SSSC Future Proofing Programme
The Consultation Institute Statement on Consultation

The Consultation Institute is the expert body on consultation. As part of the SSSC Future Proofing Programme the Institute was engaged to contribute to the process by conducting an overview of the consultation with a particular focus on equality and business regulatory impact. This involved observing the latter stages of the consultation process.

As a result of The Consultation Institute's engagement in this process we are able to comment on the nature of the consultation, noting the scope and depth of engagement, and the practice of consultation.

1. Identifying Issues

The issues identified for the Future Proofing Programme emerged from a clear process related to the transformation of services in social care. This meant that the consultation was clear and elicited effective responses from stakeholders.

2. Stakeholder engagement

The consultation engaged effectively with stakeholders, partly as a result of an open and transparent process that encouraged engagement and also as a result of effective stakeholder mapping. The quarterly stakeholder mapping process meant that key stakeholders were engaged. This is to be highly commended.

There were direct email invitations to 379 stakeholders, derived from respondents to the written consultation. This led to two online events. Attendees included those from several local authorities, Sense Scotland, Crossreach, Action for Children, Robert Gordon University and SQA, among other care sector organisations. In total 141 people attended the Registration sessions, 172 attended the Development and Innovation sessions.

3. The Consultation Plan

The consultation was well planned, which meant that it enjoyed strong participation from stakeholders. It responded to the Covid context by using mixed methods and online consultation, meaning a wide range of stakeholders could make their position known both through written and

verbal comments. The consultation paper made the issues clear, and this allowed for clear consideration of those issues.

4. The Consultation

The combination of online written and online methods allowed for a range of issues to be considered. These issues were based on the proposals and allowed for full consideration of mitigation and changes to proposals. These proposals are now being made available to SSSC Council.

There was consideration of equality issues through the Stakeholder Group, and review of equality issues.

5. Post Consultation

The process is not yet complete, and the SSSC Council is a staging point in approving the proposals. There should be a process by which all consultees are informed of the decisions and how the consultation informed changes and mitigations of the proposals.

6. Recommendations

The consultation was effective in bringing issues to stakeholders and in adapting those to create proposals, which were, in turn, adapted through response to the consultation.

There are a number of tools that could benefit the process, including the consultation mandate which could help with future consultations.

Future consultations would benefit from earlier engagement with The Consultation Institute with a view to providing advice and guidance and to Quality Assuring the process. This will give greater comfort to consultees, stakeholders and Council members that the process is as effective as possible. As the proposals are taken forward further engagement with stakeholders with protected characteristics will give further comfort in the process. This should be taken forward as part of future consultations on implementation.

Peter McColl
Senior Associate
The Consultation Institute
October 2022.

SSSC Future Proofing Programme Consultation

1. Overview

1.1 The Consultation Institute was instructed to assess the Future Proofing Programme Consultation and to produce an analysis of equality and business impacts of the proposed measures. The Consultation Institute is the expert organisation on consultations and has a wide range of expertise in the delivery of advice, guidance and quality assurance on consultations and equality assessments.

2. The Consultation

2.1 The Consultation was, in the Institute's view, well conducted with a strong emphasis on ensuring the widest range of views were heard on the proposals. The mix of online consultation and online events ensured that issues could be both raised and fully discussed with stakeholders. The SSSC's ongoing stakeholder mapping meant that a strong effort was made to ensure that the seldom heard were included. The Consultation Institute will undertake a full review of this consultation as part of the ongoing relationship with SSSC.

2.2 The Issues paper identified **1** issue relating to the consultation. This issue was that there needed to be a clear statement about the mapping of stakeholders. The Consultation Institute was reassured that regular stakeholder mapping occurs, and that this was up to date at the time of the consultation.

3. Equality Impact

3.1 The proposals have a wide range of impacts both on a workforce substantially comprised of people with protected characteristics and on those in receipt of care, a section of society also very substantially comprised of people with protected characteristics. The issue of business impact also overlaps with equality, as the ability to receive care may be impeded by business regulatory impacts.

3.2 For the purpose of the Assessment, considered the impact of the proposed change on people with protected characteristics and agreed that the protected characteristics that should be considered included sex, disability, age and race. We tested the proposals against those characteristics through an issues paper developed by The Consultation

Institute. The SSSC responded to the issues in that paper, which has, in turn informed this paper.

3.3 The responses from the SSSC to the Issues raised by The Consultation Institute were in the form of either **explanations** or **mitigations.** This reflects the need to take due regard and due consideration of the impact on people and groups with protected characteristics. It also allows the proposals to be considered in the light of tension between the rights of those employed to provide care and those in receipt of care.

3.4 Explanations detail circumstances where action was considered but not continued because of constraints that comprise the explanation.

