



Towards a Partnership for Improvement:

Independent Sector Providers'
Experiences of Regulation and
Inspection by the Care Inspectorate

scottishcare 

The voice of the independent care sector in Scotland

Foreword

Scottish Care is pleased to present this report on providers' experiences of regulation and inspection by the Care Inspectorate. It is based on a voluntary survey of care home, care at home and housing support providers but we think it does constitute a fair and balanced reflection of the range of views and experiences across the sector.

The purpose of the report is not to question the validity of regulation or to challenge the practice of the Care Inspectorate. Rather, at a crucial juncture where the landscape of care including regulation and improvement is under review, we want providers to be fully engaged in helping to move things forward. Being encouraged to reflect and give feedback on their recent experience of regulation and inspection is part of this process.

Scottish Care is committed to developing a partnership for regulation and improvement as part of the wider strategy to ensure that Scotland achieves the highest possible standards of care delivery.



Ranald Mair
Chief Executive Officer
August 2015

About Scottish Care

Scottish Care is a membership organisation and the representative body for independent social care services in Scotland. Scottish Care represents the largest group of health and social care sector independent providers across Scotland delivering residential care, day care, care at home and housing support. 'Independent sector' in this context means both private and voluntary provider organisations. Our membership includes organisations of varying types and sizes, amongst them single providers, small and medium sized groups, national providers and not-for-profit voluntary organisations and associations. There is recognition of the merits for a strong single representative body in Scotland and our core strategy is to create the strongest possible alliance and collective voice to protect and promote the interests of all independent care sector providers in Scotland. Scottish Care speaks with a single unified voice for both members and the whole independent care sector. This includes those who use independent sector care services. Scottish Care is committed to supporting a quality orientated, independent sector that offers real choice and value for money. Our aim is to work with key partners and stakeholders to create an environment in which care providers can continue to deliver and develop the high quality care that communities require and deserve.



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Introduction and Methodology

Introduction

This report has been produced by Scottish Care in 2014/15 with the aim of providing Scottish Care, the Care Inspectorate and the Scottish Government with a comprehensive picture of independent sector social care providers' experience of regulation and inspection. More specifically, it provides an overview of regulation and inspection in terms of what providers deem to be working well, what concerns and issues they have with particular elements of current activity and what would improve the regulation and inspection experience overall.

Given that the Care Inspectorate is currently reviewing a number of its practices and methodologies, including the National Care Standards, Scottish Care believes this is an opportune time to share provider feedback with the service regulator in order that this information can contribute to and inform the various review processes. It is hoped that this report will provide the basis for establishing a new relationship between the Care Inspectorate and social care providers, whereby regular feedback is a central component of jointly developing and improving regulation and inspection.

As Scottish Care understands it, regulation and inspection of services by the Care Inspectorate has three main purposes:

- **Compliance:** The first purpose is to ensure services' compliance with the National Care Standards, therefore checking whether a service is delivering and developing provision in line with what the Standards deem a well performing service to look like and confirming that a service is operating in a way that is legal and safe. Through the compliance component of regulation, the Care Inspectorate can enforce

action and penalties if a service falls below a level of acceptability in care and support delivery.

- **Public Assurance:** Secondly, the Care Inspectorate's regulatory function must promote public assurance in the quality, reliability and safety of care services, which often support the most vulnerable people in our society. In this way, we understand that the Care Inspectorate will want to be robust in their monitoring and reporting on services in order to enhance public confidence in their role.
- **Improvement:** The Care Inspectorate's third objective is to contribute to the service improvement agenda, whereby they will support providers to develop, improve and expand their services in a quality-led way that complements national and local strategic priorities. This support can be provided in a number of ways, but should include signposting of best practice and appropriate encouragement to innovate through flexible approaches to regulatory elements such as registration.

Scottish Care and its members believe in the importance of partnership between services and the Care Inspectorate in all three of these areas, and the benefits that increased positive collaboration could realise for the regulator, care providers and the people that access independent sector care and support services. Through this report, the points it raises and the implementation of any resulting actions, it is hoped that the independent sector and the regulator can work together at both strategic and operational levels to not only improve regulation and inspection, but to improve services.

More specifically, there are four key principles of inspection and regulation that Scottish Care and

its members hope to profile through this report, through evidencing where and when they are being applied effectively or less effectively in current practice. These four principles are:

- Clarity
- Partnership
- Consistency
- Fairness

Scottish Care believes that in most interactions surrounding care and support - from delivery to regulation - these principles are at the heart of what makes for a good experience and the achievement of beneficial outcomes. By identifying both positive and negative applications of these principles in practice, the intention is to reach a consensus between care providers and the regulatory body whereby both parties can attain a shared understanding of these principles and their value. This will include how they can be placed at the core of each organisation's culture, with a commitment to maximising the positive application of these principles and learning lessons from the instances where they have been found to be lacking.

Methodology

This report was compiled from responses to a Scottish Care survey, held over the Christmas period from November 2014 to January 2015.

The survey was sent via email to all independent care home, care at home and housing support services in Scotland that work with older people. This encompasses all members of Scottish Care (the largest representative body of these services), crossing private and voluntary sector provision. They are all services regulated by the Care Inspectorate.

Emails were forwarded to the above services alerting them to this survey and inviting participation. In addition, the survey was featured on the Scottish Care and the Scottish Care (Workforce Matters) websites and in the Scottish Care Bulletin.

The total reach of the survey was approximately 1000 individual services.

At the same time as this survey, Scottish Care was conducting another two surveys with the independent sector and it is possible that this

The feedback detailed within this report in relation to the application of these principles will identify three key findings:

