EXECUTIVE NOTE

THE PUBLIC SERVICES REFORM (SOCIAL SERVICES INSPECTIONS) (AMENDMENT) (SCOTLAND) REGULATIONS 2012 SSI 2012/

The above instrument, if approved, will be made in exercise of the powers conferred on Scottish Ministers by sections 58(1) 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 conduct inspections of social services (taking over those inspections from the Care Commission, the Social Work Inspection Agency and part of HMIE) in accordance with a timetable agreed with Scottish Ministers and at their request.

The Public Services Reform (Social Services Inspections) (Scotland) Regulations 2011 (SSI 2011/185) made provision as to how the Care Inspectorate would inspect social services. The Care Inspectorate would, from 1 April 2011, conduct a range of inspections of different types of services and would carry out different types of inspections: an inspection of a single service; the inspection of a large provider supplying a number of services; and the inspection of a local authority's social work provision. It was considered that these powers would enable the Care Inspectorate to conduct the inspection in a way which was appropriate to the service(s) being inspected.

Policy Objectives

On 15th September 2011, the Cabinet Secretary made a commitment in a Parliamentary statement on the quality of care for older people that changes would be made to the inspection of older peoples' care as part of a further tightening of the regulatory regime and scrutiny in respect of care homes. In particular, the Cabinet Secretary announced:

- the introduction of yearly inspections for care homes, care at home services and secure accommodation services, in addition to the continuation of the additional risk based inspections.

- that these new inspection arrangements would represent the minimum inspection frequency for these service types in addition to the risk-based inspections that the Care Inspectorate may instigate following intelligence triggers from local authorities, other regulators, complaints from users as well as variations and notifications from providers.

- that all the inspections of these particular services would be on an unannounced basis (this is already the norm for the majority of services except, where there are operational reasons for undertaking announced inspections e.g. childminders).

- that these changes to the inspection frequency and inspection process would be introduced by regulations subject to the affirmative resolution procedure, which were planned to come into force by the end of the year

These Regulations therefore now implement that commitment made by the Cabinet Secretary. The Regulations amend the Public Services Reform (Social Service Inspections) (Scotland) Regulations 2011 by making provision for certain types of care services to be inspected at least once in every 12 month period and for these inspections to be unannounced.

The types of care services subject to this minimum frequency of inspection are care home services, secure accommodation services and support services, by which personal care and support is provided to an individual in that individual's own home. This type of support service is known as a care at home service.

Consultation

These regulations have not been consulted on, but have however been the subject of a number of extensive discussions with the Care Inspectorate as the body which will be subject to the new duties.

Financial Effects

We are satisfied that the changes around frequency of inspections effected by 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 either in the voluntary or the public sector is estimated to be nil or minimal. This is because these services were already subject to more frequent inspections under the previous scrutiny regime.

Scottish Government
December 2011