question 4 (Regulation and standards should apply across the whole spectrum of services provided to Jersey residents).

States departments should be inspected by external assessment.

Level playing field.

H&SS is already or about to be regulated by outside/external agencies e.g. healthcare commission, CPA, radiology regulations.

All care facilities should comply with legislation. However if H&SS fail will H&SS take H&SS to court?

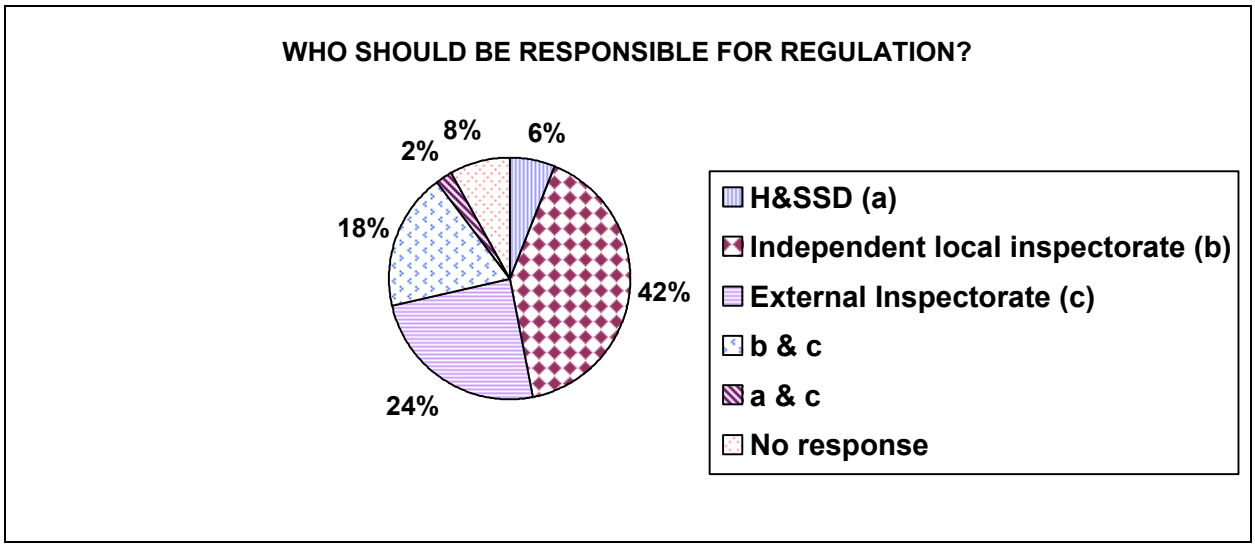
It is right that Health and Social Services and other States departments should be regulated in the same way as we require in the private sector.

It is totally incongruous that facilities operated by H&SS or other States departments should be exempt from regulation. One standard should cover all.

All care homes irrespective of ownership should be treated the same. (Currently private care homes are being used to place H&SSD patients).

4.6 Question 6

Who should be responsible for the regulation of care services in Jersey?



Comments

Any inspectorate needs to be independent but locally based. External agencies whether from the UK or Guernsey would not have the depth/breadth of local knowledge and in the case of Guernsey might lead to inter island 'collusion'.

In order to inspect H&SS facilities they have to be independent and operate transparently.

We feel that an external inspectorate would be beneficial, but not from the UK as they would not necessarily appreciate differences in legislation that are specific to Jersey.

May be favourable to have one inspection from an external inspectorate and one from present inspectorate and it may reduce cost and also see how we rate with standards in the UK.

An impartial inspectorate is better for all concerned however whoever has the role they need to be free from the restraints previous inspectors have had to work with.

At present H&SS are very much 'us and them' so to have a joint inspector would take a lot of forward planning to come into line with the same standards.

If achievable without major additional cost.

Health Care Commission. CSCI.

A new organisation led by Christine Blackwood with a small team of inspectors.

A local inspectorate separate from HSSD - acceptable, an external inspectorate from e.g. UK regulatory body – best.

We would like to see a care panel for each home (like a board of governors for schools) which is made up of people who have suitable professional expertise, plus lay members. They would report in writing to a care homes overseer.

Don't mind as long as appropriately qualified.

It does not have to be a UK body. The tendency to copy all regulation from the UK and apply it to Jersey does not necessarily lead to better care services. (We could look at the French model or the Dutch).

With expertise drawn in as required.

I believe the inspectorate must be independent and have access to all establishments and inspection of the units will have no hidden agenda.

I think it would not be ethical for an inspectorate to be part of the agency it would be inspecting and responsible for/to. It would be preferable to have an external inspectorate/regulating body but this may be difficult since the differing health service in the UK. Perhaps the other islands i.e. Isle of Mann, Scilly Isles, Guernsey etc could get together to develop an inspectorate to regulate every island.

Also some peer review process could be introduced to allow sharing of knowledge policies and procedures etc.

Would be good to build on from existing experience and knowledge already on island.

Please see my previous comments (H&SS is already or about to be regulated by outside/external agencies e.g. healthcare commission, CPA, radiology regulations).

It is noted that the consultation suggests that HSS service may in future be subject to regulation. In this event, the role of a regulator answerable to HSS may not be seen as sufficiently independent. This is a decision for HSS and ultimately the States to make. However it is logical to have one regulator for the island using a universal regulatory framework with appropriate and evidenced expertise. This should avoid unnecessary bureaucracy and be effective and accountable in its purpose. Regulation needs to be proportionate and compliance costs need to be considered against risk based assessments. Areas of low risk should not attract unnecessary regulation.

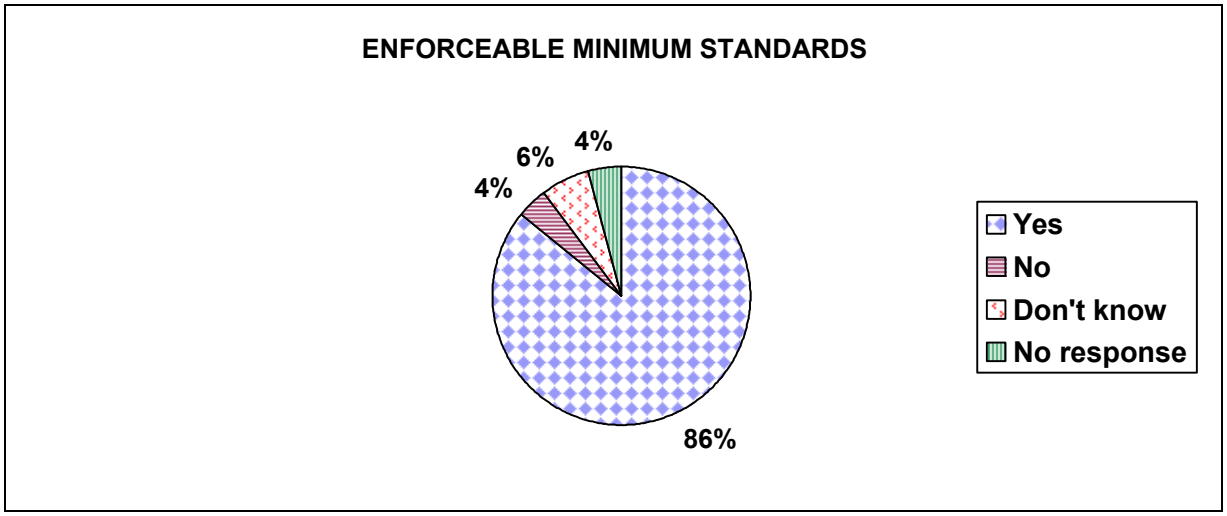
The care facilities should be inspected by independent local regulator; however the regulator must have power to call in external experts for specialist areas of care.

Regulation must be independent from H&SSD to avoid any possible interference or undue influence etc.

A Jersey based inspectorate should be made up of a cross section from the medical world.

4.7 Question 7

To measure compliance should enforceable minimum standards specific to different categories of homes and health care services be included in any proposed new law?



Comments

There is an eclectic mix of care settings/agencies in Jersey, often tailored to specific client groups. Minimum standards should be applied based on criteria relevant to the service.

This will give a needed clarity. The new law should also be retrospective although an amnesty period should allow older homes to plan, renovate and comply.

To ensure a quality service.

This should ensure that the care provided is at the appropriate level of quality and standard.

One set of standards for care homes that include some additional specific standards for the homes providing nursing care.

All care homes and health care services must comply with minimum standards.

The needs of different client groups and types of establishments vary i.e. disabilities/'elderly.

If there is going to be a law in which all facilities are required to adhere to specific minimum standards and best practice guidelines would need to be outlined to ensure compliance to the new proposed law.

Sometimes difficult to achieve even minimum standards but elderly should live with respect and dignity and facilities should provide these.

Given some degree of grandfather clause facility surrounding existing homes which are held in high regard but cannot meet the current building standards.

This compliance is already in use.

Absolutely.

One compliance cannot fit all homes/services.

There is no point having a law if it is not enforceable, but great care must be taken on the penalties to be introduced.

This is the only way by which comparisons can be made.

Minimum standards should apply to all care homes there should be a clear base line for quality of care expected.

Otherwise no point in assessment unless something is done should facilities fail minimum standard.

Minimum standards that are based on enforcement possible in practice with the constraints of the financial and social situation.

If practical and law changes don't take for ever.

I think this is essential so that all service providers have no misconceptions regarding minimum acceptable standards.

These should be in accompanying documents.

All clients deserve the highest standards of care regardless of the category of home or health care service.

But must take into consideration the economics of a home care service.

The only way to protect service users/patients.

It is very important that homes and agencies and other health care services provide care that is at an acceptable standard and that everyone undertakes mandatory training and update skills and competence although this would be difficult to enforce and regulate.

Minimum standards should be set and this will give equity across all sectors.

Without minimum standards how performance would be measured. The first inspection could provide advice and time scales for meeting minimum standards initially then enforcement could be actioned from then on.