3.5 Mitigations describe circumstances where action has been taken to alter the proposals in response to the due consideration of the impact on individuals or groups with protected characteristics.

3.6 The Issues paper produced by The Consultation Institute identified **3 issues related to equality impact.**

These issues were:

- If the information is to be provided on the register there needs to be a clear explanation of why the interests of users supersede the interests of registrants. If it is not then the reverse needs to be clear.
- The equality impact on those in receipt of social care should be analysed, particularly the impact on sex, disability and age
- The equality and socio-economic impact of the proposed changes on gender and pregnancy/maternity for the care workforce should be analysed.

4. Business Regulatory Impact

4.1 The proposed changes were deemed likely to have an impact on business through regulation. For this reason, SSSC instructed The Consultation Institute to consider the impact through analysis of the consultation responses and the same process as that which was used to map equality impacts. Again, the process focused on identifying potential impacts, through the process of due regard and due consideration, and then providing either explanations or describing mitigations as they relate to business regulatory impact. The process deployed is based on the Scottish Government Business Regulatory Impact Assessment (BRIA) approach. This aims to identify areas where the programme will have an impact on regulated businesses and to explain why impacts are necessary or define how impacts can be mitigated.

4.2 There is an overlap between business regulatory impact and the delivery of services which, in turn, has an impact on equality. Registered providers of social care raised a number of issues in this context and these are analysed as part of the process described in this paper.

4.3 The Issues paper produced by tCI identified **4 issues** related to business regulatory impact. These issues were:

- There must be a clear response to the concerns about remuneration, retention, and recruitment consequences of any change to the level of qualification required.
- The intersection of the equality impact and business impact of pressure on remuneration, recruitment and retention must be considered and analysed, particularly given current and ongoing labour market conditions.
- The impact on care training providers should be evaluated to identify potential issues
- The funding landscape for SCQF Level 7 qualifications should be mapped and appropriate synergies identified to smooth the transition to a more qualified workforce.

5. Response

5.1 The issues were socialised among SSSC staff and the explanations and mitigations were tabulated for clarity. This paper is an analysis of these responses, and covers both Equality and Business Regulatory Impact Assessments.

5.2 The following protected characteristics were not deemed relevant, having not featured in the consultation responses or stakeholder analysis: gender reassignment; religion or belief; sexual orientation; and marriage and civil partnership.

5.3 Protected Characteristics covered by this analysis:

- Age
- Disability
- Pregnancy/maternity
- Race
- Sex

Date of initial assessment: 30th September 2022.

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What do we know about these groups?	[Insert data from consultation analysis in Annex] Data is set out in Annex 1	
What are the gaps?	There is a potential gap identified in the protected characteristic of race. The current make-up of the register workforce and equalities data available suggests small numbers of BAME individuals working in the sector. Workforce data report (2021) published in 2022 reports that the sector is mainly white and that ethnic minorities seem to have a higher representation in the private sector. Overall, 4% of the workforce reported as belonging to an ethnic minority which ranged from 2% in the public sector to 6% in the private sector.	
What was the nature of the consultation?	There was a comprehensive survey consultation with 6533 responses from a wide spread of organisations and individuals. In addition to the broader consultation, there were two one-day sessions to examine the qualitative responses to the review of the review of the register and of qualifications. The first stage informed the second stage, which then allowed substantial discussion of the relevant issues raised through the survey. The issues raised in the consultation survey and in the consultation, sessions were then identified by The Consultation Institute and a response sought. There was, and continues to be, a stakeholder engagement plan for the programme having identified stakeholders at a planning session before the programme started. Through the months of January, February, and March SSSC engaged with a wide variety of stakeholders to provide them with more information about the consultation.	

This was to answer any questions and check understanding about the changes being proposed. During these months SSSC met with a total of 322 stakeholders, belonging to a wide variety of services and roles.

SSSC then invited a further 365 to join post-consultation events in the month of August. These included attendees at previous events and the Stakeholder Advisory Group. During these events SSSC sought specific feedback to help refine the proposals.

An email invite was sent to 378 stakeholders in total, asking them to indicate whether they would like to attend an in-person or virtual session on 11 or 18 August 2022. 136 responses were received, with the majority (107, 79%) preferring a virtual session. Given the low interest in an in-person session, project leads decided to hold two virtual sessions, held using Microsoft Teams and facilitated by project leads and other staff from the Registration and Development and Innovation departments. Stakeholders were then asked to sign up for as many sessions as they wanted to attend. Attendees included those from several local authorities, Sense Scotland, Crossreach, Action for Children, Robert Gordon University and SQA, among other care sector organisations. In total 141 people attended the Registration sessions, 172 attended the Development and Innovation sessions.

The stakeholder map was used to identify key stakeholders.