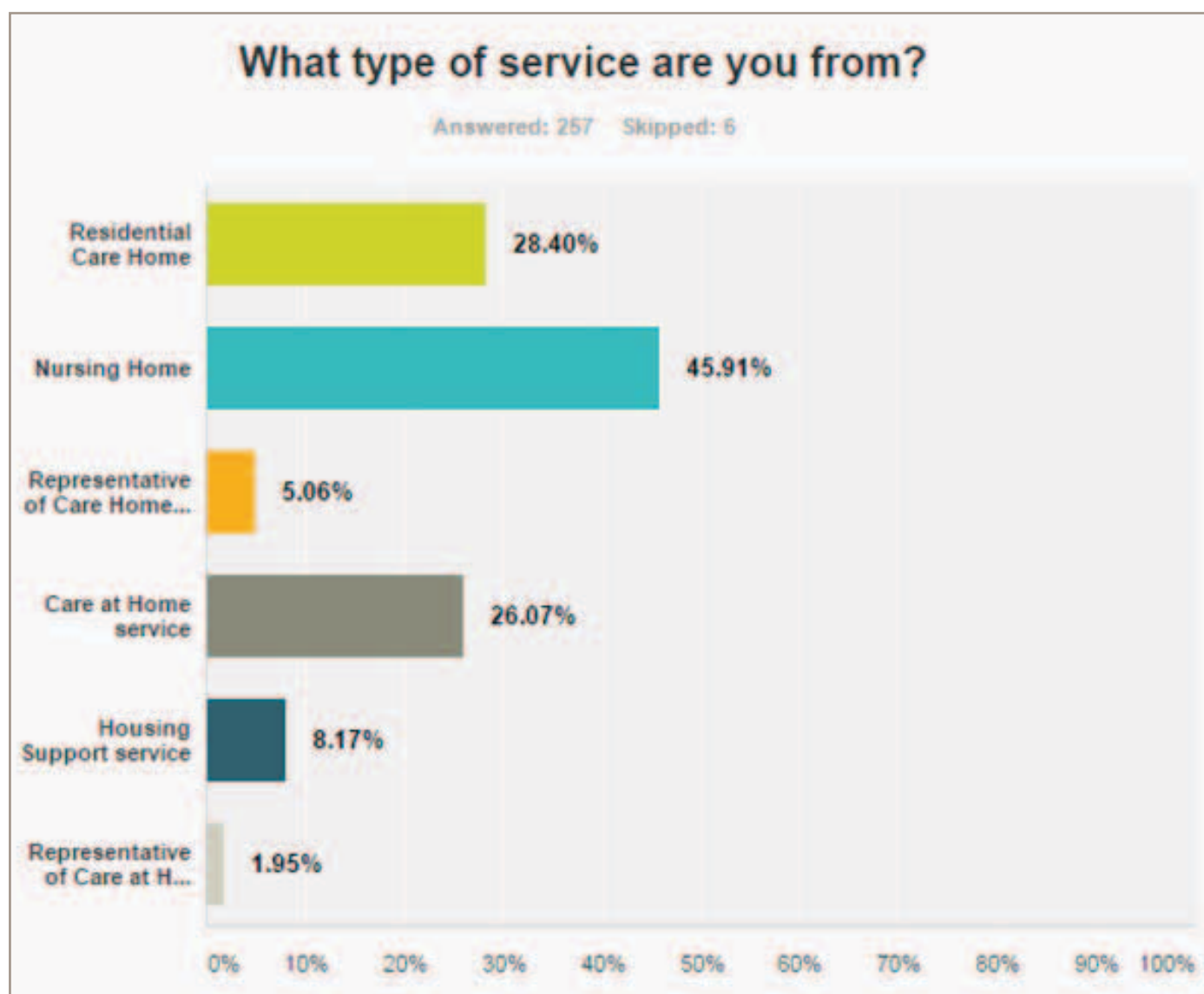
- Some very positive practice is taking place across the country in relation to inspection and regulation, leading to improved outcomes and better services for all;
- The variable application of the principles of clarity, partnership, consistency and fairness is a very real and concerning issue for the sector and the Care Inspectorate must take steps to mitigate against this.
- The independent sector wants to achieve better partnership working with the regulator in order to improve both partners' work, and has constructive suggestions as to how this could be done

It is hoped that any resulting actions from this report can then be taken forward by Scottish Care, providers and the Care Inspectorate in the true spirit of coproduction and with a sense of mutual responsibility. Through this, we hope to jointly build on and share good practice, address any areas of concern and improve regulation, inspection and service quality overall.

may have limited the level of response. However, we believe the return is likely to be sufficiently representative and reflective of the spectrum of experiences across the sector.

263 individual responses to the survey were collected, with 18 respondents completing the survey on behalf of groups operating a number of care services. This therefore means that a much larger proportion of independent sector care providers are likely to be represented in the survey at an individual service level.

Responses were collected across independent sector care home, care at home, housing support and day care services. Of these, approximately 200 responses came from care home services, with over 90 respondents from care at home and housing support services (some providers will operate more than one type of service provision). Whilst most respondents represented individual services, included in these numbers are those who responded on behalf of a number of care services.



In terms of service size, responses were collected across the full spectrum of the independent care sector. In relation to care home services (both nursing and residential care homes), this ranged from services with less than 25 beds to those over 300 beds. For care at home and housing support services, responding services extended from those delivering less than 200 hours of care and support per week, to those providing upwards of 10,000 hours per week.

All Local Authority areas were represented in provider responses except Orkney and Shetland, which is reflective of Scottish Care's membership coverage and the general reach of independent sector care provision.

In the survey, providers were asked to rate their experience across ten areas of regulation and inspection. These areas were:

- Registration (including re-registration and variation)
- The self-evaluation framework
- Annual returns
- Inspection (including verbal feedback)
- Inspection reports
- The grading system
- Challenging inspection decisions
- Complaints (referring to the Care Inspectorate's investigation of complaints made against a service)
- General Care Inspectorate liaison and communications
- Improvement and support (referring to support from the Care Inspectorate in relation to regulatory matters or improvement)

Providers were also asked about their overall experience, any other aspects of regulation they wished to comment on which hadn't been covered by the above areas, and how their experience of regulation could be improved.

In order to collect and analyse responses in a meaningful way, respondents were asked to answer survey questions in two ways; firstly, they were asked to grade their experience in each of the areas covered by the survey on a scale of 1-6, with 1 being unsatisfactory and 6 being excellent. This was a deliberate attempt to mirror the grading system applied by the Care Inspectorate when inspecting services, as this is a recognised and familiar method of evaluation across the care sector.

Secondly, respondents were asked to supplement their gradings with comments if they had specific points, views or experiences to share. This provided a significant quantity of qualitative data for analysis, which not only served to complement the quantitative data from the gradings but provided the report with a narrative which meaningfully highlights examples of where inspection and regulation is either succeeding or failing to improve quality and outcomes in care.

Both the quantitative and qualitative data was analysed and coded according to themes to form the basis of this report.



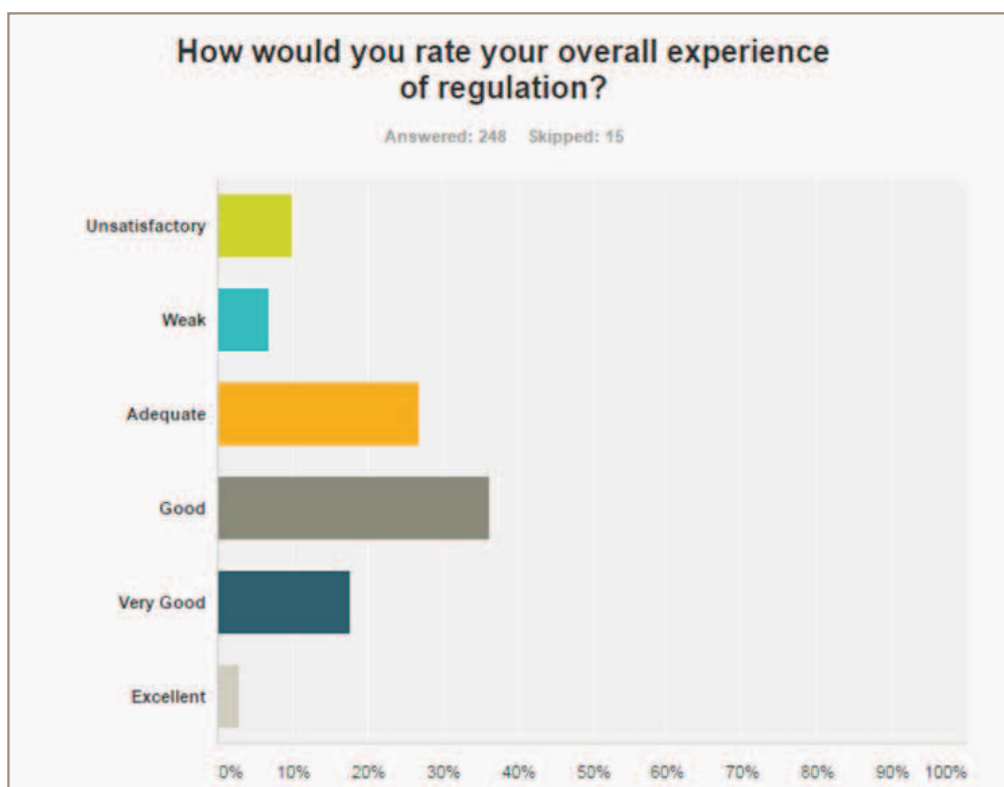
Overall Experience of the Care Inspectorate