It should have two parts, basic standards for all and then specialist standards for specialist services.

Minimum standards are essential. If they are not enforced then the inspectorate will have limited powers to measure compliance.

May need to be appendix - or the law may be too unwieldy.

These standards must be fully agreed with stakeholders before and not imposed.

Yes if well thought out and practical.

Difficult to understand your question.

Reform must reflect appropriate standards for care provision and safety in both the public and independent sector. It should also provide a mechanism for redress if services fail to meet these.

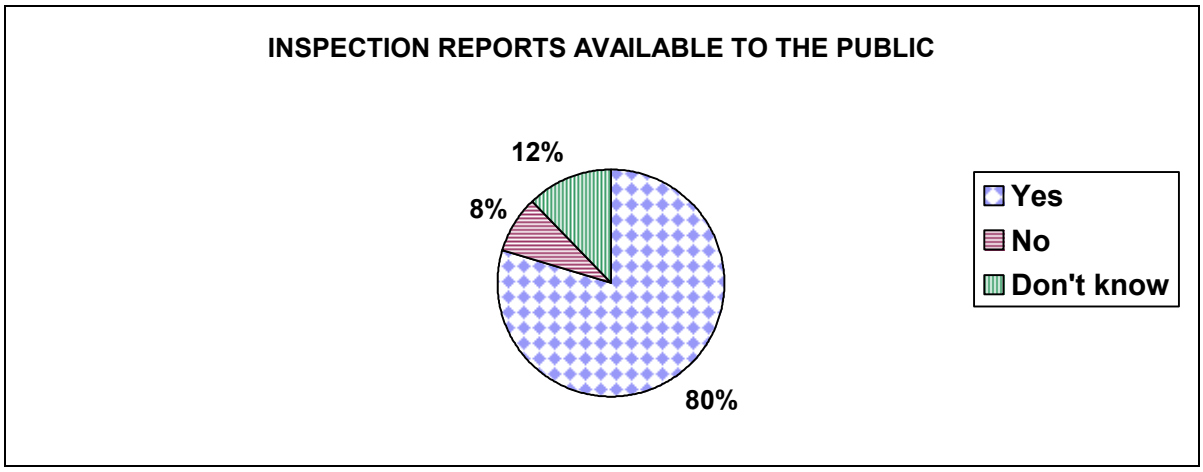
How can you measure compliance if there are no specific statutory standards.

Inclusion of enforceable minimum standards for different categories of homes and health care services in a new law is the best way, together with independent inspections of ensuring acceptable standards of care.

Perhaps the minimum standards could be promulgated by means of regulations applicable to different categories attached to the Law rather than being embodied in the Law.

4.8 Question 8

Currently inspection reports are not available to the public. Do you think that inspection reports should be available to the public?



Comments

If there is nothing to hide then inspection announced or not should hold no fear and public awareness equally should be welcomed by any care delivery service and should raise standards. Publication is essential.

Transparency is best.

Not in the current format. Measuring compliance against minimum standards will assist this process.

Maybe on request if home feedback report is included.

This will enable the public to make an informed decision as to the choice of care provided.

Enables informed choice and also allows the public to monitor the work of the inspectorate.

Following a similar process as in the UK.

It will give greater transparency and public will be able to access reports and choose an appropriate home/placement.

I think they should be available to the public and I also think that residents and relatives should have more input about the care they receive.

I can see this may cause concern for commercial homes however it might also have a positive effect in ensuring standards were complied with. Personally I do not think it is necessary and will cost monies and time to implement and maintain. I feel there are other areas where staff time/monies would be better spent.

I don't think the whole inspection report should be available to the public. If a problem is highlighted one should be given the opportunity to correct it. If the initial report was made available to the public a home would be labelled with the particular highlighted problem until the following inspection. This could compromise the reputation of the home. Possibly a summary could be available to the public.

If any member of the public i.e. family of relative about to come into care and are doing a little research on care homes, then it would be nice to look at a summary of the report.

This makes the owners more driven to achieve. The public in England use them to choose the local authorities use them to purchase.

Transparency.

To ensure transparency and allow the public to make informed choices there must also be a mechanism for appeal prior to release of information into the public domain.

Confidentiality for home and all it takes care of residents, relatives, staff.

Always yes. Families should have access to inspection reports when deciding where to place their loved ones.

They should be available on a need to know basis. However reports written with this in mind i.e. great care when reporting comments made by residents.

It is important to keep standards up and for the public to inspect reports.

Emphatically yes. Users should have choice and choice can only be made when information is available. Secrecy encourages suspicion.

Yes in summary format, however only findings should be noted and available. The next report should comment on how these were addressed.

Transparency - good for patient/public confidence.

The danger in making these reports public is that certain findings are taken out of context. It may also be impossible to have a weighted considered opinion of the findings by a lay public.

I'm not sure what purpose this would serve although I have no objections to the proposal in principle.

I do not believe that inspection reports would be productive to the public. Perhaps a scoring system would be better.

Clients and families and the general public are entitled to know that the standard of care is of the highest.

Open and transparent. To help people make the right choices.

The public have a right to know that they are getting value for money and being cared for by appropriately trained staff.

Reports should be made public and this will give people the information to make informed choice to use a service and what to expect.

All these services are paid for by the public and they should be able to see if standards are being met. It may not be practical for the whole inspection report to be published however a clear concise summary should be and access to the whole report made available if requested.

This would inform the customer and add weight and power to the process.

As the public use these facilities they should be able to see reports in order to make informed choices about using them. Also encourages compliance.

Focus groups and patient/carer groups need to be able to access such reports to allow informed choice.

But bear in mind people have little choice over where they go on a small island. It would not serve to use reports in a vindictive manner to undermine competitors.

Transparency.

We have no problem with CPA reports being available.

The public must be fully informed of what to expect in terms of safety and standards. This means the publication of credible and transparent information about such services.

The customer should be able to make a reasonable decision based on all information. Inspection is government funded so information should be available.

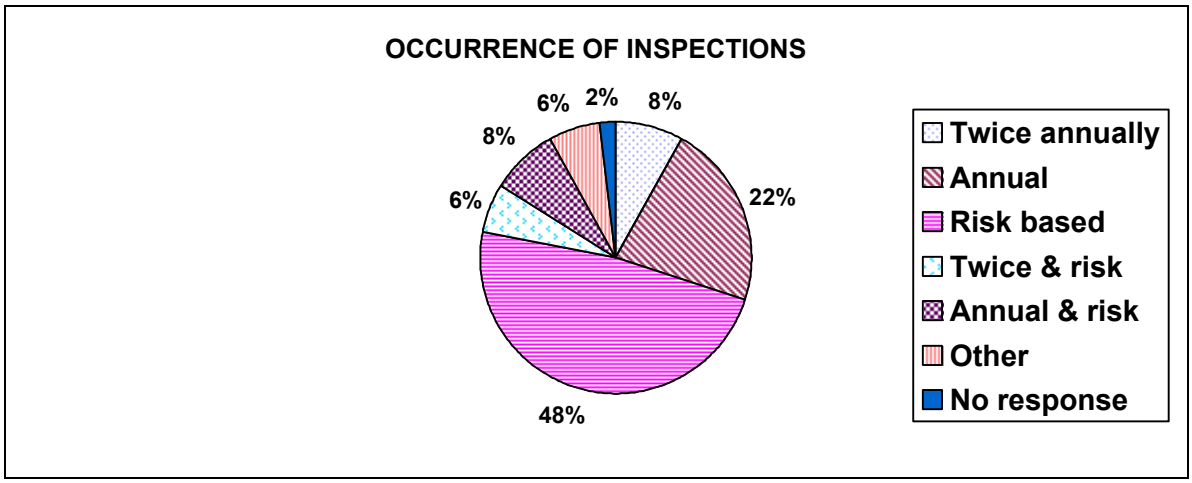
This will make acceptable standards more likely.

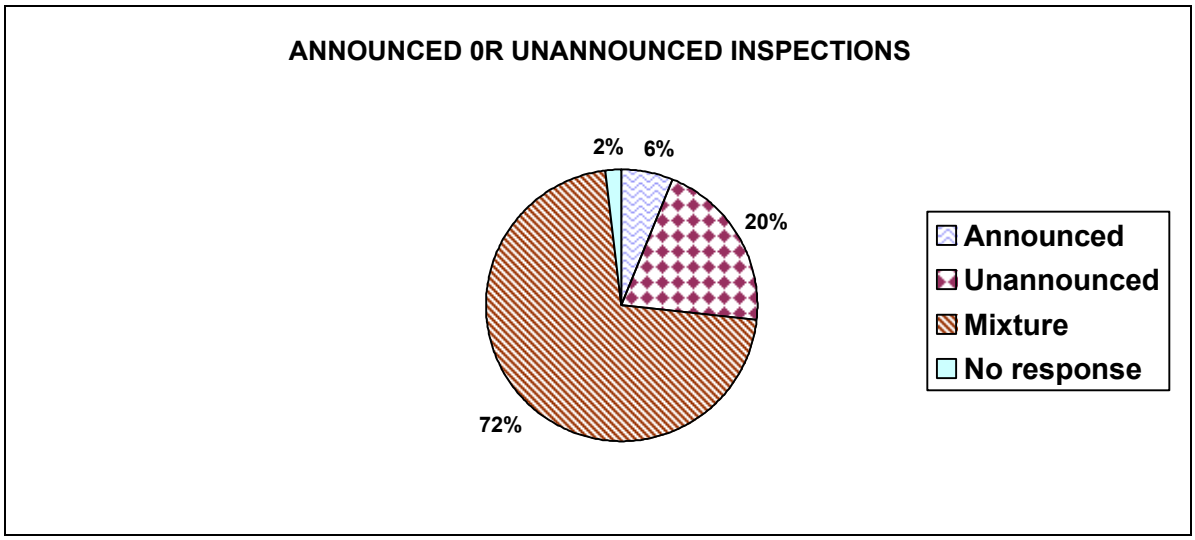
Any inspection system should be open and reports made available to the public.

