

## EXECUTIVE NOTE

### DRAFT : THE REGULATION OF CARE (SCOTLAND) ACT 2001 (MINIMUM FREQUENCY OF INSPECTIONS) ORDER 2009

1. The above instrument was made in exercise of the powers conferred by section 25(5A)(b) of the Regulation of Care (Scotland) Act 2001 ('the Act'). The instrument is subject to the **affirmative** resolution procedure.

#### Policy Objectives

2. Care services defined in the Act must register with the Care Commission, which has a statutory duty under section 25 of the Act to inspect them. The purpose of the regulatory system is to enable continuous improvement in care service users' experience of care services. The Care Commission delivers this through a transparent, proportionate, accountable, targeted and consistent approach to regulation.

3. The provisions of Section 25(3) and (5) of the Act set out how care services must be inspected, depending on the type of care provided. Under section 25(3), all care services which provide 24 hour care must be inspected at least twice in every 12 months, with one of those inspections being unannounced. For the remainder of care services Section 25(5) requires that at least one inspection every 12 months is carried out.

4. Section 25(5A) of the Act allows Ministers to amend these periods so as to reduce the frequency of these inspection periods. This power was exercised in 2007 in the Regulation of Care (Scotland) Act 2001 (Minimum Frequency of Inspections) Order 2007 ('the 2007 Order') which reduced the frequency of inspection for daycare services provided to children aged 3 and over; housing support services provided by Registered Social Landlords; nurse agencies, and childcare agencies.

5. The new Order incorporates the changes made by the 2007 Order, which is revoked, thus bringing all changes to inspection frequencies for care services within a single order.

6. The policy intention behind reducing the minimum inspection frequency for care service sectors performing well is to enable the Care Commission to move to a more proportionate and risk based inspection regime. This will allow the Care Commission to target its resources where they are needed most, for example in care sectors where the quality of care is generally poorer.

7. The effect of this Order is to reduce the **minimum** frequency of inspection for specific types of care services regulated by the Care Commission. The **actual** frequency will be determined by a range of evidence, including the Commission's Regulatory Support Assessment; quality grades achieved by individual care services at inspection; any complaints or enforcement action against the care service, and the outcome of these.

8. In addition to those services whose inspection frequency was amended by the 2007 Order, the new services where the minimum frequency has been amended from at least once in every 12 months are:

- Housing support services where the service is not provided in conjunction with another registered care service, at least once every 36 months; and
- Childminders, at least once every 24 months

The Care Commission's policy in relation to childminding services is to inspect newly registered services a minimum of twice in the first 24 months following registration.

9. Care services which provide overnight accommodation where the minimum inspection frequency has been amended from at least twice in every 12 months are:

- School care accommodation, at least twice in the 24 months following registration and thereafter twice in every 48 months; and
- Independent hospitals (including hospices), at least twice in every 24 months.

The Care Commission's policy in relation to school care accommodation services which are special and grant-aided school care accommodation services will be to continue to inspect these services at least twice in every 12 months.

10. The minimum frequency of inspection of all other care services not mentioned in the preceding paragraphs remains unchanged from the present requirements.

### **Consultation**

11. To comply with section 28 of the Act, a public consultation on the proposals took place. Recipients of the consultation paper included all care service providers affected by the proposals; local authorities; health boards; the Care Commission; umbrella and representative organisations, and the Scottish Government's core consultation list. Recipients were invited to bring the paper to the attention of any other interested organisations or individuals that they were aware of. The paper was published on the Consultations section of the Scottish Government website. A link was provided on the Care Commission's website.

### **Financial Effects**

12. A reduction in the minimum frequency of inspection will allow the Care Commission to target its resources on those care services in most need of improvement. It will base this on its Regulatory Support Assessment and grades achieved at inspection of the care service. The instrument is not expected to have a significant financial impact on care service providers or the Care Commission.

**Scottish Government**  
**Primary and Community Care Directorate**  
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