POLICY NOTE

THE SOCIAL CARE AND SOCIAL WORK IMPROVEMENT SCOTLAND (CANCELLATION OF REGISTRATION) ORDER 2026

SSI 2026/64

The above instrument was made in exercise of the powers conferred by section 64(1A)(b) of the Public Services Reform (Scotland) Act 2010 ("the 2010 Act"). The instrument is subject to negative procedure.

Summary Box

The purpose of this instrument is to prescribe the circumstances (other than following the giving of an improvement notice and the expiry of the period for improvement specified in it) in which Social Care and Social Work Improvement Scotland (commonly known as "the Care Inspectorate") may use the power conferred by section 64(1) of the 2010 Act to propose to cancel the registration of a care service registered under Chapter 3 of Part 5 of that Act.

Policy Objectives

Under section 64(1A)(b) of the 2010 Act the Scottish Ministers have the power to prescribe by order the circumstances (other than following the giving of an improvement notice and the expiry of the period for improvement specified in it) in which the Care Inspectorate may propose to cancel the registration of a care service registered under Chapter 3 of Part 5 of that Act. Section 64(1A) was inserted by section 22 of the Care Reform (Scotland) Act 2025.

The circumstances prescribed by this Order are (first) where, at any point during the period of 12 months following confirmation by it in writing that the significant improvement required by an improvement notice has been carried out, the Care Inspectorate has reasonable grounds to believe that any aspect of that improvement has not been sustained, and (second) where the Care Inspectorate is no longer satisfied that the provider is fit to provide the care service within the meaning of regulations made under section 78 of that Act.

Regulation plays an important role in ensuring consistent and high standards of social care. A key issue with the current regulatory regime relates to providers who operate, often for lengthy periods, with inconsistent quality and levels of service. Inadequate care has a negative impact on people using the services, including adult care homes, nurseries, childcare and support services. All people experiencing care have the right to expect safe, high-quality care that meets their individual needs.

At present providers who fail to meet the required standards could be issued with an improvement notice by the Care Inspectorate. This allows the provider a set amount of time to meet the requirements as detailed in the improvement notice. A failure to do so could result in escalation and a move by the Care Inspectorate to propose cancellation of the care service's registration.

In practice, where an improvement notice has been issued requiring significant improvement within a specified timescale, in some cases, improvements are maintained for only a very short time, i.e. during inspection. That is not the intention of the improvement notice process, which aims to bring the relevant care service back up to the expected standard it is required to maintain throughout the lifetime of the registration.

This policy is intended to achieve that in cases where it is the professional judgement of the Care Inspectorate that the requirements of an improvement notice are not being sustained, the Care Inspectorate will have the power to forgo the issuing of a further improvement notice and instead begin the cancellation process by proceeding to give notice of the proposal to cancel the registration under section 71(3) of the 2010 Act.

This policy also aims to ensure that the Care Inspectorate can propose to cancel a provider's registration when it is no longer satisfied that the provider is fit to provide the service within the meaning of regulation 6 of the Social Care and Social Work Improvement Scotland (Requirements for Care Services) Regulations 2011 (S.S.I. 2011/210). For example, this would include a person who has been convicted whether in the United Kingdom or elsewhere of any offence which is punishable by a period of imprisonment of not less than 3 months and has been sentenced to imprisonment (whether or not suspended or deferred) for any period without the option of a fine and who, in the reasonable opinion of the Care Inspecorate is unsuitable to be a provider of a care service.

Following the service of a notice under section 71(3) of the 2010 Act, a provider would have the right to make representations to the Care Inspectorate as regards any matter which the provider wishes to dispute, and then (should the Care Inspectorate proceed to implement the proposal to cancel registration) to appeal that decision to the sheriff (see sections 72 and 75 of the 2010 Act).

This instrument is necessary to allow the Scottish Ministers to exercise the power conferred on them by section 64(1A)(b) as described above.

UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 Compatibility

In accordance with section 23(2) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 (the Act), the Scottish Ministers certify that, in their view, the Social Care and Social Work Improvement Scotland (Cancellation of Registration) Order 2026 is compatible with the UNCRC requirements as defined by section 1(2) of the Act.

EU Alignment Consideration

This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU.

Consultation

While there was no statutory requirement to carry out a public consultation on these regulations, a targeted one was carried out. The Scottish Government sent consultation letters to all key stakeholders, including local government, private and third sector providers of

social care services, inviting their views on the proposed SSI in November 2025. This took the form of a letter issued by email to COSLA and umbrella organisations, inviting views via return email, as well as online webinars. As part of the consultation, the Scottish Government also hosted two webinars for social care providers in December 2025. A total of 36 providers attended.

Feedback was generally supportive of the proposal, however some providers shared concerns about the power being used too readily without sufficient time being given for improvements to be made. It was also raised that, if the Care Inspectorate were to close a service, continuity of care needs to be protected.

In addition, the National Care Service consultation carried out in 2021 included questions on enhancement of the Care Inspectorate's enforcement powers. There was strong support for this (88% in agreement).

The Scottish Government have been clear in communication that the Care Inspectorate would only exercise this power following all efforts to resolve with the provider.

The Care Inspectorate have procedures in place to ensure continuity of care in situations where a provider ceases operation. They have committed to publishing guidance for social care providers in relation to the implementation of this policy and related procedures, to provide reassurance. Scottish Government officials will remain in contact with them in relation to this commitment and any issues or concerns that may arise as a result of this policy.

Throughout the development of the SSI, the Scottish Government have worked closely with the Care Inspectorate.

Impact Assessments

An Equality Impact Assessment and a Child Rights and Wellbeing Impact Assessment have been completed on the Order and are attached. There are no impact issues, the overall impact of this policy is positive.

Financial Effects

A Business and Regulatory Impact Assessment (BRIA) has also been completed and is attached. As detailed in the BRIA, there is the possibility that, should a social care provider be in a position where they must be able to evidence that they can sustain the necessary improvements to avoid the Care Inspectorate proceeding with the proposal to cancel registration, this could have cost implications for them. It is possible that this could be either financial or resource costs, or both. However, it is considered that the policy will benefit providers as well as service users in the longer term.

It is considered that there may be benefits for businesses within the social care sector, as having a more effective and efficient regulatory environment provides a stable business environment to allow long term investments to be made.

It is considered that this policy will be cost-neutral for the Care Inspectorate to implement. In the long run it should save the Care Inspectorate money and resource, as it makes their enforcement processes more efficient and effective.

Scottish Government
Social Care and National Care Service Development Directorate

February 2026