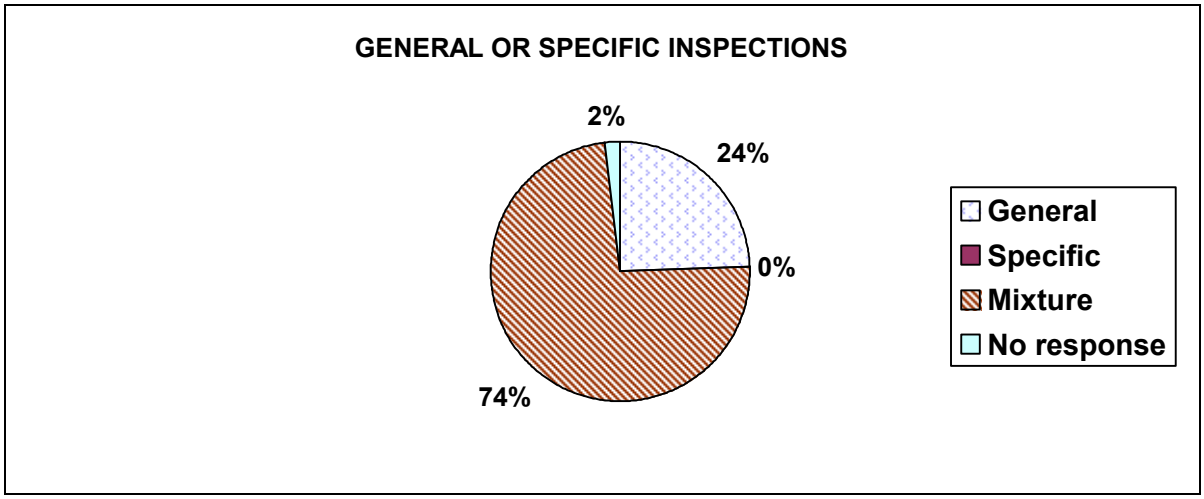
Any report published should not be detrimental to the care home without that establishment being given the opportunity of responding and that response being published at the same time.

4.9 Question 9

The inspection process will form part of any new legislation. Do you think that inspections should be:







Comments

Minimum of two per annum but more frequently where issues of standards cause concern.
One unannounced inspection annually with a planned inspection every two years to allow thorough audit and views of staff and relatives as well as residents.

Focus on different aspects at each inspection.

More emphasis on quality of care for service users. An external inspectorate annually for H&SSD.

At least annual with additional inspections based on risk. But at least one announced to ensure that key personnel are available.

No complaints with the current inspection process for the independent sector.

Or a mixture of one annual and risk based at discretion of inspector.

I think that relatives should have an opportunity to meet with inspectors and give input to their comments on the service that their relatives are receiving.

When the inspection team have concerns regarding an establishment or the management of a home the inspectors should be able to prioritise return inspections to that establishment.

I think inspection is a very positive process. When certain issues are highlighted at inspections the home should regard this as positive, enabling the home to improve their standard of care without just meeting minimum required standards.

An arranged inspection would enable senior staff to be present and prepare in advance the required list of patient dependency etc the inspector needs for the file. We could then arrange to keep the allotted time free for the inspection or perhaps arrange lunch etc.

Homes that are achieving the standards do not need twice yearly visits which allows the inspection body to concentrate on lesser performing homes.

If the general inspection revealed particular issues it should be followed up in more depth. Furthermore an island wide problem should be addressed within all inspections.

If possible length of time inspection may take.

Yearly then under the English system Red perhaps one announced one unannounced Amber once a year, Green own audit 2-3 yearly inspections. We found our inspector very fair and thorough although found three visits in three days very stressful.

The current process of inspecting is very professional, works with the home and provides good source of information and advice. No real changes to this are required.

If a home is well run it may not need a full inspection every time. The inspector could look at certain aspects highlighted in previous inspections.

Initially it will be important to carry out inspections twice a year one announced and one unannounced. After say two years, a risk based inspection process is preferable, as this will allow resources to be focused on those underperforming. The announced inspection should be comprehensive; the unannounced should focus on those functions of current interest.

We would like to see one visit unannounced and one by appointment.

Any inspection should be a positive experience based on suggestions how to improve and how to change for improvement.

I do not think inspections should be too predictable as the objective is to ensure that proper standards are being maintained. I believe a mixture of random and announced visit would be both fair and effective.

An announced inspection is of no use - as it gives the opportunity to cover any errors which may have occurred.

Must take into account the costs of running an affordable home care service. Due to the fact that we are providing the service in other peoples homes and we must respect their privacy and rights. We must emphasise the needs to keep our costs affordable for our clients while respecting their privacy and rights.

A rigorous complaints panel and critical review panel should ensure risks are identified and actioned and that changes in practice occur. Panels should be made up of multidisciplinary team including GPs and patient representatives.

Three yearly for H&SS establishments, two yearly for the private sector as I do not think it is achievable, however if a risk/problem is identified then this could have increased inspections. When undertaking an inspection it is important to involve the service users and their families.

However it should not be more than annually unless major problems have been identified and timescales set for improvement but not less than three yearly for homes (residential and nursing) or five yearly for acute, domiciliary and GP services. A major inspection should be announced, intermediate/interim unannounced. I think a regular general inspection should be carried out with focussed inspections in areas which have been identified as needing improvement or areas which have proved excellent to ensure compliance has been maintained.

Each care area will have general service standards then specific areas to match the service.

Service users' views should form part of the inspection and key stakeholders' views. E.g. DNs could be asked for comments about Care Homes.

Three yearly with increased frequency by results. Focussed inspection in detail may not be possible in unannounced inspections. However this situation does already exist in radiology facilities when IRMER can and do visit any time unannounced.

Flexibility and common sense should apply, too many will defeat purpose.

Preparing for CPA and maintaining the standards is an on going process and four yearly with a mid-point interim inspection works very well. We are already well inspected and in order to maintain our service within existing budgets, we would not want any further unnecessary inspections.

No comment.

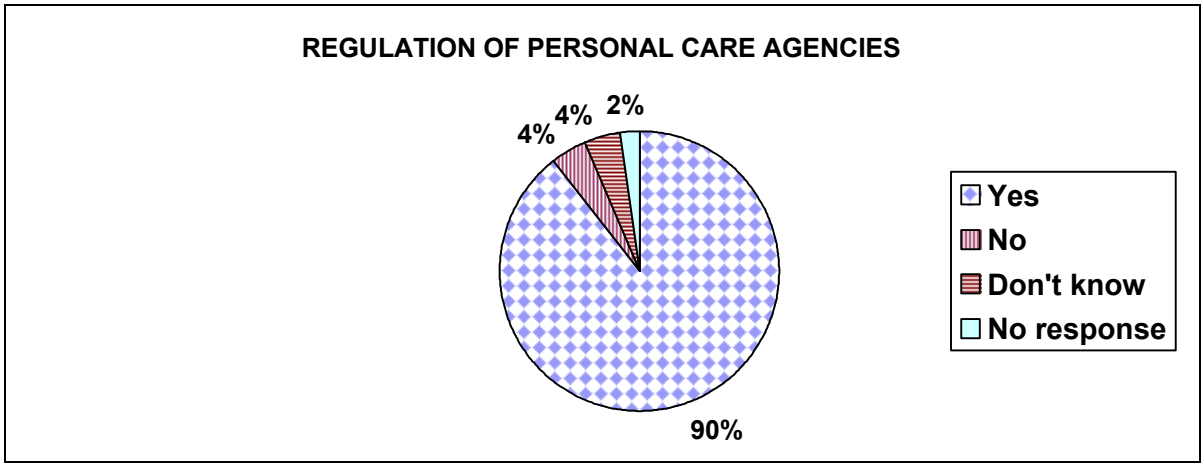
Where possible inspectors should speak and listen to those receiving care, if necessary in one to one private conversation.

On reflection there may need to be a two tier system. If a particular home is criticised on a particular point during a general inspection a follow up unannounced inspection should be carried out specifically focussed on that particular to assess what progress has been made towards rectification.

We feel that if a care home is being run professionally and correctly they should not have a problem with unannounced visits and inspections. Inspections (perhaps not all) should be intensive (i.e. on site long enough to observe different shifts of personnel). If a member of the inspectorate is unacceptable or pedantic to the extreme the care home should have an opportunity to complain. (Jersey is a small island and most people in the profession know each other. Someone may even be an ex member of staff of the home being inspected etc.)

4.10 Question 10

Do you think that personal care agencies (that is agencies providing home/social care to people in their own homes) should be regulated?



Comments

Perhaps the quickest route to excellence of care but potentially also open to abuse, low standards etc. Dependent on abilities/age/isolation of client.

Quite shocked not already in place.

Patients more at risk entitled to be given a good service.

This would ensure that practice is current, regularly updated and most importantly safe.

Ensure high standards of care. Because they work with vulnerable they should also be regulated.

Definitely for service users protection.

Do they have a training programme in place? They must have appropriate skills and expertise to be safe to protect the public and themselves.

As previously stated to decrease vulnerability to people in community.

I think care worker register should be implemented as even though references are obtained more and more are only stating length of time employed, people are afraid of being sued.

The user of the service should be confident that the staff supplied to the home have been adequately checked, i.e. police checks and references and are fit to practice and have been given adequate training necessary to do their job. Currently some staff employed by care service providers have limited experience, English, knowledge or training. This puts people at risk.

I think that definitely references should be passed on as proof of good character, honesty etc when working in private homes.

Protection of vulnerable people.

Degree of client vulnerability even greater.

Sick and vulnerable people being cared for at home should be confident that carers are meeting the same standards required elsewhere.