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Regulation and inspection through the Care Inspectorate is one of, if not the most, significant driver for independent sector care services. This is logical and correct, given that the regulator exerts a direct influence over whether a service can become and remain operational depending on its level of compliance with Care Inspectorate requirements and protocols. Not only this, but outcomes of inspection processes, whether positive or negative, have an immediate bearing on public perceptions and confidence as well as placement decisions. The resulting impact on crucial business elements such as financial viability and staff recruitment and retention can therefore not be ignored either. Finally, services' relationship with the Care Inspectorate directly impacts on those services' relationships with their staff, service users and families, whether through evidencing engagement, dealing with complaints or handling the impact of

change resulting from service development or the implementation of enforced requirements. It is therefore crucial that the inspection and regulation experience is as positive and productive as it can be for all parties involved, directly or indirectly.

In terms of regulation overall, the majority of providers rated their experience as 'good' (36%). Whilst it is encouraging that the general picture of regulation from providers' perspective is positive, it is not insignificant that almost 44% had an unsatisfactory to adequate experience. Therefore, just as a Care Inspectorate inspection report would highlight what was unsatisfactory, weak, adequate, good, very good or excellent about a service at a specific point in time, it is important to explore these same aspects of the Care Inspectorate's practice given that they are delivering a paid service to care providers.



Of those responses that reflected positively on their overall experience, regulation was perceived to work well when it was fair, thorough, client-driven and transparent. Coupled with the fact that many responses throughout the survey emphasised that they viewed regulation and inspection as necessary and beneficial, it is important to recognise that providers welcome scrutiny and improvement processes and want them to be robust.

"I feel that the Care Inspectorate provide a valuable service ensuring that care services meet the needs of service users. I feel that during the inspections the Inspectors have shown an interest in the service as well as considering the view points of the service provider".

A number of providers commented on the constructive working relationships that they have with their inspectors, with these opinions stemming from experiences whereby Care Inspectorate officers have been approachable, helpful, professional and non-confrontational both during the inspection process and in relation to everyday support and improvement. From both a Scottish Care and a provider perspective, it is encouraging to verify that Care Inspectorate engagement with providers at a local level can be as positive as the working relationships established between Scottish Care and the Care Inspectorate at national and strategic levels.

"I feel there is more of a working together approach for better outcomes for the people who live here."

However, as highlighted in one provider's response, *"there are weaknesses within most relationships"* and in terms of overall experience of regulation and inspection, the biggest weakness experienced by providers is the inconsistency and subjectivity of approach applied by the Care Inspectorate. Overwhelmingly, responses reflected on contradictions and irregularities they had experienced across different aspects of regulation and in different dealings with inspectors, the details of which will be explored further through this report. However, it should be noted that even those that expressed exceedingly positive opinions of the regulator and its work, including those with

commendable inspection grades of 5 and 6, very much tended to frame their responses in a context of this having changed, for better or worse, across a number of years or inspectors;

"Recently, the Inspector has been fair and understanding of the nature of the work. A previous experience was, we felt, unfair, demoralising and emphasised a few aspects of paperwork instead of the overall care given".

"We have a good relationship with the Inspectorate but have had 4 different sets of inspectors in the last 4 visits. There is no consistency of inspection and we are constantly pulled in the direction of the individual inspector and so cannot improve grades".

In fact, in the question relating to overall experience alone, over a third of responses specifically mentioned consistency and subjectivity. This raises serious questions about how to address what is a significant issue affecting the care sector and its service regulator. As highlighted above, there is some really effective and progressive practice taking place across the country in relation to regulation. However, there appears to be some extreme variation in how or whether this is employed by inspectors in their engagement with independent care services, and it is in the best interests of all stakeholders to resolve this to ensure a consistent approach is applied and recognised by all.

The prevalence of subjectivity and therefore irregularities is perceived by providers to exist across many different aspects of regulation including:

- The application of standards in assessing services;
- Outcomes of inspections including inspection reports and feedback;
- The attitude and approach of inspectors;
- The frequency of change of inspection personnel;
- The advice and support given to services;
- Intensity of inspections;
- Knowledge and understanding of a service or the sector by staff within the Care Inspectorate;
- The handling of complaints or issues.

This list is extensive but by no means exhaustive, and different aspects will be explored further in the report. However, what it does highlight at this stage is significant inconsistencies in the way that services are regulated in general.

It is crucial that the consistency of regulation is improved across all these areas. The existence of such unpredictability of outcomes in providers' engagement with the Care Inspectorate and the lack of adherence to a clear set of criteria makes it extremely difficult, even impossible, for services to develop and improve in a way that explicitly aligns with the regulator's priorities;

"I have had positive experiences with individual inspectors but find the lack of standard criteria problematic and the lack of continuity between inspectors always has a negative impact on grades".

"Overall the burden of regulation and lack of consistency actually detracts from our ability to deliver the best individual focused care due to the sheer amount of work required by staff in response."

"Need consistency in inspections/inspectors to be able to build our business around their requirements."

What came across clearly in the responses was the desire amongst providers and staff to improve their services, and how demoralised they could become when this seemed unachievable or to have taken a backward step as the result of a regulatory process. To achieve the universal aspiration of high quality services for all, those services need to be given a realistic chance to develop within, clearly defined, mutually agreed and consistently employed parameters, regardless of whether these services are currently operating at grades of 1 and 2 or 5 and 6.

It is imperative to note that consistency does not mean uniformity. In a sector which is premised on personalisation and where the very nature of the complex and often sensitive care and support provided requires a flexible and tailored approach, it would be wrong to seek a 'one size fits all' approach to regulation. Indeed, no response collected as part of this report indicated any desire for complete standardisation. Instead, consistency in this area

calls for a level of knowledge and understanding of:

- The sector and services;
- What constitutes good practise;
- What practices impact positively or negatively on care and support;
- What is within the scope of regulation and;
- What barriers impede development.

If all parties understand these areas and hold a level of accountability around assessing practice within them, as well as reporting responsibilities, a more objective and effective approach to regulation can be achieved.

Summary of Main Points

- Providers value inspection and regulation overall and want scrutiny and improvement processes to be robust and client-driven.
- Many providers have established constructive working relationships with Inspectorate staff at a local level, whereby both parties are focused on working together to improve outcomes in care provision. This also reflects the positive partnership approach adopted by the Care Inspectorate and Scottish Care at national and strategic levels.
- The experience of inconsistency across all areas of regulation and inspection impacts significantly on providers' ability to develop and improve their services.



3

The Inspection Experience

Providers' experience of regulation is understandably centred primarily on inspection processes given that these are what set service grades, requirements and recommendations. Furthermore it is the experience and outcomes of inspection which directly impact on staff morale, service users' sense of security and public confidence - all of which are of paramount importance for services to positively influence and consolidate.

