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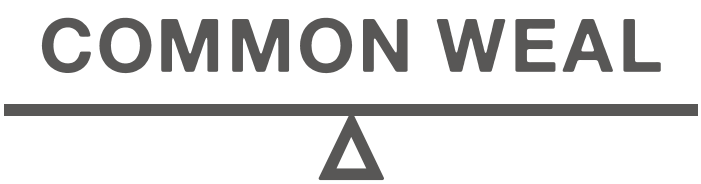
Common Weal Policy

HEALTH, SAFETY AND WELFARE OF THE SOCIAL CARE WORKFORCE



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hello@common.scot

AUTHOR

Kathy Jenkins is a member of the Common Weal Care Reform working group. She is the Secretary of Scottish Hazards, a health and safety activist network which provides a support service to mainly non unionised workers. She is the health and safety officer for the Edinburgh Not for Profit Branch of Unite. Kathy has worked in community development, public health and university teaching.

KEY POINTS

- There is a well-understood set of criteria which are viewed as being key to the health, safety and welfare of care workers
- During the Covid crisis there is well-documented evidence of how poorly these criteria were properly ensured for care staff in Scotland
- There is an internationally defined and accepted hierarchy of actions to ensuring that staff health, safety and welfare is properly protected and this must underpin our approaches in future
- As well as these there are fundamental issues which must be addressed: pay, job security, training, work load and patterns, and the ability for staff to have a degree of control over their work and of influence on how care is provided
- These can only be properly addressed by ensuring that staff have the ability to have their voice heard through collective bargaining and unionisation
- A series of recommendations are put forward which would make a substantial difference in achieving these outcomes

CONTENTS

It is crucial that the new National Care Service has as a cornerstone the health, safety and welfare of both those receiving care and those providing it. This paper will concentrate on the prevention of work-related injury and ill health for those employed to work in social care. However, much of what it says will be relevant to unpaid carers and those being cared for.

THE ISSUES IDENTIFIED BY SOCIAL CARE WORKERS

To set the scene, this paper starts with an overview of the health, safety and welfare issues and problems identified by social care workers in Scotland. These are taken from the Fair Work Convention's 2019 report on Scotland's Social Care Sector, from the Unison Scotland 2016 report We Care, do you? and from anecdotal reports made in conferences, meetings and discussions by social care members of a number of unions, including issues that have come to the fore during the Covid crisis.

Some of the highlighted issues pose specific physical risks to workers:

— Lack of rest and welfare facilities

— Lack of adequate staffing and equipment for moving and handling

— Issues relating to the physical work environment, particularly for those providing care in other's homes, e.g. poor or overcrowded housing, cleanliness, waste and waste recycling, exposure to chemical and biological hazards; slips, trips and falls

— Physical environments that are not suitable for infection control, both poor or overcrowded housing and institutions like care homes

— Hazards involved in lone working, including violence and aggression

— Lack of sufficient personal protective equipment, e.g. appropriate grade masks, aprons, gloves, visors, goggles; and inadequacy of arrangements for dealing with contaminated PPE

— Concern about lack of information about Covid19 cases in care homes, who is infected and also where to log concerns about own health and safety

Additional Issues that have direct implications for both mental and physical health through poverty and work related stress:

— Precarious contracts (including zero hour contracts)

— Lack of job security

— Low pay

— Expectations of ever-increasing flexibility by workers; lack of predictability of hours; the burden of risk of unpredictable social care demand and cost being placed almost entirely upon the workforce

— Long working hours; high levels of unpaid overtime

— Lack of support and supervision

— Growth in split shifts; shift patterns resulting in exhaustion, which then causes accidents e.g. care at home staff not paid for travel time so have to work longer hours to get basic pay or 12 hour shifts; difficult shift patterns in residential care; reductions in paid sleepovers

— Issues with entitlement to sick pay and holiday pay

— Underuse of skills

— Little ability to contribute to decision-making

— An expectation for home care workers to do what have been traditionally seen as nursing tasks but without appropriate training and support

— Difficulties in accessing training and certification

— Inadequate time to carry out required tasks in a way that respects the dignity and care needs of the user

— Administrative tasks having to be done in time designated for care, reducing further the ability to deliver quality care

— No paid time for travel between clients homes reducing further the time given to care

— Nowhere to go between clients if there is a time gap, especially during the pandemic where cafes were closed

— The resulting low morale and high levels of stress due to unrealistic workload, not enough time for clients, lack of support, not feeling valued, and the absence of meaningful recognition of the importance of relationships in service delivery

THE HEALTH AND SAFETY SYSTEM WHICH SHOULD BE PROTECTING THE SAFETY, HEALTH AND WELFARE OF SCOTTISH WORKERS

Although support for those who have been injured or made ill is important, the foundation of the H&S system must be prevention.