All caring bodies/agencies should be regulated.

All should be trained NVQ level2/3.

Anybody providing care needs regulating due to the very nature of the work.

Minimum standards should be set, police checks on carers and data protection.

For the confidence of users.

Absolutely yes. People at home can be more vulnerable than people in care and are sometimes looked after by people with no training or little empathy.

Why should they be different as providing a care service?

I think that professional bodies already have standards for professionals involved.

Some practical help guidance/funding should be available to help set up processes/costs. All tax payers may need these services at some time and initial costs when introducing legislation could be subsidised.

This is essential to create a level playing field and to ensure high standards are maintained in the domiciliary sector.

However if an SLA is in place I'm sure this would be required. The SLA would indicate expected standards, e.g. governance etc.

Certainly.

We operate a private home care business which is small and not subsidised, higher costs cannot and must not be passed onto the customer.

An increasing number of personal care agencies are being set up and utilised by the public in Jersey. Some of the clients are vulnerable and have complex needs. Staff administering the care need to be trained and monitored. However costs could push the fees up and this would be counterproductive as clients would employ staff directly without an agency being involved.

Regardless of the level of care agencies are providing they should be regulated and as the population is aging it will be important the people using the services feel and are protected.

Any services providing care should have some form of regulation.

Many people who receive home care are vulnerable and may have progressive needs.

They are often dealing with very vulnerable people and therefore regulation is essential.

To ensure safe levels of care provision and equity of services.

Basic requirement.

The legal status of nursing agencies and home care agencies has no direct commissioning impact on Social Security. However many income support claimants make use of both family nursing and private agencies to provide home care. If a scheme to provide long term care funding is approved by the States, this may well include provision for the funding of domiciliary personal care services. To achieve this, a regulatory framework for home care agencies would be highly desirable, if not essential.

Vulnerable people need to have protection.

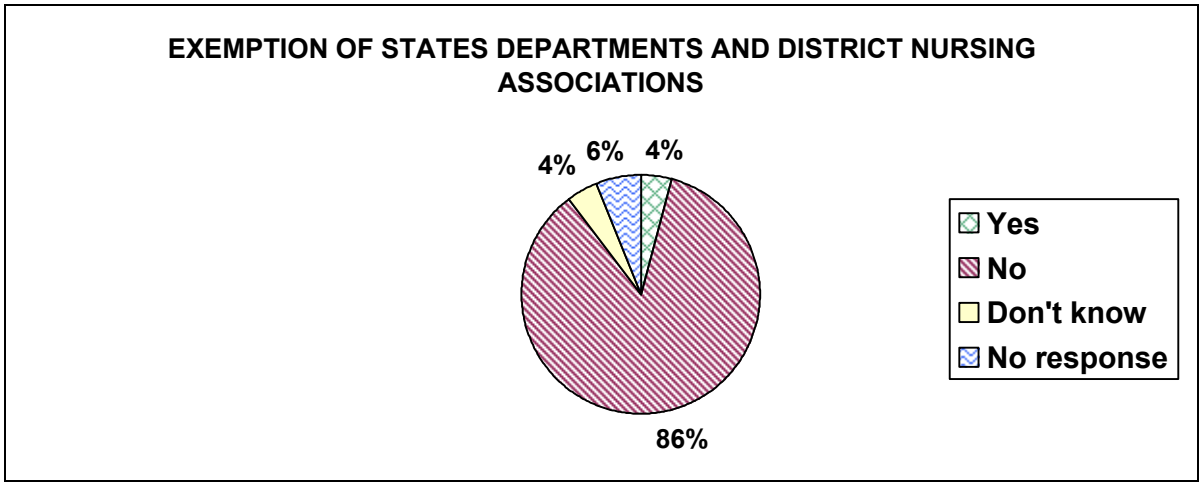
There should be regulated minimum standards for personal care agencies.

Anyone providing such services must be subject to regulations to ensure that their staff are properly vetted.

Possibly, but if the changes in the law stipulate that police checks must be made on staff prior to employment it should regulate the type of people being employed by those agencies and therefore protect the individuals in their own homes.

4.11 Question 11

Currently the Nursing Agencies legislation exempts any service operated by a States department or District Nursing Association. Under new legislation should this remain the same?



Comments

It does not matter who provides care in what setting it should be open to inspection There is almost arrogance at work - we are the States we must be good!

Again quite shocked not already in place.

Again needs monitoring.

There is a definite need for independent transparent external scrutiny of all self governance processes.

All should be included - no exemptions.

There should be no exemption in any of the services.

Most definitely as at present there does not appear to have any screening process in place, and are not monitored and they are working with very vulnerable people in their own home.

Same as above.

I think that regulation is important in all areas of care.

There should be a level playing field. There should be one standard for all facilities offering care.

All people needing care are at risk so maximum protection should be offered.

These agencies are also delivering care and again we need to protect the elderly.

Transparency and equity. Good governance.

Level playing field. No logical reason to exempt States or FN&HC.

They also provide care.

Regulation should be the same all service providers should be accountable for the service they provide.

As above but managed sensibly. Funding must always be taken into account.

Health care requirements must apply to all nursing agencies.

For the confidence of users.

To ensure a standardised service is provided.

It's the service provided who should be assessed not who provides it.

Need a level playing field - standards more consistent and easier to compare and assess.

As before in question 10 This is essential to create a level playing field and to ensure high standards are maintained in the domiciliary sector.

See Q 10 However if an SLA is in place I'm sure this would be required. The SLA would indicate expected standards, e.g. governance etc - What is the practice in UK?

All agencies should be answerable under the law.

If regulation is deemed necessary it should apply to all whether in the public or private sector.

Equity of services is required - no service should be exempt.

Like the private sector they should be regulated.

As above (Any services providing care should have some form of regulation).

Any organisation that delivers care should be monitored to ensure standards are maintained.

See answer above (They are often dealing with very vulnerable people and therefore regulation is essential).

Equity of service provision open, honest and transparent.

External inspection. You already asked this once.

Level playing field.

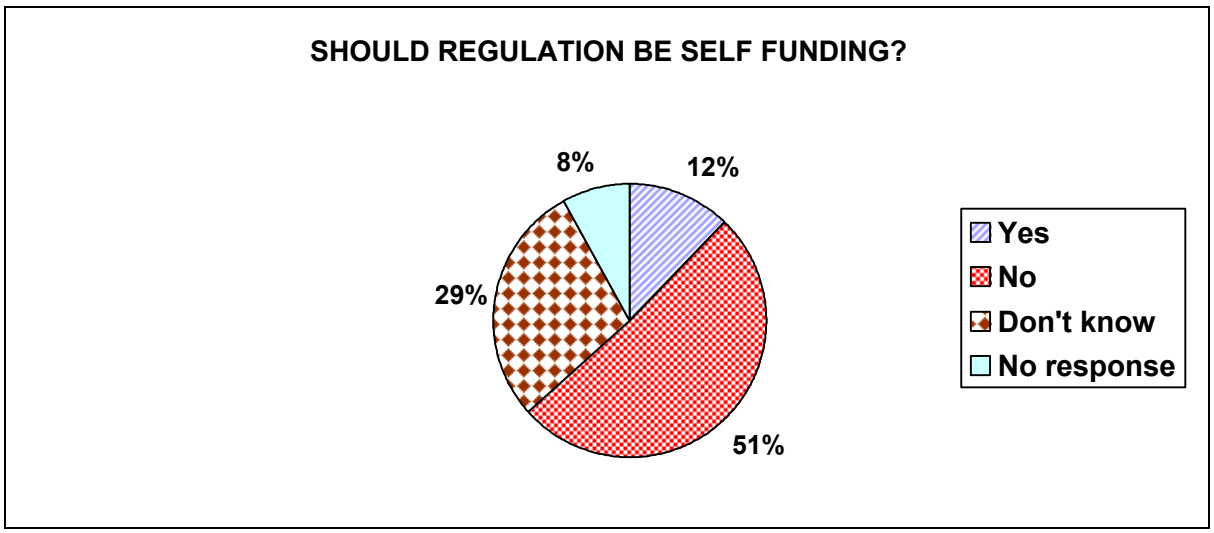
Regulate and inspect.

Legislation should include minimum standards that are enforceable on a States department or district nursing association.

One rule should cover all.

4.12 Question 12

Currently cost of regulation of care is mainly funded by the States of Jersey with fees for providers of services set at a minimum level. Should fees be set at a rate that makes regulation self funding?



Comments

As a charity any fees however valid are an additional burden, they would have to be built into care fees, thus ultimately coming from the public purse.

Removes independence of inspection body.

To continue in partnership with the States.

This has the potential to place unreasonable burden of providers. A realistic rate needs to be set and the short fall subsidised by the States of Jersey.

Depends on how it will be costed, i.e. size of home or per bed.

Whatever happens the cost of implementation is going to be enormous.

If higher costs are incurred due to facilities not meeting the required standards, they should be penalised and incur the higher cost, not those who are working to the current or proposed standards.

In England this is the case, however a small home may have difficulty funding this. I do think the fees should be increased though.

Difficulty of voluntary/charitable homes to meet the cost. It will be passed on anyway to residents' fees, SLAs etc.

States of Jersey should continue funding in the islands own interest to keep standards high.

Fees should be set at accordance of bed capacity Residential medium, Nursing higher. Three set fee guidelines.

1. Funding in states departments is not controlled and therefore this could be subject to abuse of funding provided by private homes. 2. Poorly run homes cost well run homes more than their pro rata payment under this scheme.

It's getting harder to absorb increasing costs and with more homes and agencies being inspected and more inspections required the fees will be too much for us if the States do not provide funding.

Annual registration fees should cover the cost of administration and inspection.

Providers of services should be able to self regulate against a clear set of rules. A panel and professional clinical nurse on their staff. Inspection and audit should be carried by the states and funded by the states.