However, providers' attitudes to the effectiveness of the current inspection process are premised on much more than their satisfaction with their awarded inspection grades, with the results proving to be very mixed:

Inspection (including verbal feedback)

Answered: 226 Skipped: 37

Answer Choices	Responses	
Unsatisfactory	8.41%	19
Weak	9.73%	22
Adequate	24.34%	55
Good	29.65%	67
Very Good	23.45%	53
Excellent	6.19%	14
Total Respondents: 226		

In general, inspection was graded positively by services, with 59% of respondents assessing the process, as good, very good or excellent.

"This was the best part of the experience. Once you have the attention of the inspector we felt supported and well guided and fairly inspected."

"Thorough and comprehensive and fair."

Fairness and diligence were recurring themes in relation to what makes for a high-quality inspection experience. This again highlights the fact that

services do not want to shy away from inspection, even if the process highlights weaknesses and issues. Instead, they value scrutiny that seeks to comprehensively understand the workings, values and ambitions of a service, whilst also constructively identifying flaws and development opportunities in care and support provision. This does not mean adopting a lenient approach to failing services - the independent sector wants to support the driving up of standards across care and support services and therefore will not defend poor care. What it does mean is that communication, evidence-based decisions and partnership are

prioritised by both the inspector and the inspected service. It also means that those services that are not performing at the optimum level are, through proportionate inspection, supported to improve and understand their weaknesses. It is clear that, where this approach has been utilised effectively, providers value and commend their inspection experiences.

Fairness was also a prominent theme in relation to the grading system. The grading system fared less well when evaluated itself, with 32% of survey respondents awarding it grades of 1 (unsatisfactory) or 2 (weak), and a further 26% rating the current system as adequate. This was one of the most poorly rated area of regulation and inspection covered by the survey and therefore required detailed examination, which indicated that providers were less critical of the system overall (which some deemed to be the best in operation in the UK) but had significant concerns regarding its application by the Care Inspectorate.

“The grades are fine, but they tend to reflect paperwork over what clients and staff see as more substantive matters, therefore can be a bit misleading/ disappointing.”

“Prospective service users now tend to look only at numbers which do not fully reflect the service.”

“The whole concept of the lowest grade in any element is the overall grade is a total misrepresentation of the standard of the home. An average of the grades is a much fairer representation.”

In fact, almost all comments relating to the grading system expressed a perceived lack of proportionality and balance being applied to a service’s awarded grades. In particular, the rounding down of grades was of substantial concern and was seen to be extremely demoralising and disincentivising. From Scottish Care’s point of view it also seems to be in direct contradiction to the Care Inspectorate’s conveyed desire to devote more attention to their improvement and support role, given that this is an explicit example of a deficit-based focus. While it is undoubtedly important to signal problems, particularly in order that current and prospective service users and their families can assess whether a service meets their needs and expectations, this information should be available in a way that also reflects a service’s strengths in a balanced way.

At a time where, with the implementation of Self-Directed Support, people who access care and support services are able to exercise more control over choosing services that best meet their holistic needs and aspirations, the information about these services should be accessible, contain a reasonable level of detail and reflect an authentic attempt to portray a service accurately and fairly. The opportunities to do this are limited considerably by summarising a service by its lowest grade.

What came through most strongly in providers’ reflections on good inspection experiences was the rapport built up with individual inspectors which created strong professional relationships and detailed insights into each other’s working realities:

“The inspector took the time to call and give feedback to the manager as she had been on annual leave. I felt this was important.”

Similarly, the attitude and approach of inspectors largely contributed to providers’ perceptions of inspections, particularly how their approach impacted on the delivery of care and support and the morale of staff and clients:

“The inspector I currently have is very unobtrusive and staff feel very comfortable during the inspection process and have stated this.”

It is interesting to note how many similarities there are between what is deemed to contribute to a good inspection and what is judged to be a well-performing care and support service. As evidenced by the above quotes and many more collected through the survey, these evaluations include:

- Listening to and communicating with clients effectively;
- Minimising the negative impact of sensitive matters;
- Prioritising respect and dignity in every engagement;
- Involvement and participation of all stakeholders;
- Setting and sharing expectations and accountabilities;
- Adopting an assets-based approach and;

- Recognising the importance of the ‘little things’.

This point was conversely reinforced when examining comments relating to poor inspection experiences:

“The inspector was very condescending and made very personal remarks regarding aspects of the care home. I felt that my opinions were invalid and she was not prepared to listen.”

“Individual inspectors may be impolite and it makes the inspection unpleasant. The inspection should be in an environment where there is respect.”

“Some inspectors tend to labour on the negative... leading to staff feeling demoralised and feeling that the hard work has been pointless.”

These are all issues which, if observed in care staff’s interactions with the people they support, would absolutely be reflected detrimentally in a service’s inspection report and gradings. It would be deemed unacceptable for services to allow these practices to take place, and there would most likely be some consideration given to how these actions were impacting both on the people they were directed at and the wider culture of the organisation. It is therefore reasonable for the same questions to be raised with the Care Inspectorate when they are presented with examples of some of their employees behaving in a negative manner as opposed to adopting a collaborative, constructive approach to inspection.

In summary of inspection experiences, the views of providers are perhaps best summed up by the following quote:

“At times the inspection can feel like it is good partnership working to improve the experience of the resident and sometimes a tending towards a confrontational experience.”

Again this highlights the three key messages of this report:

- Some very positive practice is taking place across the country in relation to inspection and regulation, leading to improved outcomes and better services for all;

- The variable application of the principles of clarity, partnership, consistency and fairness is a very real and concerning issue for the sector and the Care Inspectorate must take steps to mitigate against this.

- The independent sector wants to achieve better partnership working with the regulator in order to improve both partners’ work, and has constructive suggestions as to how this could be done

As an example of the true partnership approach sought by the sector and in line with the Care Inspectorate’s inspection methodology, providers had a number of recommendations as to how the inspection experience could be improved.

Providers strongly recommended that robust verbal feedback was provided and documented immediately after an inspection had concluded, other than specific, communicated areas which the inspector felt they needed to consult colleagues over. This would allow both the service and the inspector to discuss the inspection process and outcomes and to understand how decisions had been reached. This does not mean that the service will necessarily agree with everything an inspector has deduced from an inspection, but would provide an opportunity for the inspector to obtain more information on areas they remained unclear about and would mean that providers could immediately begin to address any concerns identified through the inspection process, therefore instantly taking steps to improve care. Given that providers felt that some inspectors lacked sufficient knowledge around certain aspects of care delivery, this dialogue would serve to support an inspector’s learning in order to make informed grading decisions. Furthermore, it would reduce the frequency by which providers felt the need to question or challenge aspects of subsequent written feedback, or felt that the printed account did not accurately reflect the oral version, given that any points of contention or praise would have also been discussed, explained and recorded during the verbal feedback process.

In relation to the issue of consistency, providers expressed the need for continuity of inspectors over a number of inspections, especially given the fact that a proportion of respondents had experienced different personnel for each inspection over the last three to four years. Stability in this area would be mutually beneficial for a number of reasons.