There were 6533 respondents to the online consultation including people with lived experience of using social work, social care and early years services.

In January 2022, there were 14 events during the consultation that 322 people attended. There were also also meetings with key

	stakeholders from the sector, including the Stakeholder Engagement Group. In August 2022 SSC ran two further events to gain further feedback on the proposals. Consultation responses reflected views from service users and carers. These views have been considered through the process. Weighting was considered for different views for each proposal. SSSC is planning to set up stakeholder groups to work on codesign of those proposals that are approved. A survey was undertaken with training providers to understand the current capacity within the system and its ability to adapt to the proposed changes.	
What issues were raised by respondents in the Consultation?	• **ISSUE 1:** The ongoing development of the National Care Service (NCS) creates the potential for a range of imponderable impacts on this process and should be monitored, insofar as information is available, for business and equalities impacts on the Future Proofing Programme. • **ISSUE 2:** There should be an additional focus on the protected characteristic of race to help to understand the potential business and equality impacts of this programme. • **ISSUE 3:** There needs to be a clear explanation of why, if information about fitness to practice cases is to be provided on the register there needs to be a clear explanation of why the interests of recipients of care supersede the interests of registrants. • **ISSUE 4:** If the information is not going to provided linked to the register there needs to be a clear explanation of why the interests of registrants supersede the interests of recipients of care.	

	• **ISSUE 5:** The equality impact on those in receipt of social care should be analysed, particularly the impact on sex, disability and age • **ISSUE 6:** The equality and socio-economic impact of the proposed changes on gender and pregnancy/maternity for the care workforce should be analysed. • **ISSUE 7:** There must be a clear response to the concerns about remuneration, retention, and recruitment consequences of any change to the level of qualification required. • **ISSUE 8:** The intersection of the equality impact and business impact of pressure on remuneration, recruitment and retention must be considered and analysed, particularly given current and ongoing labour market conditions. • **ISSUE 9:** The impact on care training providers should be evaluated to identify potential issues • **ISSUE 10:** The funding landscape for SCQF Level 7 qualifications should be mapped and appropriate synergies identified to smooth the transition to a more qualified workforce.	
What changes are being taken forward as a result of the consultation?	• Using the feedback from the consultation events an online, searchable Public Facing Register will be developed that meets the needs of its users. This will take into consideration feedback given through the course of the consultation and associated events. A key mitigation will be to make sure the wording on the PFR is clearly understood by users and this will be tested with the stakeholder panel. A further public consultation is being explored on the fitness to practise information policy. This is a key way to ensure public protection and the information already exists on another area of the SSSC	Issue 2

		website, this makes it easier to access by all.	
		This brings SSSC in-line with other equivalent regulators and provides clarity and transparency to the public accessing the Register.	Issue 2
		• SSSC is making changes to the PFR to promote the aim of protecting and upholding confidence of the public.	
		One in 13 people in Scotland work in social services. Publishing the qualification status of the Register promotes the skills and training required for a career in social services.	
		This restates the reality that not just anyone can do these jobs and this shows that people can be working towards or hold a qualification.	
		• Making information about fitness to practice available in the same place as the register brings SSSC in-line with other equivalent regulators. It provides clarity and transparency to the public accessing the Register.	Issue 3
		Combining it with the searchable PFR makes it re accessible which is essential to meet the public protection duty. There is a significant risk this information could be viewed as hidden at the moment.	Issue 3
		• The privacy of registrants will be unaffected and is a consequence of being in a regulated profession. The information is already published, the proposal is to make it more accessible.	Issue 3
		• The proposed changes will mean people receive the right skills through training – this will be captured in the Equality Impact Assessment. Qualifications for	

		registration are all based on the same principles and criteria and underpinned by National Occupational Standards. These are maintained with other UK sector skills partners. The flexibility of qualifications for different register parts are limited to SVQs which contain the some core mandatory units, albeit applied in different settings- workers have demonstrated same core skills, knowledge, understanding and skills at the right level.	Issue 5
	•	There is a proposal to introduce a new register part for people who are working at the level where they need the higher qualification. This was in response to a concern expressed through the consultation and focus groups that not all staff are working at higher level and would not be able to evidence this. Thus moving to SCQF level 6 as the entry level qualification to register for ASC roles would be a barrier to career pathways within social care, employers concern re changes to T&C if higher level qual requirement if role does not require this level in some services.	Issue 6
	•	The funding routes for all qualifications required for registration have been mapped. This means this is well understood and available on the careers website	Issue 7
	•	In response to the consultation feedback an additional register part will be added rather than requiring all workers in adult social care to gain the higher level qualification therefore individuals will only transition if appropriate for the role they are carrying out.	Issue 8
	•	Many individuals in the Adult Social Care (ASC) roles are currently unqualified and are registered with a qualification condition. Individuals and their employers	