Regulation should be funded by the States therefore impartiality maintained.

If regulation is introduced of course it should.

All tax payers benefit the improvements brought about by regulation.

The cost of regulation could be crippling to smaller businesses which already invest heavily in their personnel. It is in the interests of both service users and service providers that appropriate regulation is implemented, but not at a cost that is potentially exclusive.

This is a statutory requirement therefore should be funded accordingly.

This should be the remit of the States as it has already been paid for through the tax system.

See my comments (10) above (we operate a private home care business which is small and not subsidised, higher costs cannot and must not be passed onto the customer).

I don't understand this.

The States should continue to fund and I strongly believe that is their duty.

It should be funded by the States of Jersey they have a duty to ensure Service are given to the expected standards and therefore if regulation is to work and seen to work it should be funded by the regulating body.

Don't give people a reason for not embracing regulation and maintaining standards.

Don't understand above. Essentially I think the States should fund regulation. Registration fees could help towards the funding.

Funded by the States and currently they are not regulated? Open, honest and transparent.

Small agencies will suffer as any extra money spent on regulation fees stops them spending it on inward investment. This could be construed as anticompetitive.

Will drive small businesses out of the market and gives too much power to the agency.

Community should pay for their own regulation.

It is appropriate for service users to bear the cost of regulation. However it is important to note that the States funds a large number of individuals in residential and nursing care in Jersey. Changes in the regulatory framework that create cost pressures on care homes would undoubtedly be reflected in increased fees. The taxpayer pays many of these fees and the new law would need to be accompanied by new funding to ensure that the States can continue to provide funding to the same number of residents as at present. From this point of view, the additional costs of any new regulatory framework would need to be judged against other cost pressures on the States budget. These comments also apply to home care. If the introduction of a regulatory framework increases the cost of home care, this would need to be provided for with new funding to ensure that the level of access to care did not decrease.

Regulation is a government responsibility, should be independent and robust.

I would prefer regulation of care to be independent of the providers of service if this is feasible.

This is tricky. Any future regulation must not be so expensive that care home fees go through the roof. They are expensive enough already.

Except for charities and non profit making organisations.

The States of Jersey having given a licence to a body to operate a care home should continue to make minimum charge and should fund the regulation as part of health care.

4.13 Question 13

What in your opinion are the most important changes you would like to see in any new legislation?

Comments

1. *All States run facilities need to be registered and open to inspection.*
2. *Minimum care standards applied and taking into account the psycho social and mental well being of residents.*
3. *a greater independence for the inspectorate (and locally based).*
4. *Protection from abuse with clear guidelines.*
5. *Publication of all inspection reports.*
6. *All care staff to be subject to police checks.*
7. *Greater flexibility in inspection of facilities not conforming to classic care model - e.g. group homes.*
8. *Flexibility to take into account different client groups in different care settings.*

1. *Joint Law reduction of bureaucracy*
2. *Police checks for staff*
3. *Include all services providing health and social care*
4. *Random inspections along with arranged. I was quite surprised to read limitations of law as a lot of so called failures are already covered and policed by the current regulatory body.*

It should be island wide and all encompassing. It should be delivered from a local independent organisation. All procedures should be transparent (Registration and Inspection). A more cohesive approach from related inspections i.e. pharmacy and environmental health would be cost effective for all concerned. Dare I say a win win situation?

Level playing field for private and public sector. More legislation on social activity provision. Agency and private carers should be covered by legislation. Increase in mandatory training e.g. dementia training, activity provision.

Enforceable minimum standards specific to different categories of homes and health care services. To include Health and Social Services and other States facilities. To update the Nursing Agencies (Jersey) Law 1978. Inspections should be risk based and on an annual basis.

Appropriate and unambiguous regulations and minimum standards. A clear inspection strategy and process. Flexibility to ensure that existing providers have time to make any reasonable changes. Exemption to ensure that existing providers do not have to make changes to the structure of the building/reduce

bed numbers unless these changes directly affect the safety of residents and staff.

Police checks in accordance with UK CRB for all staff prior to employment at any establishments and references checked thoroughly. All states run units not to be exempt from Nursing Agencies' legislation. All inspectors should have occupational competence. Staff to be qualified and skilled in specialist areas with ongoing supervision regularly to monitor good practice in accordance with job description. Provision of continued staff training and development. Appropriate training taken prior to initial employment.

A level playing field for all is essential. Police checks of all employed in the care sector. A register for health care assistants. Self employed carers - no process in place for them or those they (care) for! If the home owner/manager felt a comment in the report was not fair or accurate is there an appeal process in place prior to the report going public? Who would pay for the demolition if a building was deemed not fit for purpose?

1. *All healthcare departments both private and public should be independently inspected. This will give a more level playing field for all concerned with the care industry. It will also ensure better quality is provided to the 'user' of each service and ensure that the public purse has provided a quality product for all*
2. *Pre-employment checks for all in health care*
3. *All reports should be available either online or at a local health care establishment for the public to access. These should be updated regularly.*

A level playing field across health care and social services. Regulation that is achievable and that also acknowledges good performance.

The ability for competently trained RN staff to care for their client group whether they are on the nursing/residential register. The time frame for nursing/residential homes paperwork to be made the same for both client groups (archive). Agency providers to be regulated to protect vulnerable people and staff. Regulation covering acute and hospital care. Overall I agree that changes are necessary and I feel that the majority of changes proposed in the Green Paper are sensible and should be implemented.

I would like to see all facilities, state or otherwise regulated under one law. When states patients are placed in the private sector, certain standards are required prior to placement, yet the states do not appear to have to meet the standards they are demanding themselves. I think that nursing agencies should be regulated as we at times rely on relief staff. If agency staff are not competent, it can put the service users and their residents at greater risk. All facilities appear to rely on agency staff at times due to the limited amount of care staff available on the island.

My main priority is making a safe homely environment for the elderly. Single en-suite rooms are a must. Inspections are a must. On going checks of senior and junior staff a must. I do feel saddened by the people who have to spend their life savings on care while others with no savings or pensions get the same benefits free of charge. Not much to do with legislation by my opinion/feelings.

I would like to see a more robust resident led inspection with questionnaires sent to residents/relatives. Case tracking, speaking to residents who use the service. That all residents are protected which includes police (CRB) checks for all staff who deliver care and robust policies and procedures that need to be followed. That all services delivering care who are not subject to outside scrutiny be included within the laws for inspection.

Equity in application on new law and regulations to all service providers whether States, Private, Voluntary or Charitable plus regulation of home care providers.

7. *Regulation of care agencies*
8. *Regulation of day care centres*
9. *Level playing field for all health care providers/practitioners*
10. *Simplified arrangements*
11. *Consistent framework*
12. *Risk based approach*

Currently no register to name and shame any care worker that has been found to be abusive/poor standard of care. This would help to ensure that after their dismissal they would not be able to continue to work in any sector involving care.

Whilst single category care home is an ideal, allowances must be made for individuality of homes as each can provide specific services for individual clients. Therefore providing a more tailored service from which placement officers can select. Cost has to be considered as H&SS as well as private homes are all working to budgets and unless this is sensibly managed (and it can be) costs could escalate to an unmanageable level for all concerned. The current inspection team already provide an excellent service with which to work with and common sense does prevail whist keeping standards high and aiming to improve these within a reasonable structure.

Partners should not be separated when taken into care. There must be provision for large rooms to be used by two people. If new regulations are brought in necessitating expensive alterations to established homes, time must be given for them to be made and financial help to comply with the law. The most important change is to have clear enforceable standards which apply to all states, private and voluntary services. Regulations should not be so strict that it is difficult to recruit staff, or make all homes large and hotel like. There must be room for small or individual homes.

The most important aspects of change should relate to consistency and transparency. At no time has it been more important in Jersey than now, as the general perception of public and private provision is one of suspicion and cover up. This can only be rectified by a consistent and transparent inspection system.

A clear picture of what is meant by 'good quality care' for vulnerable people to include: general physical accommodation and space, mental care/stimulation, treatment and care with dignity as an individual, staff know their residents and have time to chat to them. We hope the new law will not sideline the above examples, it is easy to concentrate on admin rules and regulations and forget to emphasise the meaning of actually caring for a person.

Any assessment is done in part unannounced.

Clear standards and accountability.

Legislation that would lead to less need for administration and more time for the actual care delivery.

Simplicity, common sense not to over regulate and clear guidelines as to what is expected. Most importantly to listen to what people who work in care homes, provide home care nursing and services etc say. It's no good having remote administrators impose lots of regulations that can't easily be provided and monitored. There is a danger that the hands on carers end up spending too much time writing reports and don't have the time to do the caring. Nursing and care should mean that carers/nurses have their hands on patients not holding a pen too much writing about them.

Above all I would like new legislation to include clear, simple standardised regulations where possible. I would also like any new legislation to be realistic in terms of financial cost to service providers in the private sector and for all care service providers in the care sector (whether public or private) to be regulated in a way which is fair and non exclusive.

1. *conflicts of interest addressed in commissioning v regulator*
2. *level playing field in regulatory system*
3. *A positive supportive legislative structure which motivates providers of care*

All care should be regulated by Law. All practitioners of all grades should be registered. All practitioners should be required to re register yearly. All practitioners should be monitored regularly.

See previous comments over costs.

All care providers to be brought under a regulatory framework. Enforceable minimum standards.

The most important change is the regulation of care agencies with a requirement of mandatory training, competency and standards of practice for all staff. That nursing agency/nursing home supply nursing staff that have adequate up to date training. That all services are monitored equally without prejudice and that a multidisciplinary panel investigate serious incidents/issues so that everyone works together to raise standards without raising the costs to the agencies unreasonably.

To ensure all agencies who provide care to individuals in their own homes are regulated in a cost effective way avoiding putting more cost on to the client. That staff working in agencies and other providers are confident and competent to perform their duties. Ensure there is financial programmes in place. Process to protect vulnerable people. Provision of clear standards that must be met.

