



Public Services Reform (Scotland) Act 2010

2010 asp 8

PART 5

SOCIAL CARE AND SOCIAL WORK: SCRUTINY AND IMPROVEMENT

CHAPTER 2

SOCIAL SERVICES: INSPECTIONS

Inspections

53 Inspections

- (1) SCSWIS may inspect—
- (a) any social service,
 - (b) the organisation or co-ordination of any social services.
 - [^{F1}(c) where social services, services provided under the health service or services provided by an independent health care service are provided in pursuance of an integration scheme approved under section 7 of the Public Bodies (Joint Working) (Scotland) Act 2014 (“the 2014 Act”), the planning, organisation or co-ordination of those services.]
- (2) The purposes of an inspection under [^{F2}subsection (1)(a) or (b)] may include—
- (a) reviewing and evaluating the effectiveness of the provision of the services which are the subject of the inspection,
 - (b) encouraging improvement in the provision of those services,
 - (c) enabling consideration as to the need for any recommendations to be prepared as to any such improvement to be included in the report prepared under section 57,
 - (d) investigating any incident, event or cause for concern,
 - (e) in the case of care services, enabling consideration as to the need for—
 - (i) an improvement notice under section 62,

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- (ii) a condition notice under section 66 or a local authority condition notice under section 85.
- [^{F3}(f) reviewing and evaluating the extent to which the social service is complying with the integration delivery principles and contributing to achieving the national health and wellbeing outcomes,
- (g) reviewing and evaluating the extent to which the planning, organisation or co-ordination of social services, services provided under the health service and services provided by an independent health care service is complying with the integration delivery principles and contributing to achieving the national health and wellbeing outcomes,
- (h) reviewing and evaluating the effectiveness of a strategic plan prepared under section 29 of the 2014 Act in complying with the integration delivery principles and contributing to achieving the national health and wellbeing outcomes,
- (i) encouraging improvement in the extent to which implementation of a strategic plan prepared under section 29 of the 2014 Act complies with the integration delivery principles and contributes to achieving the national health and wellbeing outcomes, and
- (j) enabling consideration as to the need for any recommendations to be prepared as to any such improvement to be included in the report prepared under section 57.]
- [^{F4}(2A) The purposes of an inspection under subsection (1)(c) may include any of those mentioned in subsection (2)(f) to (j).]
- (3) An inspection under this section may be in relation to—
- (a) any social service or combination of social services,
 - (b) such of the services concerned provided to a particular child or other person or particular children or other persons,
 - (c) the whole or any part of Scotland.
- (4) An inspection under this section must be conducted in accordance with a plan—
- (a) prepared in accordance with section 54, and
 - (b) approved by the Scottish Ministers.
- (5) An inspection under this section may, subject to any regulations made under section 58, take such form as SCSWIS considers appropriate.
- (6) SCSWIS may at any time require a person providing any social service to supply it with any information relating to the service which it considers necessary or expedient to have for the purposes of its functions under this Part.
- [^{F5}(7) In this section—
- “independent health care service” has the meaning given by section 10F(1) of the National Health Service (Scotland) Act 1978;
- “integration delivery principles” has the meaning given by section 31 of the 2014 Act;
- “national health and wellbeing outcomes” has the same meaning as in section 5(1) of the 2014 Act.]

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Textual Amendments

- F1** S. 53(1)(c) added (22.9.2014) by [Public Bodies \(Joint Working\) \(Scotland\) Act 2014](#) (asp 9), **ss. 54(a)**, 72(2); [S.S.I. 2014/231](#), art. 2
- F2** Words in s. 53(2) substituted (22.9.2014) by [Public Bodies \(Joint Working\) \(Scotland\) Act 2014](#) (asp 9), **ss. 54(b)(i)**, 72(2); [S.S.I. 2014/231](#), art. 2
- F3** S. 53(2)(f)-(j) added (22.9.2014) by [Public Bodies \(Joint Working\) \(Scotland\) Act 2014](#) (asp 9), **ss. 54(b)(ii)**, 72(2); [S.S.I. 2014/231](#), art. 2
- F4** S. 53(2A) inserted (22.9.2014) by [Public Bodies \(Joint Working\) \(Scotland\) Act 2014](#) (asp 9), **ss. 54(c)**, 72(2); [S.S.I. 2014/231](#), art. 2
- F5** S. 53(7) added (22.9.2014) by [Public Bodies \(Joint Working\) \(Scotland\) Act 2014](#) (asp 9), **ss. 54(d)**, 72(2); [S.S.I. 2014/231](#), art. 2