Precautionary Principle

A first start, as with any sector or organisation, is for social care services to apply the Precautionary Principle: that the burden of proof for potentially harmful actions lies with the care service and that when there are threats of serious damage, scientific uncertainty must be resolved in favor of prevention. The precautionary principle is about prevention of harm, what is needed to be put in place to prevent a staff member being made ill or injured because of their work activity.

As has been shown, a failure to apply this principle has had dire consequences for staff and residents in care homes during the present Covid19 pandemic.

Hazard and Risk: Health and Safety Risk Assessment

In Scotland, the protections afforded workers by the Health and Safety at Work Act 1974 begin with the duty of employers to ensure the mental and physical health of their workers and the process of risk assessment: employers must identify, assess and control the risks using a hierarchical approach – a process of determining where hazards and risks lie and how they can be eliminated or controlled. (Management of Health and Safety at Work Regulations (MHSWR) 1999) Employers must first consider collective controls: how any risks can be eliminated, how activities can be carried out in a different way to remove the risk, then consider engineering and administrative controls and finally, if there are residual risks, what PPE is needed.

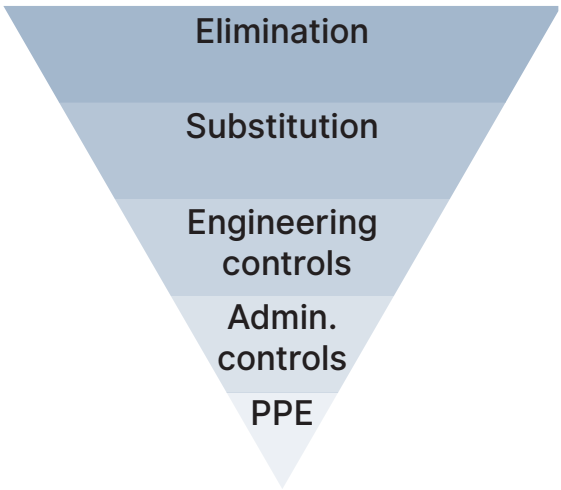
This will include risk assessment for the individual(s) being cared for and for the care worker. There is an argument that in many cases joint risk assessments, looking at both carer and cared for, can be advantageous. Again, in this paper we concentrate on risk assessment for employees. A crucial aspect of effective risk assessment is that it involves those who actually carry out the work. This is most effectively done through involvement of trade unions and the individuals carrying out the work activity, but in non-unionised workplaces a mechanism for such consultation and involvement must by law be established. Risk Assessments must be reviewed following any change in working conditions that could impact on health and safety.

The Scottish Government has made it clear to employers that specific Covid 19 Risk Assessments must be carried out and acted upon. We are acutely aware that during the Covid 19 pandemic there have been many instances of

failures to carry out risk assessments, failures to consult with the workforce and failures to put into place the necessary controls. These include failures in organisations providing social care. Risk assessments must also be regularly reviewed and recorded.

Hierarchy of control

In Scotland, the UK and internationally there is an accepted hierarchy of control measures to be used to eliminate or reduce identified hazards. As the name implies, it is a hierarchy with priority being given to the top of the triangle. It must always be remembered that Personal Protective Equipment (PPE) is at the bottom of the hierarchy and should only be used after all other controls have been put in place. This is because PPE only protects one individual, there is a high potential for damage to render it ineffective and because it can be difficult and uncomfortable to use with possible negative implications for both the wearer and the task being done. Below this illustration, we give some examples applicable to social care.