That there is evidence all care provided to the sick and vulnerable is delivered at the correct level and there is equality across the board. That standards are met, time is given to make improvements where required and that there is a system which enables sanctions to be made if compliance is not met.

Independent regulatory system for all providers of health and social care. Reports regarding standards should be in the public domain. The system should be centrally funded. Standards setting should start with basic and develop. Law enforcement of the regulation should have the power to shut down services if regulations not met.

All care service providers and facilities should be regulated regardless of whether States department or District Nursing Care or Personal care agency. Inspectorate must be an independent body (definitely not H&SS). Have core regulations and standards and specific ones for different types of care facilities. Inspection frequency should be risk based with a maximum time between inspections set. States should fund regulation.

Patient centred focus groups. Open, honest and transparent. Applied equally across all service providers.

I would like to see this process subject to external review. Any states bodies inspected must have some promise of funding to help repair any faults. Faults should be allowed reasonable time scale for correction. Much more debate needs to occur about this. I note consultants were not on your original distribution list which is a rather large omission.

The legislation needs to be strong enough to prevent poor practice but not a bureaucratic ball and chain that prevents normal work. Going too far down the UK style will be costly and could reduce work in Jersey.

Realisation that over regulation and day to day interference by government in attempts to completely control society behaviour that has resulted in the demise of all the previous great civilisations, e.g. Greek, Roman, Byzantine etc. Learn from history deregulate.

The current inspection processes that we are involved with work very well and are open and transparent i.e. fit for purpose. They have been developed over many years in the UK (c.f. CPA) and we maintain the standards set by them. Any further regulation/legislation we would not be able to cope with and would be inferior to the extremely high standards set by CPA.

Statutory standards. Regulation of all care providers regardless of sector. Statutory requirements for police checks and POVA checks on all staff on a

regular basis. Independent arms length body responsible for inspection and regulation.

I would like legislation to treat Health and Social Services and the other States departments on an equal basis with the private sector providers for the regulation of care.

Regulations must cover all facilities providing care to the elderly and infirm. Such regulation must not create a situation which results in facilities being over burdened by bureaucracy. Jersey is already strangled by red tape.

Clear information to be made available to public and service users.

The important emphasis of any new legislation should be the care of the most vulnerable within our society. As far as possible the care of the patient should be an extension of their own home environment albeit in different surroundings. Whilst we realise that care homes are usually business based, financial reward and annual profit should be secondary to care. The requirement of any new law should not be so prohibitive as to cause a care home, housed say in an older building to close its doors unless of course the care is inadequate. (i.e. if a care home has two people in one room or may not have en-suite facilities this should not define inadequate) Bearing in mind that in the future we will need more beds not less and bearing in mind there may be people paying the full amount of care themselves; they may prefer to share thereby keeping down their costs. Perhaps these facilities should continue to exist if they already do so. For new businesses own rooms should be recommended but existing businesses should not be obliged to change. We are not saying that we would promote shared accommodation but we would not prohibit it either.

5. OTHER WRITTEN SUBMISSIONS

5.1 Separate written submissions were received from four stakeholder organisations including one States Department, two from the voluntary sector and one from Scrutiny. Comments can be summarised into the following general headings:

5.2 Exemption for States departments and other organisations from regulation:

- As an organisation we completely support the intention to create a "level playing field" for all which will appropriately include Health and Social Services. The regulation of the private sector using standards that do not apply to H&SS has caused significant resentment in the past. Hopefully this will be addressed by this legislation. Our belief is that all health care providers and practitioners have a duty of care and if inspection is considered to be an important part of demonstrating fitness to practice then this requirement should apply to all.
- The panel believe that States run care homes should also be subject to independent regulation and therefore inspection.
- The Ministerial position on inspection – as recommended by myself and other senior colleagues – is that the health service components of our

Department will be subject to UK based inspection and regulation via the body which in 2009 will be formed by the amalgamation of the Mental Health Commission, the Health Care Commission and the Commission for Social Care. The current working title for this new body is the Quality Care Commission. The Minister has also made it clear that nursing home facilities within the Department will be subject to independent inspection and regulation.

5.3 Responsibility for regulation

- We firmly believe that a local inspectorate should be independent from Health and Social Services in order to demonstrate impartiality. Furthermore, we should use external inspectorate from the UK, particularly in cases of local dispute and disagreement. Although no substitute for external/independent inspections we believe that peer reviews and self assessments using prescribed and recognised templates such as those provided by the Health Care Commission, play an important role in developing and maintaining standards.
- The panel believes that an independent inspectorate should be established. The panel believes that an independent inspectorate is necessary to ensure impartial regulation of both public and private care homes.
- I see HSSD (nursing home) facilities as being inspected by Guernsey colleagues, but to your standards and to the new law.

5.4 Regulation of Home Care Services

- Those providing care at home should certainly be included within the new regulations
- The Panel believes that in extending regulation to previously unregulated areas such as nursing agencies there is a risk that it may be perceived as excessive in the short term. It is suggested that more discussion with interested parties about the application of regulation to nursing agencies may be helpful to ensure that regulation is effective but not overbearing. The Panel believes that all staff should be subject to mandatory police check. There should be a facility for spot checks to be carried out in respect of both day-to-day work and background. Staff training is a hugely expensive undertaking for employers and the Panel believes that the States should give consideration to assisting employers with their financial commitment to such training.

5.5 Inspection Process

- The Panel believes a risk based approach should be adopted incorporating a risk assessment of each institution. Such an approach would allow for annual or biennial checks and a follow up assessment to be scheduled dependent upon the assessed standard of care. This could also help to ensure that regulations do not fall too heavily upon institutions which may, for example have difficulty in responding to some newly imposed standards in the short term but whose levels of care are deemed acceptable.
- Concept of proportionality. Your department should have the flexibility to incentivise (by lower frequencies of inspection) those providers of service who operate to high standards and are responsive to your advice. Equally there should be higher levels of regulatory supervision for those who are disingenuous and who do not co-operate for whatever reason. There should

be a (not too lengthy) settling in period when the law comes into effect. This might take the form of a 'mock' inspection – which I think would be particularly useful to those providers of service to whom inspection will be a new experience.

- The Trust views it as vital in the area of social exclusion that minimum standards are in operation, that the work the Trust undertakes is transparent and accountable and that an effective way of ensuring such is 'independent inspection' of the work we do and the premises we provide our services from.

5.6 Regulations, standards and compliance

- New regulations should be framed in terms that are clear, concise and can be consistently applied. That is regulations which are not open to various interpretations. The use of appropriate definitions would be helpful.
- The Panel believes that regulation is required. There is a requirement for the fundamental core elements to be identified; the resulting regulations to ensure that these core elements are of a sufficient standard; and that the application of regulations to ensure that these standards are maintained. However the Panel has reservations about the level at which regulation will be set and their application. The Panel would support sunset clauses that take into account the fact that some care homes (particularly smaller establishments that may have been operating for a number of years) will have to make a considerable investment in both time and money to comply with new regulation. The Panel believes this may take time for the care home in question to adapt fully to the regulations and that a reasonable and compassionate approach should be taken to their efforts. The Panel would need to examine the Regulations to ensure that they provide a light touch and do not lead to the formation of a bureaucratic empire. The Panel believes that sufficient steps should be taken to ensure that the families know their rights and are adequately informed of the process for redress should they have a grievance. In order to encourage the sensible application of regulations the Panel also believes that rather than an automatic right of appeal any appeal should be initiated by the client or their family.
- The Trust supports an effective legislative framework within which to operate. It is the experience of the Trust that the present legislation is no longer 'fit for purpose'. The present legislation as 'one size fits all' that is to say that the present law does not in our view adequately reflect the very different identities of providers, types of services and multiplicity of users in the area of social care. Consequently the Trust would like to see in the new legislation an explicit acknowledgement of the diversity of providers, services and users that the legislation would wish to cover. The nature of the work we do and how we do that work is not readily reflected in the present legislation. In conclusion the Trust is emphatically in favour of a robust legal framework that offers protection, minimum standards and development of services to vulnerable adults receiving social care from various providers.

5.7 Inspection Reporting and Service Users Rights

- The Commission for Social Care Inspection in the UK provides inspection reports about individual care homes so that older people and their carers can make a more informed choice when considering long term care. We would like to see a similar 'openness' as regards local inspection reports in Jersey.
- I believe that if the States of Jersey is investing in an institution or a provider of service – in other words, public money is being spent – then any inspection report should be in the public domain.
- The Panel feels that a transparent system of appeal is a vital component of the system. As such, its view is that the process should not be intimidating, but that all appeal reports should be make public.

5.8 General Comments

- A recent report has identified that two thirds of care home residents in the UK have some form of dementia. One can assume that similar demographics exist in Jersey. Only a minority of these individuals will be in dementia-registered beds (which are targeted at people with a high level of specialist needs) therefore it is vital that the whole sector is geared up to provide good dementia care.
- It is suggested that separate consultation panels be set up covering key areas for consultation so that emerging issues and problems can be identified quickly.
- The Trust would welcome further opportunities to contribute to the shape and detail of the proposed legislation to more effectively reflect the work the Trust undertakes in the area of social exclusion.