Firstly, it would allow for all-important working relationships to be established between the regulator and services. Therefore inspectors could gain more in-depth knowledge of the services they inspect and services could be better supported to develop and improve. This will be of even greater importance with the implementation of health and social care integration, whereby locality planning and the development of joint commissioning strategies mean the traditional roles of care and support services for older people are likely to change and become more tailored to the specific needs of the local population. In order to encourage innovation and improvement in care, both services and the regulator need to feel confident in these processes and the impact for individual services and their stakeholders. Secondly, despite the Care Inspectorate's introduction of specialist inspection teams to better ensure inspectors have knowledge of the nature of their allocated services, this still isn't proving successful in mitigating the subjectivity

of individuals when carrying out their evaluations. Even within the same teams, individuals have different priorities, preferences and interpretations which are impacting on the inspection process in ways that are restricting the ability of services to develop and improve in a meaningful way. Therefore maintaining individual inspectors' links with services for longer would allow them to track and review progress.

However, there also needs to be clear, co-designed criteria relating to inspection. This should include guidance, or even requirements, detailing services' and inspectors' expectations, limitations and accountabilities around the inspection process. In developing this jointly with providers, the Care Inspectorate would be taking positive steps towards alleviating some of the subjectivity and therefore inevitable variation present in current inspection practices.

Summary of Main Points

- Provider experience of inspections is largely determined by the practice of individual inspectors. Where an inspector prioritises partnership and clear communication, the experience of inspection is very positive.
- Much common ground is observed between providers' reflections of a good inspection and the Care Inspectorate's evaluations of a well performing service.
- Whilst the grading system as a means of sharing inspection outcomes is welcomed, providers find the current practice of summarising service performance by the lowest achieved grade as unfair, unrepresentative and running counter to the Care Inspectorate's role in supporting service improvement.
- Providers report negative inspection experiences where inspectors fail to demonstrate a collaborative, constructive approach.
- To improve the inspection experience, providers recommend the implementation of:
 - o Immediate and recorded feedback;
 - o Continuity of inspectors across a number of inspections and;
 - o The creation of clear, co-designed inspection criteria.

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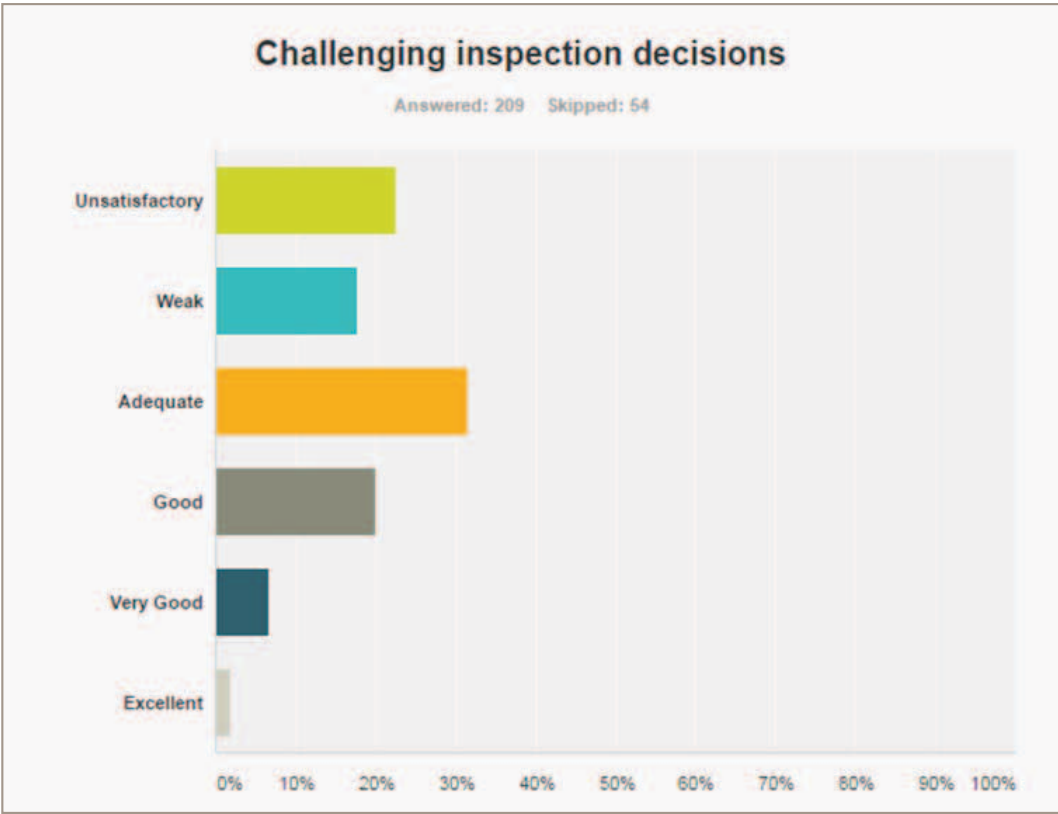
Conflict Resolution

Inevitably linked to the inspection process is the outcome, represented in the form of grades and inspection reports, and how the results are dealt with when these are deemed to be less than satisfactory or a misrepresentation from the point of view of the inspected service. Similarly, the Care Inspectorate is often charged with achieving sensitive resolution of challenging matters in dealing with complaints against care and support services. In order to establish how providers were experiencing regulation in terms of these often complex and uncertain areas of conflict resolution, they were asked to share incidences of disputes or contradictions of opinion and how these were fixed, both when challenging inspection decisions and in the Care Inspectorate’s investigation of complaints made about a service.

recognises that some disagreements detailed by providers would have been the correct decisions and that those who have been unhappy with a potentially justified outcome are more likely to voice their discontent, therefore overall evaluations must be treated with a degree of caution. However, it does reinforce the need for unambiguous, transparent and mutually agreed criteria to reduce the number of incidences whereby providers are unsure and therefore aggrieved as to why a particular decision has been taken against them. It should also be noted that many of the examples given will be genuine and provide meaningful evidence of practice taking place across the country.

Challenging inspection decisions was categorically regarded as a negative area of Care Inspectorate practice:

In relation to inspection decisions, Scottish Care



When examining why this is the case, the most frequently cited reason was that decisions were 'difficult to change'. Worryingly, there was an overwhelming sense of commonality in the reasons why providers believed these difficulties exist:

"I don't feel confident enough in case it gets held against the home."

"I found the process unpleasant and neither I or the managers of the care home felt listened to. The next inspection resulted in one of the homes receiving three grade 2's. It felt like a punishment for questioning them in the first place so I did not appeal."

"There is a real, genuine fear of 'prodding the tiger' if you do and what they might bring."

"Would never consider even trying to. We have found the Care Inspectorate to be quite vindictive in the past. Challenging them would only create hassle for us."

"Inspector takes this personally and shows this by looking for other problems to highlight which may be justified. There is an element of vindictiveness in the approach."

"When you disagree with a grading, it can feel as though you are being seen as defensive of your service without being reflective enough to have insight for the need to develop it. It can also be as though the inspector is defensive of their decisions and unwilling to listen to comments."

"There have been occasions where I have challenged something that was said but the officer clearly wasn't happy about it. We should be able to discuss things without feeling we are 'out of order'."

"Do not feel comfortable to challenge and even an attempt to discuss was not welcomed."

