Anne Cossar

Would you settle for less?

ANNE COSSAR & ASSOCIATES

The experts in care



Who we are: Expert Witnesses, Case Managers and Registered Allied Health professionals.
All based and experienced in working in Scotland in the care sector!

Today we will be looking at:

- The reality of care
- The Care Expert's role
- The dichotomy of paid care in Scotland
- What distinguishes registered care from unregistered care?
- What standards and regulatory frameworks apply in each model?
- Are vulnerable individuals receiving the same protection, accountability and access to redress from each model?
- Cost differentials of registered care from unregistered care
- Hidden costs and liabilities

Other issues we will touch on are:

- Additional gratuitous care post settlement
- Case Managers setting up/ managing packages of care
- Entitlement to free personal care in Scotland post settlement
- Live in care
- Nursing care- when do you need a nurse?

The reality of care

The perceived face of care:

- Companionship
- Shopping
- Helping an elderly relative





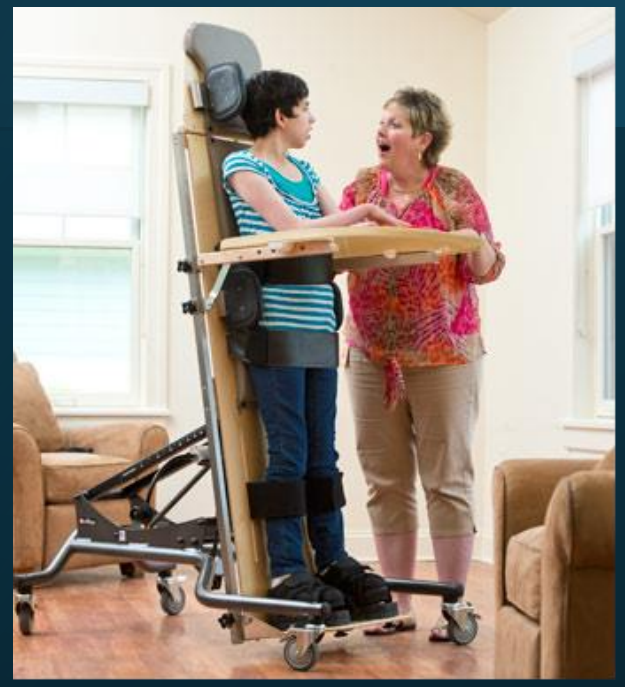


THIS is our world!





This Photo by Unknown Author is licensed under CC BY-NC-ND



The care expert's role in assessing and costing **future** care needs

- Make a thorough assessment of the pursuers care needs at the time of assessment
- Using their own skill and experience, and taking into account other expert evidence, estimate future care needs in the short, medium and long term
- Provide opinion, on how the pursuers future care needs could be reasonably met
- Estimate the cost or value of that care

The dichotomy of paid care in Scotland

AC perspective

Registered Care

A highly regulated service registered with the Care Inspectorate to follow National Care Standards, with employees registered separately by the Scottish Social Services Council (SSSC).

OR

Unregistered care (Direct Payments, Direct Employment)

An unregulated, largely unchecked care service. Employees not able to be registered with SSSC.

The dichotomy of paid care in Scotland

Other perspectives

Regulated care - Care Inspectorate quote:
Supporting Quality Care in Scotland

“We are the national assurance and improvement support body for social care services and social work in Scotland.

Our vision is that everyone in Scotland experiences high-quality, compassionate care, support and learning when they need it, which upholds their rights and choices.”

Unregulated care - Direct Payments quote:

Direct Payments provide individuals with:

- Greater choice and control
- Flexibility
- Independence and empowerment

What distinguishes registered care from unregistered care?

What standards and regulatory frameworks apply in each model?

Care Inspectorate Registered Care

Public Services Reform Act 2010

Core Role and Responsibilities of Register Services:

- Fitness and background check on Provider **and** Manager
- Review policies, procedures and service documentation.
- Assess ability to deliver the proposed service.
- Assess providers financially viable
- Whether the service can meet the **Health and Social Care Standards.** Including specific reference to safeguarding.

Inspect and Grade Care Services:

- Unannounced inspections
- Investigate complaints
- Drive quality improvement - sharing best practices
- **Enforce standards –**improvement notices, restricting operations or cancelling registration

NB. Operating a care service without registration in Scotland is illegal.

Scottish Social Services Council

(SSSC)

- Registers SOME care workers
- Sets professional standards
- Regulates qualifications
- Monitors professional conduct
- Protects vulnerable people
- Promotes continuous learning

REGISTERED CARE PROVIDERS STAFF MUST REGISTER WITH SSSC

Unregistered, unregulated, paid care

Type of service:

- Carers employed directly by pursuers, family members, Trusts. Funded via Direct Payments, compensation funds or personal funds.
- No fitness or background checks on the employer or **person/ people** managing staff.
- No experience or training required - employer or carers.
- No requirement to meet National Care Standards or SSSC standards.
- Organisation such as Lothian Centre for Independent Living provide ***general*** advice and support.
- **Boundary and safeguarding concerns**: Close personal relationships can sometimes blur professional boundaries if there is inadequate supervision.
- In AC experience only one care package reviewed had correct BASIC documentation in place.