6. FEEDBACK FROM PRESENTATION/OPEN DISCUSSION

6.1 General points from the open meeting attended by 38 people held on 28 April 2008 were recorded and are listed below:

- Guernsey – should they be inspecting Jersey? Do they have the skills available in Guernsey to carry out inspections in both islands?
- The option of having Guernsey inspecting Jersey is not acceptable, and should be removed.
- There is no need to fear inspection if there is nothing to hide.
- There needs to be a level playing field, and the question was raised of whether H&SS is signed up to the change.
- How many inspectors are there now – what will be the effect of new legislation?
- There is a chicken/egg situation – should regulation be moved out of H&SS before the change in the law?
- Should changes be made in incremental steps? Give time to implement changes
- Parallels were drawn with the airport regarding the independence of the regulatory body – the regulator sits with the chief minister's department, separate to the provider/operator service. There could be economies of scale if regulators sit together

- GPs provide domiciliary care and should be included – there should be a level playing field.
- Stakeholders need to be kept involved - there should be consultations, during drafting instruction period. Possibility of setting up working parties? A small steering group would enable two way dialogue between providers and regulator. This was a majority view of audience.
- What happens in the mean time to inspection of hospital/nursing homes?
- Issues of costs of regulation were raised. Business plan for 2007 HSS funding agreed – Health Care Commission. Has this gone ahead? Were the HCC not able to come?
- Concerns that current situation leaving vulnerable groups at risk.
- Need for something like POVA requirements to check out suitability of staff working with vulnerable groups. Concerns that there is nothing to stop staff known to be abusive from working with vulnerable people. Registration of all health and social care workers possible solution

7. SERVICE USER FEEDBACK

7.1 Service user views about regulation of the services they use or may use was obtained through the advocacy services provided by Jersey Mencap, Jersey Focus on Mental Health and the Community Development Health Promotion Officer.

7.2 Learning Disability Service User Feedback

- Feedback from service users with learning disability was obtained by the Self Advocacy worker from Mencap. The main methodology included circulating the information and soliciting user (including parent and carer feedback) through the Learning Disability Partnership Board. In addition the Self Advocacy worker spoke to a variety of people and received feedback from around twenty four individuals.

<u>Key themes from the Feedback were:</u>

- General surprise that States establishments are not subjected to inspection under the current Law
- That there should be a level playing field between public and private sector
- That basic minimum standards should be defined and agreed
- That the inspecting body should be independent
- That reports should be made public

<u>Written Responses</u>

Two written responses were also forwarded from the Service User Advocate covering the Key Questions/Issues these included:

- Question 1 - Should all facilities meet the same basic minimum standards?

  Yes – priority

  There should be basic minimum standards and these should apply to both public and private providers. There should be no distinction. These

standards should be enshrined in legislation and agreed at the outset between providers and the users so that from the beginning both parties have signed up to the minimum standards. There should be provision in the regulations for changes to be agreed and implemented by a simple process, again involving both parties.

- Question 2 - Should you have something in writing about your rights are and what you can expect from the service?

  Yes – essential

  On the face of it I would say that they would and should have a tenancy agreement…….this raises another question that I have and that is in connection with who will sign the contract. Clearly some residents are not competent to sign so that I assume in these circumstances it will be signed by their curator

- Question 3 – Should there be someone fro outside the service you are using you can tell if you have concerns about the service?

  Yes – necessary – self advocacy

  You (Self Advocacy Service), Learning Disabilities Partnership Board?

- Question 4 – Should the Law enshrine that the service you are using meets your needs?

  Yes – extremely important!! Should be widened to ensure implementation of periphery special needs on a regular basis without the need to ask for it (e.g. dentistry, diet and food choices, chiropody, personal hygiene, eye tests exercise and external activities/outings. Someone to oversee this and take responsibility

  No the law should not be there to ensure the service meets the users' needs because it will always be impossible to meet every need. However the law should ensure that basic minimum standards are met with the result that basic needs are met

- Question 5 – Would it help if you could see past inspection reports or information about the service?

  Yes – very relevant to help make choice of establishment

  Yes. Looking forward and thinking solely of learning disabilities when there will be a choice for people it will be necessary to ensure that there are past reports and inspection reports available and prepared by the same body. An independent inspection group (Health Care Commission) is required and there must be no distinction between public and private

- Question 6 – Is it important that the service you are using or the home you live in is checked so that something can be done if there were problems?

Yes – essential – e.g. bullying, inappropriate placement or need for a change, unsuitable facilities or flatmates etc.

Would the user not refer to the Health Care Commission?

- Should the law protect your dignity, privacy, choice and right to be treated with respect?

  Yes – should be implemented as a matter of course with sanctions for those who ignore it

  Yes these are basic rights which an individual is entitled to

- Question 8 – How often should your service be checked to make sure it's alright?

  Two checks per first eighteen months. Check (1) by arrangement (so that they can show what their 'best' is), check (2) to be random follow up at any time during next 18 months (to see if they are keeping it up). Same for next 18 months – if checks (3) and (4) fall within acceptable limits (80 – 85% positive) then future checks should be random say twice in three years (5 and 6) until they fall below say 75% then they should be returned to the original set up until corrected.

  Three yearly reviews

- General Comments

  With regard to scrutiny and inspection – I am strongly against self regulation and believe it only works if you regulate with an external body made up of experienced people who have no personal interest in Jersey.

  Training – the big word! – needs in my opinion to be carved into the law as a beacon of direction. Make it impossible not to have well trained staff at all levels. Raises the whole profile, maybe even penalise these establishments/bodies who do not comply.

  Need a body or Ministry who takes direct responsibility for the implementation of these laws.

7.3 Older People Service User Feedback

- The older people service user feedback was obtained by the Community Development Health Promotion Officer. The methodology included interviewing a group of five service users collectively in a H&SS facility and individual interviews with six residents in a non statutory residential home.

<u>Outcomes and key themes from the feedback were</u>:

- Everyone apart from one participant agreed that they would have preferred a written outline of any rights or minimum standards they could expect from the service they were using. Two participants highlighted the fact that with

hearing impairment and a degree of memory loss, a permanent record would be particularly helpful for an older age group. One participant made the observation that it would be good to know what your rights would be in the future should your circumstances change. He gave the example of losing a spouse while in care and how this had impacted his own care; for example, having to relocate to a smaller room. The participant who thought written guidelines were irrelevant said that he was totally satisfied with the system as it stood and had confidence that his social worker explained everything verbally to his satisfaction. "I'd prefer something in writing. I'm not too fast at taking things in nowadays"

- All participants agreed unequivocally that all care establishments should be regularly inspected irrespective of whether they are State run or privately owned.

- Eight participants said that independent support with issues arising around care would be appreciated. Three participants expressed the view that all concerns should be directed solely to the Service Manager and needed to be dealt with exclusively by them. However it is worthwhile noting that four participants talked about the difficultly of complaining about services: "Some people may be frightened about saying something. You just have to learn to button your lip". "I wouldn't want to upset anyone or go over anyone's head." "I wouldn't want to get anyone into trouble"

- All participants thought that access to previous inspection reports would have been helpful in enabling them to make more of an informed decision about which home to move into. Even the one participant who said he wouldn't want to see the report himself said that his son (who had been heavily involved in helping to find a care home for his father) would have been very interested in seeing something like this to aid his decision making.

- All participants agreed that aspects of care like dignity, privacy and choice should be enshrined by the law through a number of them talked about how difficult this could be. "I agree 1000%!! Some poor souls are not treated with respect. There are entitlements that everyone should have whether you are rich or poor and whether you can afford it or not. Like a bathroom right next to your room. These are the basics".

- Although all participants thought that inspection was a good idea, the amount of inspection visits needed varied: One participant thought that homes should be inspected every three months. Two participants thought that once a year was enough. Seven participants thought twice yearly. One participant didn't have a view on frequency but thought that unannounced visits were the most important thing to attend to.

7.4 Mental Health Service User Feedback

- Mental health service user feedback was obtained by the User Involvement Co-ordinator from Jersey Focus on Mental Health. The methodology included informal discussions with both individuals and small groups of people who were either currently living in supported accommodation, have

previously lived in supported accommodation, have used hospital inpatient services and/or are caring /supporting someone who is, or has used residential services.

Key themes from the feedback were:

- ALL services should be inspected and the reports made public
- That services should be person centred, with the emphasis on quality, dignity, being listened to and responded to as an adult.
- People fear repercussions from speaking out about a service – how can people do this safely? Is this within the remit of inspection?
- Wanting support from a service that helps people move on and to be more involved in that process.
- We've also had some interesting discussions about service users being involved in interviewing other service users during an inspection and the benefits of that.

8. CONCLUSIONS

8.1 There was overwhelming agreement (90% of those responding to the questionnaire) with the proposals in the consultation to continue regulating facilities providing nursing and residential care. There was also considerable support (88% of those responding to the questionnaire) for the proposal to regulate domiciliary care and home nursing and a high level of agreement that acute hospital care (78% of questionnaire responses) and minor surgery (76% of questionnaire responses) should be regulated. All of these services with the exception of domiciliary home care are covered by existing Law, albeit with some service providers currently exempt. There was also support for the review and updating of existing legislation (69% for health and social care facilities and 70% for domiciliary care). In summary the views of the respondents indicated a need for the objectivity of an external perspective, a need for transparency and that organisations should be accountable to a wider audience. Written comments supported the view that new legislation should be more person centred and should focus more on the outcomes for the individual. The need to safeguard service users from potential abuse, including criminal record checking for staff was also a key theme.

8.2 The consultation offered respondents an opportunity to express an opinion about the current exemption from regulation of States facilities and services, and nursing agencies run by any District Nursing Association. The response from written submissions, meetings and service users is again overwhelming, 90% said that H&SS facilities should not be exempt from legislation and 86% said that District Nursing Associations and States agencies should be regulated. Regulation being registration, inspection and where necessary enforcement. Written submissions clearly supported the view that all services should be subject to a 'level playing field' and regularly inspected irrespective of whether they were provided by the public or independent sector. This is a departure from the current

legislation. Currently hospital care, group homes and long term care provided by H&SSD or any other States departments are not subject to regulation; inclusion of States provided services within a statutory framework is consistent with recent initiatives in the UK where NHS and independent facilities are now regulated by Law to the same standards under the authority of a single new regulator the Care Quality Commission.

