

POLICY NOTE

THE SOCIAL CARE AND SOCIAL WORK IMPROVEMENT SCOTLAND (REQUIREMENTS FOR CARE SERVICES) AMENDMENT REGULATIONS 2013

The above instrument if approved will be made in exercise of the powers conferred on Scottish Ministers by sections 78(2) and 104(1) of the Public Services Reform (Scotland) Act 2010 (“the 2010 Act”). In accordance with section 104(2) of that Act the instrument is subject to affirmative resolution procedure.

Background

The Care Inspectorate (Social Care and Social Work Improvement Scotland) was established on 1 April 2011 under the 2010 Act. It is empowered to register and regulate care services, and conduct inspections of social services, (taking over those inspections from the Care Commission, the Social Work Inspections Agency and part of HMIE) .

The Social Care and Social Work Improvement Scotland (Requirements for Care Services) Regulations 2011 (2011/ 210) (“ the Requirements Regulations) reset out the requirements the Care Inspectorate places upon care service providers both prior to and during the period a care service is registered with the Care Inspectorate. These Regulations have a significant degree of flexibility to enable the Care Inspectorate to tailor the requirements placed upon care service providers in such a way as is appropriate to the size and nature of the provider.

Policy Objectives

In 2010, the Scottish Government became aware of a number of care service providers who were experiencing financial difficulties. In some cases an administrator was brought in to run care homes and maintain them as a viable business concern with a view to ensuring a smooth handover to new providers, and continuity of service for the users.

This approach has been shown to be effective and appreciated by care service users. Both Scottish Government and the Care Inspectorate have been keen to ensure that such a proactive approach can be facilitated. Therefore these regulations require care service providers to notify the Care Inspectorate immediately upon an insolvency event. An insolvency event is defined within the regulations as being any type of voluntary or involuntary arrangement for the winding up of a company or partnership. All types of care service providers will be subject to this new requirement to notify the Care Inspectorate. It will enable the Inspectorate to provide appropriate levels of support and intervention to care services during the period of the insolvency event.

The regulations also remove the offence of a care service provider continuing to provide a service whilst in administration as this is no longer considered to be necessary as in certain cases it has proved to be of benefit to care service users for the existing care provider to continue to run a care service whilst in administration, enabling continuity of service and stability of provision for service users.

Consultation

These regulations have not been consulted on but have however been the subject of a number of extensive discussions with the Care Inspectorate which is in full agreement with the proposals.

Financial Effects

We are satisfied that any changes arising from these regulations will be absorbed within the Care Inspectorate's future budget settlement.

Impact

A Business Regulatory Impact Assessment (BRIA) has not been prepared for this instrument. The impact on care services under the voluntary or public sector is estimated to be minimal as the regulations only apply in very limited circumstances.

Scottish Government
January 2013