Some examples from social care

— Elimination: In relation to Covid, allowing employees to work from home; in relation to work related stress, the ceasing of precarious work contracts (e.g. zero hour contracts)

— Substitution: in relation to cleaning, the substitution of one cleaning chemical with another which is less harmful to human health

— Engineering controls: the installation and maintenance of effective ventilation systems; in relation to moving and handling, the use of hoists and other lifting and handling aids

— Administrative controls: in relation to a threat of violence and aggression, ensuring that two members of staff are always involved in identified situations and establishing a safe system of work where the whereabouts of staff is known and immediate forms of communication and backup available; in relation to residential settings during Covid, creation of dedicated indoor visiting areas

— PPE: in the context of Covid and other infectious disease risk, the provision and use of effective masks, aprons, gloves, goggles (minimum face mask standards FFP3 in care sector)

MONITORING, INSPECTION AND ENFORCEMENT

All of the above will not reduce injury or ill health if not properly carried out so monitoring, inspection and enforcement is crucial.

Employers

Responsibility for ensuring this lies with the employer, as established in the Health and Safety at Work Act, 1974 (H&S@WAct). Section 2 of the act states that “It shall be the duty of every employer to ensure, so far as is reasonably practicable, the health, safety and welfare at work of all his employees”. In section 3, this duty extends also to those for whom care is being provided: “It shall be the duty of every employer to conduct his undertaking in such a way as to ensure, so far as is reasonably practicable, that persons not in his employment who may be affected thereby are not thereby exposed to risks to their health or safety”. The Act also lays a duty on workers in Section 7: “It shall be the duty of every employee while at work to take reasonable

care for the health and safety of himself and of other persons who may be affected by his acts or omissions at work".

Evidence given in the reports referenced in this paper show that in many cases employers in social care have not carried out their duties under this Act. In some cases, this will simply be due to negligence. In many it will be the result of underfunding, poor staffing levels, poor training and knowledge of health and safety, an unwillingness to listen to social care workers, a heavily non-unionised and disparate workforce.

Enforcement Bodies

Responsibility for enforcement lies with the Health and Safety Executive and Local Authority Environmental Health, and, in relation to the closely related issue of quality of care, with the Care Inspectorate. Professional registration of social care workers and enforcement of professional standards lies with the Scottish Social Services Council.

During the Covid pandemic, there is considerable evidence that enforcement bodies have not done enough to ensure that the H&S@W Act has been complied with (Ewing, et al, 2021) (Watterson, 2020). Sadly, this is not new. Funding for the Health and Safety Executive has been cut by 54% over the last 10 years (Prospect, 2021). Local Authority environmental health services have been subject to similar cuts. In addition, the UK government had, until Covid intervened, limited proactive inspection of workplaces to a small number of very high-risk sectors. This did not include health and social care settings. Although the Care Inspectorate has in recent years inspected more often than H&S enforcers, the inspection regime has not been sufficient. Also, with the exception of infection control measures introduced under the temporary inspection regime introduced as a result of the Covid crisis, which highlighted impact on the health of both staff and those cared for, systematic inspection of conditions specific to staff health is not included. Having explored their website, the standards include health and wellbeing of unpaid carers but nothing regarding paid workers (Care Inspectorate, 2020). In addition, because of the fact that services rather than providers are inspected, with regard to infection control, where services did not have good health protection in place, the reports can be read as a criticism of staff.

Worker Representation/Trade Unions

The law requires employers to consult with employees on matters that affect health and safety. Under the Safety Representatives and Safety Committees Regulations (1977) (SRSC regs), trade union health and safety representatives have strong rights to represent employees, inspect workplaces and investigate incidents. Under the Health and Safety (Consultation with Employees) Regulations 1996 non unionised workers or worker representatives have some rights, although substantially fewer than under the SRSC regulations.

It is recognised within the UK, including by the HSE, and internationally that unionised workplaces are substantially safer than others (TUC, 2016). A major problem in social care is the low level of unionisation, especially in the private sector and the resulting lack of protection this would afford. Unfortunately, as has become increasingly clear during the Covid 19 pandemic, the SRSC regulations are rarely or ever enforced, making it difficult for trade union representatives in workplaces where employers do not respond positively to trade union activity to be effective in improving health and safety.

Fair Work

The Fair Work Framework (Fair Work Convention, 2016) has been adopted by the Scottish Government. The Framework states: "We believe that fair work is work that offers effective voice, opportunity, security, fulfilment and respect; that balances the rights and responsibilities of employers and workers and that can generate benefits for individuals, organisations and society".

All five dimensions of the framework are relevant to health and safety:

Effective voice

The Fair Work framework states: "We accept macro-level national and international evidence that many of the important dimensions of fair work are more prevalent in unionised workplaces". As has been pointed out above, the social care workforce, particularly in the not-for-profit and private sectors is poorly unionised and difficult to unionise for a range of reasons including it being a dispersed workforce and, particularly in the private sector, a lack of support or encouragement from providers for unionisation and in some cases hostility to it.