8.3 Under the current legislation the responsibility for regulation lies with the Minister for Health and Social Services with day to day operational management delegated to Health Protection Services, as part of the Health and Social Services Department. Those consulted were invited to comment on where the regulator should sit in future. Of the responses from the questionnaire, only 6% thought that regulation and the inspectorate should continue to be a function of the Health and Social Services Department, 60% indicated that regulation should be the responsibility of either a local independent inspectorate or a combination of an independent local inspectorate with additional support and expertise obtained from an external regulatory body. A further 24% thought regulation should be the responsibility of an external regulator. The written comments expanded on the reasons for independence. There was a general consensus that H&SSD should not be involved in regulating itself to provide objectivity and avoid any undue influence. There was also support for a local regulatory presence, but using external support for specialist areas of care.

Some reservations were expressed including a concern that services may be burdened with over regulation by inspection from several different bodies. This is a current theme in the UK where there is an intention to streamline regulation and avoid duplication. The provisions of local health and social care legislation would incorporate and make use of external reviews undertaken by other agencies in any inspection regime. Quality assurance and good internal governance would be a core requirement of any new legislation, with the role of the regulator to provide independent monitoring, information and assurance that systems for safety and quality are in place and working well.

The consultation responses indicated a desire for clear and transparent separation of the provider/commissioner role of the Health and Social Services Department and any regulatory function. This would necessarily include the commissioning of any external inspection of H&SSD facilities. Regulatory independence removes in the event of enforcement action against H&SSD, any potential conflict of the Minister prosecuting his/her own department. The Minister warmly endorses this proposal which is consistent with best practice from other jurisdictions, where independent regulation was introduced to reduce obvious conflicts of interest.

The notion of a single independent regulator is again concordant with the recent developments in the UK where a fragmented system of several different regulators for health and social care were combined into one Care Quality Commission in April 2009.

There is already precedent in Jersey for independent regulatory activity. A recent example of the separation of a regulatory and provider function is the restructuring of the airport operations. In this case the operational function of the

airport lies with the Minister for Economic Development and the regulatory responsibility with the Minister for Home Affairs. There are other local examples of independent regulation including the Data Protection Commission and the Financial Services Commission. The Data Protection Commissioner is a corporation sole and as such is accountable to the States of Jersey. The Financial Services Commission is a statutory body corporate responsible to the States of Jersey. Accountability is through the Minister for Economic Development; however there is a formal memorandum of understanding that clarifies the use of the power granted to the Minister so that operational independence of the Commission can be ensured.

8.4 Respondents were generally in agreement with the proposal to have a single category care home for nursing and residential care, with comments supporting a core set of regulations and standards with additional requirements and standards for residents requiring nursing care. This will remove the distinction between a nursing and residential home, provide an opportunity for greater flexibility in the provision of care and is consistent with the UK model of a single category care home. To ensure consistency and compliance it is proposed that new legislation would include a provision to set enforceable minimum standards. There was a high level of support for this from respondents, 86% of whom agreed with the proposal. Comments indicated that this is essential to provide, equity across all providers, clarity and consistency about the baseline for the quality of care expected and equity in enforcement. There were some reservations expressed about the level at which standards would be set, and that these must be achievable within cost restraints. Involvement by stakeholders in the development of any standards was also requested. Comments were also made about grand parenting clauses for existing premises and timeframes for compliance with new requirements. A critical factor will be that the premises should be fit for purpose. In terms of grand parenting a view will need to be taken in individual cases about how much the existing premises departs from the required standard, in cases where improvement plans are required a reasonable timescale will be agreed and a general lead in period will be required for all new standards to be achieved.

8.5 Currently in Jersey reports from inspection are not accessible to the public, the proposal to make inspection reports available attracted a high level of support with 80% of respondents in agreement with this. Written comments also supported the view that access to reports will help service users make informed choices about which service or provider to use and that people have a right to transparent information about the performance of services funded by themselves or the public purse.

8.6 Under the current Law all registered health and social care facilities are required to be inspected twice a year, however the legislation does not specify whether this should be announced or unannounced. The consultation asked stakeholders for their views about the frequency and format of inspection. The highest level of support was for risk based inspection, 48%, a combined risk based and annual inspection had the support of a further 8% and a combined risk based and twice annually a further 6%. There was limited support for continuing twice yearly inspections, 8%. This generally supports the view of the proposals to move towards a more proportionate, risk based inspection regime that would enable the

regulator to put more time and effort into supporting and monitoring poorly performing services. It is envisaged that during the 'lead in period' a regular inspection regime would be in place to enable providers to implement the required standards thereafter quality assurance processes and risk assessment would be used to determine the inspection regime for individual providers. A maximum time limit between inspections would be defined in legislation.

There was also support for using a mixture of announced and unannounced inspection visits from 72% of respondents. This approach would allow a home to prepare and have the required information available, inform service users, and arrange for staff and relatives to be available to talk to inspectors, but also enable inspectors to arrive without notice at other times to see how the service operates in 'normal' circumstances.

In terms of format, 70% of respondents agreed with a mixture of focused and general inspections. This would enable a regular review of all the service, but also allow for themed inspections based on specific issues where there were particular problems identified either within a particular service or a general pattern over a number of services.

8.7 There was little support for regulation becoming entirely self funding; only 12% of respondents thought that the cost of regulation should be borne solely by providers. The reasons given were fears about the costs that would need to be passed on to service users, particular concerns were expressed about small scale providers being able to compete with larger operators and that self funding may compromise independence. Almost a third of respondents (29%) were unsure about whether fees should cover the cost of regulation; there was some support for increasing the current level of fees, and to consider using a fee per bed approach. The current registration fees are nominal and do not discriminate between the size and complexity of the services. The Minister considers a more realistic fee structure part funding the cost of regulation with the remainder continuing to be provided as is currently the case by the States, will be necessary and it is hoped that this could be cost neutral to the States.

8.8 An issue supported at the open meeting was how the department would continue to engage with stakeholders during and after the Law drafting period. There was a general consensus at this meeting for the formation of a steering group to enable continued dialogue and discussion. This issue also arose with service user representatives who expressed the view that service users should continue to be involved particularly in the drafting of any minimum standards. Ongoing participation of stakeholders in the development of legislation drafting and standard setting is important, and will assist in balancing the need to offer service users the best possible protection without creating unnecessary bureaucracy.

9. RESPONSE TO CONSULTATION

This consultation has enabled the Minister for Health and Social Services to engage with and ascertain the views of the people and organisations that will be affected by the proposed Regulation of Care (Jersey) Law 200- . The responses received are broadly supportive of the Departments policy direction and has suggested some additional elements for consideration. This will form the basis for primary legislation that subject to States approval will determine future of health and social care regulation in Jersey.

The Minister proposes the following elements to be included in a new Regulation of Care Law

9.1 The Law to include the registration and regulation of care homes, acute hospital facilities, minor surgery, nursing agencies and domiciliary care in the independent sector

9.2 The legislation to include registration for a single category care home with additional regulations for those providing nursing care.

9.3 The Law will provide for the setting of enforceable minimum standards specific to different health and social care services and categories of care. Appropriate and reasonable timeframes shall be set to enable providers an opportunity to achieve the required standards.

9.4 The Law shall ensure that regulations and standards are person centred and focus on outcomes for service users.

9.5 There shall be provisions within the Law to require providers to develop robust quality assurance and governance arrangements

9.6 The Law will provide for all inspection reports to be placed in the public domain.

9.7 The Law shall require robust staff recruitment procedures, including the carrying out of criminal record checks, are in place to ensure that staff have the necessary qualities, skills and qualifications required for the job.

9.8 The regulations will specify a fee structure, proportionate to the size and complexity of the service.

9.9 There shall be provision within the Law to enable a flexible risk based inspection regime.

9.10 The Law will remove the current exemption for Health and Social Services and other States departments and include the registration and regulation of all health and social care services and facilities, including those in the independent and public sector.

9.11 The Law will enable the creation of an independent regulatory body that has the authority to commission external regulation agencies to carry out an inspection function for specific specialist services.

To support the development of the legislation it is intended that a stakeholder steering group be formed including representatives from providers, voluntary sector, and service users to maintain dialogue and participation in the process of law drafting and standard setting.

Appendix 1

PROPOSED REGULATION OF CARE LAW CONSULTATION
LIST OF STAKEHOLDERS

All States Members
All Nursing and Residential Home Owners
All Nursing and Residential Home Managers
Service Users from Residential and Nursing Homes
All Nursing Agency Owners
Known Personal Care Agencies
Known providers of Laser treatments
All General Practitioners
Jersey Care Federation
Health and Social Services Senior Management Team
H&SS Adult Social Work Team
H&SS Special Needs Team
H&SS Elderly Mental Health Team
H&SS Elderly Care Service
FN&HC
Employment and Social Security
States of Jersey Fire Service
Special Needs Advocacy Worker
Mental Health Advocacy Worker
Age Concern
Mencap
Jersey Association of Carers
Jersey Multiple Sclerosis Society
Jersey Parkinsons Disease Society
Jersey Society for the Disabled
Jersey Stroke Society
Motor Neurone Disease Association
Alzheimer's Society
Headway

Appendix 2

Regulation of Care Consultation

Service User Input

Key Questions/Issues to be addressed

1. Should everywhere that offers care, either nursing, residential, support services, or home care wherever it is offered and by whoever be required to meet the same basic minimum standards?

2. Should you have something in writing about what your rights are and what you can expect from the service you are using? (tenancy agreement/contract)

3. Should there be someone from outside the service you are using you can tell or raise an issue with if you have concerns about the service?

4. Should the law ensure that the service you are using meets your needs?

5. Would it help if you could see past inspection reports (information) about the service before you make a decision about going into a home or using a service?

6. Is it important that the service you are using or the home you live in is checked and something could be done if there were problems with it?

7. Should the law protect your dignity, privacy, choice and right to be treated with respect when you are receiving services?

8. How often should your service be checked to make sure it's safe and of a good standard?