Again, whilst this is an extensive example of provider experience, it is merely a sample of the comments evidencing shared perceptions of defensive and vengeful behaviour from the regulatory body when decisions are challenged, and a fear of repercussions in doing so on behalf of the service. This paints a concerning picture of the current system and its effectiveness, especially the

references to personal affronts, retribution and the perceived resistance to entering into discussions to promote resolution. It is wrong that decisions which have such a monumental impact on services cannot be discussed, explained, questioned and challenged on reasonable grounds in a rational, non-confrontational way. By seeking to deter services from engaging positively with inspectors in this area, the Care Inspectorate is undoubtedly inhibiting their ability to improve, seek guidance or understand their faults. If the aim of regulation is truly to enhance the quality of services for those they support, the focus should be on partnership with services to achieve this and certainly not on creating oppositional relationships and protecting Care Inspectorate decisions at all costs.

It would seem that the main source of these particular issues is the fact that there is no independent appeals process. As one provider pointed out, the Care Inspectorate is the "judge, jury and executioner." Given that an appeal is made to the inspector who undertook the inspection, providers feel that there is a real reluctance to alter any decision, regardless of supporting evidence, stemming from an averseness to appearing to undermine the inspector's authority and judgement. This is further evidenced by the following observation, made by a number of respondents:

"Whilst there is a willingness to listen, there does not seem to be any movement."

Providers aren't looking for preferential treatment or to shirk responsibility for their shortcomings identified through inspection. What they do seek is a fair opportunity to address concerns they have with how decisions have been reached, and conviction that appropriate amendments will be made if there are sufficient grounds to do so. There is good practice taking place across the sector but again, this appears to be dependent on individual relationships between services and their inspectors:

"Never had this experience but would do so with confidence if needed. Feel we could have a fair rapport with our inspector if we challenged a decision."

"Always felt we had a good rapport with the inspector and results were amicably decided."

"With changes in attitude and approach by inspectors, staff are now more comfortable challenging."

Whilst the fact that inconsistency is again an issue, it is encouraging that both providers and inspectors are experiencing positive outcomes from challenging inspection decisions as a direct result of adopting a partnership approach, and it is therefore crucial that the Care Inspectorate ensures this best practice is communicated to and monitored within all inspection teams.

Some similarities were observed in relation to providers' experiences of complaints handling, both in terms of strengths and weaknesses of the resolution process. A significant number of respondents hadn't had any experience of complaints in this way so didn't provide comments, but those that had positive experiences commended the way in which the complaints were handled;

"Recent complaint activity was handled well and sensitively and with a good dose of common sense by the officer."

"This team are more approachable and are more willing to listen. They have a difficult job and appear more realistic."

"The complaints officer visited the premises and was very pleasant. Worked with us without being intrusive."

As with inspection decisions, providers valued approaches to complaints investigations which demonstrated partnership, fairness, open dialogue and an understanding of the complexities of a situation. Again, there were positive indications that progress had been made in this area by the Care Inspectorate, with some providers noting recent improvements in comparison to previous experiences around complaints handling. It is also an optimistic development that the Care Inspectorate has recently consulted stakeholders around improving their complaints methodology, which Scottish Care and independent sector providers contributed to.

In terms of criticisms of complaints investigations, there were three main issues identified by providers: the handling of anonymous complaints, the length of the investigation process and the neutrality of the process.

Providers felt that the current methodology, which allows complainants to maintain complete anonymity, was flawed;

"Too easy for anonymous, spurious complaints that waste the time of inspectors and operators."

Providers were keen that legitimate complaints are investigated thoroughly to reach an agreeable solution for all. However, the fact that anonymous complaints can be fully investigated means that there is no filtering regarding the legitimacy of the complaint or the circumstances surrounding a person's relationship with a service. Obviously there will be instances where, due to sensitive or difficult circumstances such as issues of adult protection or whistleblowing, the complainant may quite reasonably want to conceal their identity from a service. However, there should be a requirement for them to identify themselves to the Care Inspectorate without this compromising their concern or the handling of it. Otherwise, those with unfounded or vexatious grievances are able to elevate these to a more serious level, therefore taking time away from the resolution of genuine issues. Not only this but by permitting and promoting their investigation, the Care Inspectorate is diminishing the ability of services to address the underlying issues on an individual basis which lead to complainants feeling compelled to raise concerns anonymously to the regulator.

The length of the investigation process was a concern for a number of providers, especially in relation to delays in concluding complaints matters;

"I am currently awaiting a response to a serious anonymous complaint that was lodged with the Care Inspectorate... 216 days ago."

Whilst there is recognition within the sector that workload pressures can impact on target deadlines, the extreme lengths of time which some providers are waiting to have a complaint investigated and resolved are objectionable, especially given the sensitive nature of the circumstances surrounding negative experiences of care and support provision. When services have complaints raised against them, whether minor or serious, it impacts negatively on the whole service but particularly on staff morale, resident, client and family anxiety and service development. What's more, it is hugely unsatisfactory for the complainant who is likely to seek closure on the matter and reassurances that agreed and appropriate steps are being taken to prevent reoccurrences. If this process is drawn

out unnecessarily, it can only serve to detrimentally impact on service quality and outcomes.

On the subject of timescales, providers also strongly voiced their views on the prominence of historical service complaints on the Care Inspectorate's website. No one would contest the importance of transparency in describing the various aspects of a service, including its weaknesses, and therefore relevant complaints should be accessible to all stakeholders to facilitate informed choice and enhance service knowledge. However, it is reasonable to expect long resolved issues to be removed from a service's record if appropriate measures are in place to reassure stakeholders that the likelihood of similar transgressions is minimal.

"That complaints are either upheld fully or partially means that they will never become spent and will remain on the Care Inspectorate website until such time as the service closes. This level of visibility for past transgressions does not even apply to murders."

For the Care Inspectorate to meaningfully uphold their articulated role as an improvement body there must be a revision to the current methodology to consider this point. If services are to progress to deliver higher quality, more complex provision that meets the needs of their local communities, they must feel supported to do so in a way that promotes progressive, innovative thinking and not in a way that continually seeks to remind people of historic issues.

Finally, the perceived imbalance and bias in complaints investigations was a factor in determining providers' gradings of this area of regulation:

"The Care Inspectorate process is so heavily weighed against the service and so intent on protection of the complainant that it is flawed justice."

Again, providers sought an even-handed approach to resolving issues and not to be treated advantageously over the complainant. However, a number of providers felt that complaints were often handled as true from the outset and therefore any subsequent investigation was futile given the implicit assumption that the care service will be in the wrong in any complaints situation. Undoubtedly, there will be many exceptions to this observation and perceptions are not always justifiable. However, it is notable

that providers from across the country shared this viewpoint and therefore it merits further enquiry.

The most common denominator in reasoning for the lack of neutrality in complaints investigation was an apparent apprehension from the Care Inspectorate in relation to failing to uphold complaints from external stakeholders:

"They are biased towards upholding/ partially upholding any complaint to avoid hassle from relatives."

Whether from relatives or members of the general public, providers experienced a desire from the regulator to appease the complainant by punishing the service as opposed to seeking to mediate the situation and achieve positive outcomes for all:

"The outcome of the complaint process can feel very sterile with no thought to how the process is carried out in a manner which ensures closure of the process."

The Care Inspectorate certainly has an accountability to the families of those accessing care and support services as well as the general public to thoroughly investigate complaints, uphold standards of care and identify and reprimand those that are found wanting. However, the Care Inspectorate also has a duty to the services that fall under the scope of this regulation and pay registration fees to the regulator and therefore they must be able to evidence that they are providing a fair and effective service to services. Where this seems to be failing at the moment in relation to complaints is in the inability to articulate reasonable expectations and limitations to all parties as part of the complaints methodology.