Commencement Information

- I1** S. 53 in force at 1.10.2010 for specified purposes by [S.S.I. 2010/321](#), art. 3, **Sch.**
- I2** S. 53 in force at 1.4.2011 in so far as not already in force by [S.S.I. 2011/122](#), art. 2, **Sch.**

^{F6}53A Inspections of care homes

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Textual Amendments

- F6** S. 53A inserted (temp.) (27.5.2020) by virtue of [Coronavirus \(Scotland\) \(No.2\) Act 2020](#) (asp 10), s. 16(1), **sch. 1 para. 22(2)** (with s. 9) (which affecting provision is suspended (30.9.2021 at the end of the day) by [Coronavirus \(Extension and Expiry\) \(Scotland\) Act 2021](#) (asp 19), **ss. 3(1)**, 11(2); and which affecting provision expires (1.10.2022) by [Coronavirus \(Scotland\) \(No.2\) Act 2020](#) (asp 10), s. 9(1))

54 Inspections under section 53: best regulatory practice

- (1) SCSWIS must prepare a plan for carrying out inspections in accordance with best regulatory practice.
- (2) The plan—
 - (a) must set out arrangements for inspections to be so carried out (including inspections of those services subject to self evaluation),
 - (b) may make different provision for different purposes.
- (3) For the purposes of subsection (1), “best regulatory practice” means practice under which (in particular) inspections should be carried out in a way that is transparent, accountable, proportionate and consistent.
- (4) In preparing a plan under subsection (1), SCSWIS must have regard to any guidance issued by the Scottish Ministers about those matters.
- (5) SCSWIS—
 - (a) must keep the plan under review, and
 - (b) may from time to time revise, with the approval of the Scottish Ministers, the plan.

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- (6) SCSWIS must, in preparing a plan (or any revision), consult such persons as it considers appropriate.

Commencement Information

- I3** S. 54 in force at 1.10.2010 for specified purposes by [S.S.I. 2010/321](#), [art. 3](#), [Sch.](#)
I4 S. 54 in force at 1.4.2011 in so far as not already in force by [S.S.I. 2011/122](#), [art. 2](#), [Sch.](#)

55 Inspections at request of Scottish Ministers

- (1) SCSWIS must, at the request of the Scottish Ministers inspect—
- (a) any social service that they may specify,
 - (b) the organisation or co-ordination of any social services that they may specify.
- (2) The Scottish Ministers may specify purposes for any inspection under this section.
- (3) An inspection under this section must be conducted in accordance with a timetable approved by the Scottish Ministers.
- (4) The Scottish Ministers may request under subsection (1) that there be conducted an inspection of—
- (a) any services concerned in the relevant area,
 - (b) such of the services concerned provided in the relevant area as they may specify, or
 - (c) such of the services concerned provided to a particular child or other person or particular children or other persons as they may specify.
- (5) In paragraphs (a) and (b) of subsection (4), the “relevant area” is the whole of Scotland or such part of Scotland as the Scottish Ministers specify in their request.

Commencement Information

- I5** S. 55 in force at 1.10.2010 for specified purposes by [S.S.I. 2010/321](#), [art. 3](#), [Sch.](#)
I6 S. 55 in force at 1.4.2011 in so far as not already in force by [S.S.I. 2011/122](#), [art. 2](#), [Sch.](#)

56 Inspections: authorised persons

- (1) Any inspection under this Part must be carried out by a person authorised by SCSWIS (an “authorised person”).
- (2) A person may be authorised by SCSWIS to carry out inspections in relation to any social service or all of them.
- (3) An authorised person may at any time enter and inspect premises which are used, or which the person has reasonable cause to believe are used, for the purpose of providing the social service which is subject to inspection.
- (4) Where an authorised person is in possession of confidential information which has been obtained for the purposes of an inspection under this Part, the authorised person must not use or disclose that information other than—
- (a) for the purposes of that inspection,

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- (b) so as to comply with an enactment or court order requiring disclosure,
- (c) to the extent considered necessary by the authorised person for the purpose of protecting the welfare of—
 - (i) any child,
 - (ii) any adult at risk (within the meaning of section 3 of the Adult Support and Protection (Scotland) Act 2007 (asp 10)),^{F7}...
- (d) to the extent considered necessary by the authorised person for the purpose of the prevention or detection of crime or the apprehension or prosecution of offenders]^{F8}, or
- (e) to the extent considered necessary by the authorised person for the purpose of assisting the Scottish Public Services Ombudsman in connection with the Ombudsman’s investigatory functions under the Scottish Public Services Ombudsman Act 2002].

