EXECUTIVE NOTE

THE REGULATION OF CARE (SCOTLAND) ACT 2001 (REDUCTION OF MINIMUM FREQUENCY OF INSPECTIONS) ORDER 2007

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 instrument is subject to affirmative resolution procedure.

Policy Objectives

1. The Scottish Commission for the Regulation of Care ("the Care Commission") was established under the Regulation of Care (Scotland) Act 2001 ("the Act") to regulate the wide range of care services defined in section 2 of that Act. Regulation began on 1 April 2002 and most of the definitions in section 2 have now been commenced. Regulation of the remainder continues to be phased in.

2. As well as a requirement to register care services, investigate complaints and take appropriate enforcement action, the Care Commission has a statutory duty under section 25 of the Act to inspect care services.

3. The purpose of the regulatory system is to enable continuous improvement in care service users' experience of care services. The aim is to deliver this through a transparent, proportionate, accountable, targeted and consistent approach to regulation.

4. The provisions of Section 25(3) and (4) of the Act require care homes, school care accommodation services, secure accommodation services and independent health care services which provide overnight accommodation to be inspected at least twice every 12 months (one inspection of which must be unannounced). Under section 25(5), at least one inspection a year is required for all other care services.

5. Section 25(5A) allows Ministers to amend these periods so as to reduce the frequency of these inspection periods. These regulations amend the 12 month period in section 25(5) of the Act to provide that the inspection periods covered by that section will be as follows:

- **Daycare services for children (up to the age of 16):** from a minimum of once every 12 months to a minimum of once every 24 months for services provided to children aged 3 and over only. Services which cater for children under 3 years will continue to be inspected at least once every 12 months.

- **Childcare Agencies:** from a minimum of once every 12 months to a minimum of once every 24 months.

- **Housing Support Services:** from a minimum of once every 12 months to a minimum of once every 36 months for housing support services provided by registered social landlords only. All other housing support services will continue to require to be inspected at least once every 12 months.

- **Nurse Agencies:** from a minimum of once every 12 months to a minimum of once every 24 months.

- **Any other care service:** (other than a care home service, school care accommodation service, secure accommodation service or an independent health care service that included an overnight stay which will be inspected at least twice every 12 months) will require to be inspected at least once every 12 months.

6. The policy intention behind reducing the minimum inspection frequency for these services is to enable the Care Commission to move to a more proportionate and risk based inspection regime and to allow the Care Commission to better target its resources where they are needed the most (for example, by deploying freed up inspectors to inspect a failing service more frequently, or in carrying out its other statutory duties such as investigating complaints).

7. In bringing forward its advice on the proposals the Care Commission has drawn on its experience of regulating these care services ; including enforcements over the last 2 years; outstanding and unresolved requirements on care service providers; upheld or partially upheld complaints; and the characteristics of the service users.

Consultation

8. In accordance with section 25(5A) of the Act, Ministers consulted publicly on the proposals following advice from the Care Commission. 12,000 copies of the consultation paper were issued. Recipients included all care service providers registered by the Care Commission; local authorities' Chief Executives, Directors of Education, Housing, Social Work, and Finance; local authority Supporting People lead officers and childcare partnerships; Chief Executives of Health Boards; the Care Commission; umbrella and representative organisations, and the Scottish Executive's core consultation list. Providers 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 and flagged from the Care Standards and Sponsorship area of the Scottish Executive website. A link was provided from the Care Commission's own website.

Financial Effects

9. A reduction in the minimum frequency of inspection will allow the Care Commission to target (based on a robust risk-assessment and follow-up process) more effectively its resources on those care services in most need of improvement. The instrument is not expected to have a significant financial impact on fees paid by care service providers to the Care Commission.

Scottish Executive Health Department
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