Issues with the current methodology are further evidenced by the secondary reason for providers' dissatisfaction with the predisposition to uphold complaints - the way in which the Care Inspectorate have been seen to promote certain complaints protocols which bypass services:

"The Care Inspectorate have solicited complaints and nurtured a culture of the complainant going to the Inspectorate instead of seeking to promote resolution at the provider end."

"Advertisements in the media are inappropriate."

By disempowering services from dealing with more minor complaints and then investigating these themselves in a heavy-handed manner, the Care Inspectorate is inevitably contributing to a culture of dissatisfaction with the process amongst providers, whereby they feel that complaints resolution is done 'to' them rather than 'with' them. This approach is also encouraging the development of confrontational, oppositional relationships between providers, complainants and the regulator rather than encouraging a partnership approach to meaningfully resolving

issues and the factors creating these issues.

By taking these points on board and involving independent sector care providers in the review of Care Inspectorate complaints methodology, the experience of conflict resolution processes could be improved exponentially for providers. This would also positively impact on the experience for complainants and stakeholders more generally given that it would promote more transparent, collaborative practices.

Summary of Main Points

- Practice in relation to conflict resolution is improving, with more providers feeling confident that they will be listened to and that decisions will be made in a fair and clearly communicated way.
- Despite recent improvements, providers continue to report poor experiences of conflict resolution, with the inability to successfully challenge inspection decisions without significant retribution seen as particularly problematic.
- Providers are keen that legitimate complaints about services are investigated thoroughly. However, issues relating to anonymity, timescales and communication impact negatively on providers' experiences.



5

Engagement

Outside of the inspection process itself, there are a number of liaison and communication opportunities between services and their regulator, as well as multiple occasions where it is important for both services and the Care Inspectorate to engage with people who access care and support services, their families and the wider public.

In terms of engagement opportunities between the Care Inspectorate and services, a number of these present themselves through compulsory regulatory processes, either linked to the establishment of new or changed services (such as registration, re-registration or variation) or to routine updating requirements (including annual returns and the self-evaluation framework).

In relation to registration processes, there were three prominent themes identified in providers' responses. These were:

- Positive experiences of timely Care Inspectorate support:

"Had to vary registration in an emergency situation and experience was very swift and helpful from our Inspector and her manager."

- Inconsistency of approach by Care Inspectorate officers:

"Does not appear to be uniform clear strategies regarding variations - have had 2 completed to include nursing care and both done completely differently."

- Lengthy delays to completion of registration or variation:

"Process took JUST less than a year, even though all docs provided as requested initially and not much changed throughout the year."

"Nearly went bankrupt before we even started!"

"Our only recent experience of variation was a request to vary the wording of the Staffing Notice which took 5 months instead of the required 3 to complete and was totally wrong and not in any way reflective of what was requested by ourselves and supported by our own inspector at the time."

Firstly, providers recounted a number of examples where their service registration or variation requests were addressed promptly with valuable assistance from the regulatory body. However, others had very negative experiences and this division of opinion was reflected in the gradings awarded by providers: 51% graded registration as unsatisfactory to adequate, with the remaining 49% deeming it to be good to excellent. As has been a recurrent theme across all areas of regulation and inspection, inconsistency appears to be a significant issue for registration processes which again can be deduced from the gradings - if a system is working well in a consistent way, there would not be substantial variations in the experiences of stakeholders affected by it.

The considerably largest issue was timescales, with 46% of comments relating to this area remarking negatively on the delays that providers had experienced which, from the feedback, have ranged from two months for a simple variation to over one year. This is very concerning and wholly unacceptable given that the sector is moving into a time whereby, through joint commissioning strategies, services will be expected to be responsive and flexible to the needs of their local communities and will be required to provide non-traditional models of care that fit not only with individuals' care and support needs but also their personal preferences and articulated outcomes. This will be entirely unachievable if registration and

variation processes do not correspondingly adapt. Failure to adapt will detrimentally affect much needed business establishment and development and ultimately, quality of care.

Similarly, key themes were identified in providers' experiences of completing both annual returns and the self-evaluation framework, with two areas in particular acknowledged as problematic - the repetitiveness of these exercises and the time that completing them takes away from providing care and support. Alongside this, providers felt that the systems into which the required information for these exercises was inputted were problematic, with issues such as the inability to copy information over from other documents, poor layout and a non-user friendly online system making the completion of these even more cumbersome and laborious for services.

Where the two areas differed was in providers' recognition of their value. Whilst the self-evaluation framework was commended for its ability to highlight good practice and to promote the efforts and initiatives of a service, providers struggled to see the benefit of completing the annual returns documentation:

"Not sure what Care Inspectorate do with all the information we compile and send to them."

The information required by the annual return and the lack of feedback provided on its use is leading providers to question its worth and the Care Inspectorate's intentions in collecting this information. This is especially true given the afore-mentioned point of how much time is taken away from care delivery and the improvement of provision to complete the return. Whilst the Care Inspectorate may be able to compile information to inform their own practice from the collection of annual returns, there needs to be consideration given to how this data is shared with services or how it can be formulated differently to be beneficial to all.

In line with the over-arching intention of this report - to encourage better partnership between services and their regulator to improve regulation overall - providers did have suggestions as to how these various compulsory processes could be improved through mutual effort. By reviewing the information requirements of both the annual return

and self-evaluation framework and evaluating these alongside what data is collected and accessible via other means, it would be possible to streamline the exercises and significantly reduce the duplication experienced in submitting these. Additionally a number of simple IT solutions could be found to make the inputting system much more user friendly. It should not be underestimated, as with care delivery itself, how small changes can have a significantly positive impact to an experience and to outcomes. Similarly, providers requested that the information sought becomes much more person-centred in its focus, which would fit logically with the policy ambition to provide much more holistic, outcomes-based care and support that prioritises the individual.

Regarding engagement with people who access services, their families and the wider community, the initial encounter is through people retrieving a service's published inspection grading and report in order to make their own assessment of quality and compatibility. Providers shared their thoughts on inspection reports in a way that largely focused on the public-facing role that these reports have. Inspection reports overall were graded positively, with 27% of respondents regarding these as very good or excellent compared to 13% considering them to be unsatisfactory or weak.

However the comments received in relation to inspection reports were overwhelmingly critical, with 95% of the 56 views expressed alluding to issues with the means of reporting on and sharing inspection outcomes. Most of these comments related to the way in which people could obtain accurate, fair and useful information as to how a service could meet an individual's needs and aspirations, which was found to be difficult if not impossible under the current methodology:

"Inspection reports are not written in a format that is easily understood for potential residents and their families."

"Some family members have commented on the length and not always understanding the importance of the wording."

"Far too much information which leads the public only to focus on the grades."

What's more, providers gave multiple examples of occasions where inspection reports had contained incorrect factual information, information about different services due to a 'cut and paste' exercise, the wrong names of services or numerous spelling and grammatical errors. Not only does this detract from the professional nature of the care and inspection services being described, but it also does nothing to enhance the knowledge and understanding of an individual or family who may require in-depth, accurate information about a service.