Textual Amendments

- F7** Word in s. 56(4)(c) omitted (1.4.2017) by virtue of [The Public Services Reform \(Social Work Complaints Procedure\) \(Scotland\) Order 2016 \(S.S.I. 2016/157\)](#), arts. 1, **5(a)**
- F8** S. 56(4)(e) and word inserted (1.4.2017) by [The Public Services Reform \(Social Work Complaints Procedure\) \(Scotland\) Order 2016 \(S.S.I. 2016/157\)](#), arts. 1, **5(b)**

Commencement Information

- I7** S. 56 in force at 1.10.2010 for specified purposes by [S.S.I. 2010/321](#), art. 3, **sch.**
- I8** S. 56 in force at 1.4.2011 in so far as not already in force by [S.S.I. 2011/122](#), art. 2, **sch.**

57 Inspections: reports

- (1) Where an inspection under this Part has been completed, SCSWIS—
 - (a) must prepare a report on the matters inspected, and
 - (b) must without delay send a copy of that report to the person providing the service which has been inspected.
- (2) Before finalising the report, SCSWIS must give the person providing the service an opportunity of commenting on a draft of the report.
- (3) SCSWIS must make copies of the report available for inspection at its offices by any person at any reasonable time; and it must take such other steps as it considers appropriate for publicising the report.
- (4) Regulations may make further provision about the preparation, content and effect of reports under this section and in particular may make—
 - (a) provision (including provision modifying any duties under this section) specifying circumstances in which—
 - (i) any right to receive,
 - (ii) access to,
 - (iii) availability of,copies of reports (or of parts of such reports) may be restricted, refused or withheld,

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- (b) provision requiring copies of reports to be sent to the Scottish Ministers (or such other persons as may be specified in regulations) in such circumstances as may be so specified.

Commencement Information

- I9** S. 57 in force at 1.10.2010 for specified purposes by [S.S.I. 2010/321](#), [art. 3](#), [Sch.](#)
I10 S. 57 in force at 1.4.2011 in so far as not already in force by [S.S.I. 2011/122](#), [art. 2](#), [Sch.](#)

Regulations

58 Regulations: inspections

- (1) Regulations may make further provision concerning inspections under this Part.
- (2) Regulations under subsection (1) may, in particular, make provision—
- (a) as to types of inspection which may be conducted,
 - (b) as to timing and frequency of inspections,
 - (c) as to seizure and removal of anything found during the course of an inspection,
 - (d) as to persons who may be authorised to carry out inspections,
 - (e) requiring or facilitating the sharing or production of information (including health records) for the purposes of an inspection under this Part,
 - (f) as to interviews and examinations (including physical and mental examinations) which may be carried out in connection with the inspections,
 - (g) requiring any person to provide to an authorised person an explanation of information produced to an authorised person,
 - (h) requiring information produced to an authorised person to be held in compliance with prescribed conditions and further disclosures to be made in compliance with such conditions,
 - (i) empowering an authorised person to disclose to a person prescribed for the purposes of this paragraph any information of a prescribed nature which the authorised person holds in consequence of such an inspection,
 - (j) creating offences punishable on summary conviction by a fine not exceeding level 4 on the standard scale for the purpose of enforcing any provision of the regulations.
- (3) In subsection (2), “prescribed” means prescribed by regulations under subsection (1).

Commencement Information

- I11** S. 58 in force at 1.10.2010 for specified purposes by [S.S.I. 2010/321](#), [art. 3](#), [Sch.](#)
I12 S. 58 in force at 1.4.2011 in so far as not already in force by [S.S.I. 2011/122](#), [art. 2](#), [Sch.](#)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Blanket amendment words substituted by [S.I. 2011/1043 art. 34](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Pt. 5 Ch. 3A amendment to earlier affecting provision 2019 asp 6, s. 12(2) by [S.S.I. 2023/127 reg. 3\(4\)](#)
- Pt. 5 Ch. 3A inserted by [2019 asp 6 s. 12\(2\)](#)