	can decide if the level 6 or 7 is more appropriate. Individuals do not need to gain both.	
What mitigation is being taken forward in response to issues raised in the consultation?	• Quarterly reviews of the progress of the National Care Service (NCS) against Equality Impact Assessments (EqIAs). SSSC is a member of the NCS key stakeholder working group and SSSC's sponsor is up to date with progress and they are also involved in the development of the NCS.	Issue 1
	• There will be EqIAs for both the strand on the register and the strand on qualifications. The current make-up of the register workforce and equalities data available suggests small numbers of BAME individuals working in the sector. Workforce data report (2021) published in 2022 reports that the sector is mainly white and that ethnic minorities seem to have a higher representation in the private sector. Overall, 4% of the workforce reported as belonging to an ethnic minority which ranged from 2% in the public sector to 6% in the private sector. No intelligence to date to suggesting correlation with time to gain qualifications etc however there is already a process in place for individuals to gain extensions if required for valid reasons. The timescale changes proposed still provide a significant amount of time over and above the expected timescale needed to complete a qualification.	Issue 2
	• Currently approximately 50% of the Register are registered subject to a qualification condition. Consideration is being given to postponing adding publishing the qualification conditions to	Issue 4

		the PFR until the point when a greater proportion of the Register will be qualified.	Issue 5
		• A key mitigation will be to ensure the wording on the PFR is clearly understood by users. The format will be designed in a way that recognises new starts into the sector who may be unqualified and working towards their qualification. This will not impact on commissioning services as this model recognises that many roles are unskilled at entry.	Issue 5
		• Using the feedback from the consultation events a PFR will be developed that meets the needs of its users. This will take into consideration feedback give through course of the consultation and associated events. A key mitigation will be to make sure the wording on the PFR is clearly understood by users and this will be checked this with the stakeholder panel. Consideration is also being given to a further public consultation on the fitness to practise information policy. All registrants and employers should be more aware of the fact that the information in relation to Fitness to Practice is public.	Issue 6
		• Consideration will be given to a postponement in publication of the qualification conditions until 2024 by which point a greater proportion of the Register will be qualified.	Issue 7
		• The changes being proposed will ensure flexibility of the workforce to meet the needs of service users and helps address the recruitment challenge particularly in remote and roles and part time provision such as out of school care.	

| | | This will ensure workers are skilled to the right level to meet the needs and support better outcomes for people using services

The changes will help the sector to retain staff who work across services as they do not need to gain multiple qualifications which supports continuity of care delivery as individuals transition i.e children to adult services.

The reduction in timescale to gain qualifications will ensure those working in social services are qualified sooner and have the right skills and knowledge required for the role to ensure the best outcomes for people who use services and increase public trust and confidence in care delivery

• There are already mitigations in existence eg, extensions for qualification period. The SSSC's benchmark SVQ qualifications are easily gained within a 6 month to 18 month time period. The new proposed timescale of 3 years still allows ample time to gain the qualification and for employers to plan a staggered approach and funding if supporting employees.

• The data shows that on average across the whole register those who gain a qualification do so within 27 months.

• The reduction in timescale to gain qualifications will ensure those working in social services are qualified sooner and have the right skills and knowledge required for the role to ensure the best outcomes for people who use services and increase public trust and confidence in care delivery

• Following a survey of training providers, it was found that 27% of training providers responded and 82% of those have | Issue 7
Issue 8

Issue 9

Issue 9

Issue 9 |

	capacity to take on more staff, thus having the ability to adapt to demand. There will be a process to monitor and feed back to key stakeholders including providers and funding routes what the likely supply and demand will be for qualifications to support registration. This will be based on data from the Workforce Skills report projections and registration data modelling.	
	• Key partners such as the Scottish Funding Council and Skills Development Scotland will be provided with key trend, supply and demand data to inform priority groups for funding.	Issue 10 Issue 10
	• The Voluntary Sector Development Fund, administered by SSSC on behalf of Scottish Government can prioritise what qualifications/ register groups can access the funding.	Issue 7 Issue 10
	• A change has already been made to the criteria this year to include the level 7 qualifications for adult social care roles.	
What suggested changes have not been taken forward and why?	• The decision was taken not to publish the qualifications on the PFR in response to feedback from the consultations.	Issue 7
How will the policy be approved?	This paper accompanies a decision paper for SSSC Council on 24th November 2022, the decisions will be subject to ongoing monitoring for Business Regulatory and Equality impact	
What is the process for review of these changes?	The development and implementation of the proposals will be overseen and monitored by the programme board and the programme sponsor with regular review points built into the project plan for each proposal. This will also include continued stakeholder consultation, participation and involvement in the design of the changes.	