Unregistered, unregulated, paid care

Don’t just take my word for it…

Some difficulties highlighted in the National Care Service Consultation (2024)

- Lack of supervision
- Lack of complaint/personnel mechanism other than directly with their personal employer
- No requirement for personal assistants [carer] to receive clear and consistent training and information
- Lack of knowledge about Employment Law by both the Personal Assistant and their employer
- No consistent standard or checks or support on relevant and appropriate values, skills, knowledge, confidence, and training for personal assistants, other than from their employer
- An administrative burden of securing personal assistant support and struggling to secure the right care at the right time

Are vulnerable individuals receiving the same protection, accountability and access to redress from each model?

?????????

The numbers game – comparison of the estimated cost of care

inclusive of pay, NI, leave, pension

Adult with spinal cord injury resulting in tetraplegia.

24-hour care (2 carers for 10 hours), 1 carer for 14 hours

REGISTERED CARE £408K

UNREGISTERED CARE £245K

HUGE DIFFERENTIAL NOTED

– advantage of unregistered care

Hidden costs of unregistered care



MANAGEMENT COSTS



MANAGEMENT RESPONSIBILITIES ARE ONEROUS



TOLL ON CLIENT/ FAMILY CARERS INVOLVED IN MANAGEMENT



RISK OF LITIGATION; EMPLOYMENT CLAIMS



UNEXPECTED COSTS E.G. PROLONGED SICKNESS ABSENCE



DIFFICULTIES WITH RELATIONSHIPS WITH CARERS IN EMPLOYMENT

Additional gratuitous care; impact on family carers' health and wellbeing

- 50% of carers said that they feel lonely
- 82% of carers said the impact of caring on their physical and mental health would be a challenge
- 49% of carers said that they feel depressed
- 79% of carers said that they feel stressed or anxious
- 69% of carers said they found it difficult to get a good night's sleep
- 22% of carers said their caring role had caused them injuries
- 73% of carers with 'bad' or 'very bad' mental health said they continued caring when they were at breaking point
- 78% of carers agreed they were worried about being able to provide care in the future

Ref: State of Caring 2023 The impact of caring on. Available at ***www.carers uk.org***

Case Managers setting up/ managing packages of care

England

Case managers and case management organisations must register with the Care Quality Commission (CQC) if their work involves the ongoing direction, control, employment, or supervision of personal care support staff

Scotland

Case managers unable to register with Care Inspectorate (law does not allow!). Some Case Managers offering unregulated care services.

NB National companies may advertise registration with CQC; may give a false sense of security to clients requiring care in Scotland.

Entitlement to Free Personal Care in Scotland post settlement.(1)

- The Law, the Community Care and Health (Scotland) Act 2002 identifies services that **may not be charged** for, including:
- Personal hygiene
- Help at mealtimes,
- Immobility problems
- Medication.

Chargeable services s/t financial assessment

- Help with housework, laundry or shopping
- Cost of attending day care centres,
- Care for ‘wellbeing activities’

Entitlement to Free Personal Care in Scotland post settlement.(2)

Entitlement for those with PI settlement – our experience.

Two similar cases, one successful, one not.

“SDS Postcode lottery”

Care needs reports do not take this into account at present as:

- Will it be successful on application or ongoing review?
- Cannot predict any award now or in the future

However, ‘double accounting’ is uncomfortable.

What COSLA say about treatment of compensation payments

COSLA STRATEGY AND GUIDANCE CHARGES APPLYING TO: Social care Support for people at home 2025/2026 6.23 Compensation Payments ….for the purposes of compensation payments (including compensation payments held in Trust) it is recommended that Local Authorities should establish the breakdown of any compensation award and consider whether some elements of compensation payments should be included when assessing a supported person's ability to pay a charge. This may include compensation paid to address future care needs. Whether compensation payments should be included in assessing a person's ability to pay should be determined on a case-by-case basis, depending on the settlement information that relates to future care needs , and where necessary informed by relevant legal input.

Live in care 2 Types of service

Managed (Registered)

or

Unmanaged (unregistered) introductory service will match a client with a self-employed carer. “Tinder for care”

Managed more expensive.

- Services popular for frail elderly clients.
- Caution when using for complex care – staff tend to work long hours, no backup, often no consistency for client/ family.

Nursing care- when do you need a nurse?

Role:

- Monitoring complex medical conditions
- Making nursing assessments, judgments and decisions about a person's health and care needs
- Administering and managing medications within their professional scope
- Performing clinical procedures such as wound care, catheter care, bowel care
- Supervising and delegating appropriate tasks to carers
- Is experienced at communicating with service users', parents and family members, and providing instruction and clinical support
- Is experienced at liaising directly with consultants GPs, psychiatrists, and pharmacists regarding treatment.



ANY QUESTIONS

NAME THAT AID

1- SOCK AID

2 DRESSING AID - ARM

3 PLATE GUARD

4 KEY TURN

5 PLANT WATERING CAN!

6 JAR AND BOTTLE OPENER

7 PLUG AID

8 BOTTOM WIPER