



# Public Services Reform (Scotland) Act 2010

2010 asp 8

## PART 5

### SOCIAL CARE AND SOCIAL WORK: SCRUTINY AND IMPROVEMENT

## CHAPTER 2

### SOCIAL SERVICES: INSPECTIONS

#### *Inspections*

#### **53 Inspections**

- (1) SCSWIS may inspect—
  - (a) any social service,
  - (b) the organisation or co-ordination of any social services.
- (2) The purposes of an inspection under this section may include—
  - (a) reviewing and evaluating the effectiveness of the provision of the services which are the subject of the inspection,
  - (b) encouraging improvement in the provision of those services,
  - (c) enabling consideration as to the need for any recommendations to be prepared as to any such improvement to be included in the report prepared under section 57,
  - (d) investigating any incident, event or cause for concern,
  - (e) in the case of care services, enabling consideration as to the need for—
    - (i) an improvement notice under section 62,
    - (ii) a condition notice under section 66 or a local authority condition notice under section 85.
- (3) An inspection under this section may be in relation to—
  - (a) any social service or combination of social services,

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- (b) such of the services concerned provided to a particular child or other person or particular children or other persons,
  - (c) the whole or any part of Scotland.
- (4) An inspection under this section must be conducted in accordance with a plan—
- (a) prepared in accordance with section 54, and
  - (b) approved by the Scottish Ministers.
- (5) An inspection under this section may, subject to any regulations made under section 58, take such form as SCSWIS considers appropriate.
- (6) SCSWIS may at any time require a person providing any social service to supply it with any information relating to the service which it considers necessary or expedient to have for the purposes of its functions under this Part.

#### **54 Inspections under section 53: best regulatory practice**

- (1) SCSWIS must prepare a plan for carrying out inspections in accordance with best regulatory practice.
- (2) The plan—
- (a) must set out arrangements for inspections to be so carried out (including inspections of those services subject to self evaluation),
  - (b) may make different provision for different purposes.
- (3) For the purposes of subsection (1), “best regulatory practice” means practice under which (in particular) inspections should be carried out in a way that is transparent, accountable, proportionate and consistent.
- (4) In preparing a plan under subsection (1), SCSWIS must have regard to any guidance issued by the Scottish Ministers about those matters.
- (5) SCSWIS—
- (a) must keep the plan under review, and
  - (b) may from time to time revise, with the approval of the Scottish Ministers, the plan.
- (6) SCSWIS must, in preparing a plan (or any revision), consult such persons as it considers appropriate.

#### **55 Inspections at request of Scottish Ministers**

- (1) SCSWIS must, at the request of the Scottish Ministers inspect—
- (a) any social service that they may specify,
  - (b) the organisation or co-ordination of any social services that they may specify.
- (2) The Scottish Ministers may specify purposes for any inspection under this section.
- (3) An inspection under this section must be conducted in accordance with a timetable approved by the Scottish Ministers.
- (4) The Scottish Ministers may request under subsection (1) that there be conducted an inspection of—
- (a) any services concerned in the relevant area,

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- (b) such of the services concerned provided in the relevant area as they may specify, or
  - (c) such of the services concerned provided to a particular child or other person or particular children or other persons as they may specify.
- (5) In paragraphs (a) and (b) of subsection (4), the “relevant area” is the whole of Scotland or such part of Scotland as the Scottish Ministers specify in their request.

## **56 Inspections: authorised persons**

- (1) Any inspection under this Part must be carried out by a person authorised by SCSWIS (an “authorised person”).
- (2) A person may be authorised by SCSWIS to carry out inspections in relation to any social service or all of them.
- (3) An authorised person may at any time enter and inspect premises which are used, or which the person has reasonable cause to believe are used, for the purpose of providing the social service which is subject to inspection.
- (4) Where an authorised person is in possession of confidential information which has been obtained for the purposes of an inspection under this Part, the authorised person must not use or disclose that information other than—
- (a) for the purposes of that inspection,
  - (b) so as to comply with an enactment or court order requiring disclosure,
  - (c) to the extent considered necessary by the authorised person for the purpose of protecting the welfare of—
    - (i) any child,
    - (ii) any adult at risk (within the meaning of section 3 of the [Adult Support and Protection \(Scotland\) Act 2007 \(asp 10\)](#)), or
  - (d) to the extent considered necessary by the authorised person for the purpose of the prevention or detection of crime or the apprehension or prosecution of offenders.

## **57 Inspections: reports**

- (1) Where an inspection under this Part has been completed, SCSWIS—
- (a) must prepare a report on the matters inspected, and
  - (b) must without delay send a copy of that report to the person providing the service which has been inspected.
- (2) Before finalising the report, SCSWIS must give the person providing the service an opportunity of commenting on a draft of the report.
- (3) SCSWIS must make copies of the report available for inspection at its offices by any person at any reasonable time; and it must take such other steps as it considers appropriate for publicising the report.
- (4) Regulations may make further provision about the preparation, content and effect of reports under this section and in particular may make—
- (a) provision (including provision modifying any duties under this section) specifying circumstances in which—

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- (i) any right to receive,
    - (ii) access to,
    - (iii) availability of,
- copies of reports (or of parts of such reports) may be restricted, refused or withheld,
- (b) provision requiring copies of reports to be sent to the Scottish Ministers (or such other persons as may be specified in regulations) in such circumstances as may be so specified.