Evidence in the Fair Work Convention framework and social care reports indicates that effective voice is widely lacking in non-unionised workplaces. Workers in non-unionised workplaces, particularly those from disadvantaged groups, and those with precarious contracts can be unwilling to speak out about working conditions. History shows that those who do speak out can suffer significant detriment for doing so.

Workers in health have also suffered for trying to raise concerns about quality of care and in December 2019 the Scottish Government announced the formation of an Independent National Whistle Blower Officer within the Public Services Ombudsman Office to help make it easier for NHS staff to raise care quality concerns (Scottish Public Services Ombudsman Office (2019).

Opportunity

"Opportunity allows people to progress in work and employment and is a crucial dimension of fair work." It is clear from the evidence cited in this paper that there is little opportunity for progression within social care.

Security

"Security of employment, work and income are important foundations of a successful life." The Fair Work framework recognises that the precarious employment conditions and lack of job security experienced by social care workers "are associated with poor health outcomes, including adverse effects on mental and physical health." Marmot, M. (2010).

Factors identified as important to security by the Fair Work Framework are:

— building stability into contractual arrangements .... fair work is not work where the burden of insecurity and risk rests primarily on workers

— having collective arrangements for pay and conditions

— giving opportunities for hours of work that can align with family life and caring commitments, including predictability of hours

— fair opportunities for pay progression; sick pay and pension arrangements

If we translated this list into the negative, it could be read as a description of working conditions in much of social care.

Fulfillment

"For many people, work is a fulfilling part of their life." Aspects of fulfillment listed in the framework include:

— the ability to use and develop skills

— having a degree of control over their work and the ability to bring change and make a difference

— having appropriately challenging work and opportunities for career advancement

This is a dimension which shows some of the positives of social care work. Many workers report that they believe in the value of their work. However, they also report serious difficulties in accessing training, very low levels of control over their work and in many cases an inability to influence the way care is provided.

Respect

"Fair work is work in which people are respected and treated respectfully, whatever their role and status."

Aspects of this dimension include:

— recognition of workers as dignified human beings; recognising their standing and worth

— ensuring health, safety and wellbeing

— established procedural and collective bargaining arrangements with unions

— organisational policies and practices on dignity at work

— communication; training; managerial and supervisory approaches; and approaches to conflict resolution

Sadly, the evidence shows that many social care workers do not feel their work is valued. We have identified many health and safety failings. Collective bargaining arrangements do not exist except within local authority run services. We know there is a lack of good support and supervision for many and that many report difficulties in accessing good training. This Fair Work dimension includes the need to reduce work related stress, which we know is high among social care workers.

Two-way respect is also central to the building of relationships between the person needing care and the care giver. If Scotland is to create a good National Care Service, the health, safety and welfare of its workforce must be a priority and the issues raised in this paper addressed.

RECOMMENDATIONS

1. That the health, safety and welfare of social care workers be accepted as a core element of Scottish social care services and a pre-condition for ensuring the health, safety and welfare of people needing and using those services

2. That for this to happen the social care workforce needs to have an effective voice on their health and safety through:

   - national collective bargaining for the social care sector

   - all social care workers being encouraged and supported to join trade unions, and that providers be expected to enable this; so long as services are provided by non-public sector organisations, local authorities and commissioners should use contracts to promote the rights of workers to join trade unions

   - Collective bargaining agendas including health, safety and welfare matters

   - Contracts for commissioned services including a duty to report on health and safety issues, including workforce involvement mechanisms

3. That health and safety enforcement be hugely strengthened in this sector, including enforcement of the rights of trade union health and safety representatives (SRSC regulations); that funding and support be given to health and safety enforcers to enable this to happen

4. That priority be given to good, effective risk assessment involving workers at all stages; that risk assessments be reviewed and kept live; that dynamic risk assessment be included and good training and support given

5. That health and safety should be an integral part of education, training, support and supervision which must be core elements of all parts of the Scottish social care system

6. That social care workers be employed on secure contracts

7. That there be much stronger action to make Fair Work a reality in this sector, including making its currently agreed principles and criteria (and any future principles and criteria agreed through collective bargaining) mandatory through public sector procurement.

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