It is important to note providers' focus in this area: despite any general misconceptions that care services are unapproachable, closed door organisations, services want to encourage a more open, transparent, accessible picture of their services through inspection reports, they want inspection reports to provide meaningful

information about provision and wish to encourage individuals and their families to engage positively with the information. This corresponds with the idea of promoting community engagement with local services, both as part of the prevention agenda and for community-capacity building. It would therefore be advantageous for the Care Inspectorate to adapt their reporting methodology accordingly, in order that the regulator is not unintentionally restricting this important area of growth and development. As both a service-facing and public-facing body, the Care Inspectorate in fact has a duty to ensure that shared information is as clear and user-friendly as it can possibly be. By doing so, they would empower individuals who access services and their families to support the inspection process through their improved ability to understand a service's practices and values and therefore identify and challenge where a service falls below optimum standards.

Summary of Main Points

- Engagement between providers and the regulator outwith inspections is deemed to be positive where the Care Inspectorate offers helpful, timely support.
- Services want to encourage a more open, transparent, accessible picture of their services through inspection reports.
- Inconsistency of interpretation and approach and timescales for completion are significant issues in relation to the Care Inspectorate's processing of service registrations and variations.
- By jointly reviewing the annual return and self-evaluation framework, data collection could be made more valuable and duplication could be minimised.



Improvement & Support

6

It is important to bear in mind that services absolutely have practice in need of development too. Even those services performing at the highest level of excellence will need to continue to strive for enhanced quality, particularly given the changing demographics and the shifting balance of care whereby those being supported in their own homes are likely to have more complex needs and those being supported in residential and nursing care homes may require palliative or end of life care and have advanced dependency levels. It goes without saying that services operating below very good or excellent standards have even more work to do and must actively address recommendations and requirements for improvement in order to achieve the universal ambition of high quality services for all.

Therefore it is imperative to also inspect the Care Inspectorate's role in improvement and support to services, which has been articulated at a strategic level as a key component of their current and future methodologies and practices.

The sector has certainly seem some developments in this area in the past year, with the Care Inspectorate's launch of The Hub website and their improvement activity located through their consultant staff, namely around rehabilitation, infection control and dementia. Both of these improvement areas were remarked upon positively by providers, who valued the resources and best practice signposting obtained through these resources.

Additionally and in keeping with a common theme of this report, providers also reflected encouragingly on some of the individual relationships they have built with Care Inspectorate staff and the support afforded to them through these:

"I have a good rapport with my inspector and regularly communicate with her and ask for advice which is always given."

"We are fortunate to have a great relationship with our Liaison Officer and through this we have managed to circumvent problems associated with poor understanding and breakdown in communications."

"Seems to be more emphasis on working together in partnership and providing support and advice but this depends again on each inspector."

It is promising to be provided with evidence that many relationships between services and their local Inspectorate staff are working effectively to mutual benefit, especially since it is these local partnerships between people who know a service and the circumstances it operates within that can best identify areas for development. It is also a welcome step that there seems to be the beginning of a culture shift within the regulatory body towards promoting joint, supportive working in making improvements to a service. Very few services will be providing substandard care through choice. They are much more likely to be having difficulty with areas of their business planning and care delivery in which providers need help to work through. This is where Care Inspectorate support can be invaluable and therefore chances to constructively identify improvement opportunities should be welcomed and actively sought by both services and the regulator to drive up care standards and prevent problems.

Worryingly however, over half (53%) of providers surveyed had less than affirmative experiences of the improvement role of the Care Inspectorate. In fact, some had little to no experience at all of support in this area:

"I am not sure they see it [improvement and support] as their role."

"At times it can feel they are not focused on the process of improvement and how they can have a facilitative role in this."

Providers shared a sense that the Care Inspectorate viewed itself as more of a ‘policing’ body, which exists to enforce requirements and recommendations as opposed to occupying an everyday assistance role in encouraging providers to improve their practice. This was reinforced by the fact that many providers, even those who were generally complimentary towards the support offered by the regulator, felt that it was limited to areas of concern instead of general service improvement:

“Support in relation to regulatory matters is excellent but where providers are keen to make improvements that have not been demanded, Care Inspectorate support is weak.”

The fact that a significant proportion of respondents reflected on the area in this way suggests that there is some fault with the communication and implementation of the Care Inspectorate’s function as an improvement service as well as an inspection body. The regulator should certainly not be, directly or indirectly, dispelling providers’ enthusiasm to enhance services as a result of a lack of encouragement or assistance.

This point was reiterated in other responses, which indicated reluctance on the part of services to engage with the Care Inspectorate around improvement matters:

“We used to feel we could pick up the phone and ask anything but recently this has changed - probably our anxiety about being judged for lacking certain knowledge.”

“Going to your regulator with your problems, you end up hanging yourself for the next inspection. Basically, you get the feeling that the more you ask them for support in problem areas, the lower your grades end up as you are effectively focusing them onto your problem areas.”

This impression of condemnation or persecution for seeking advice or help in addressing a care matter is in direct contradiction to what the Care Inspectorate should be able and expected to provide to services. It is simply inconceivable that an individual service or the sector as a whole could expect or be expected to drive up their standards of care if the body that indicates whether they are successful in doing this is unprepared to support them in the process. What’s more, propagating a culture whereby services are

unable to flag issues at an early stage in a way that isn’t met with punishment will only serve to create a system whereby problems are hidden and quality of care is compromised.

In terms of addressing the issue of Care Inspectorate support to services, the appropriate and desirable evolution of their role is perhaps best summarised by a provider themselves:

“They need to act more as a coach, less as a policeman. A coach can still give people a good talking to and drop them if necessary!”

What this section highlights is, yet again, the need for a consistent approach which is currently not in place. Some providers have had extremely positive engagement with the Care Inspectorate and therefore see support, advice and helpful suggestions from them as the norm. What has been proven is that this certainly isn’t the universal experience at present, but that the benefits of constructive dialogue and partnership approaches to problem solving mean that we should be striving to make it so.

Summary of Main Points

- The sector has seen recent positive developments in the Care Inspectorate’s improvement role, particularly in relation to the Hub website and the inputs of consultant staff, which providers value and commend highly.
- The positive support and communication offered by individual Inspectorate employees to services is working well to drive up care standards and address issues at an early stage.
- The means of reporting on and sharing inspection outcomes is raising concerns about the way in which those requiring services and their families obtain accurate, fair and useful information about a service.
- A proportion of providers share a sense that the Care Inspectorate views its role as ‘policing’ service provision rather than offering assistance to services to improve, to the extent that some providers feel unable to approach the Care Inspectorate for support.



A Fresh Approach to Partnership

This report highlights a number of key considerations both for the regulator and the independent social care sector:

1. **Some very positive practice is taking place across the country in relation to inspection and regulation, leading to improved outcomes and better services for all:**
 - Providers value inspection and regulation overall and want scrutiny and improvement processes to be robust and client-driven.
 - Many providers have established constructive working relationships with Inspectorate staff at a local level, whereby both parties are focused on working together to improve outcomes in care provision. This also reflects the positive partnership approach adopted by the Care Inspectorate and Scottish Care at national and strategic levels.
 - Provider experience of inspections is largely determined by the practice of individual inspectors. Where an inspector prioritises partnership and clear communication, the experience of inspection is very positive.
 - Much common ground is observed between providers' reflections of a good inspection and the Care Inspectorate's evaluations of a well performing service.
 - Practice in relation to conflict resolution is improving, with more providers feeling confident that they will be listened to and that decisions will be made in a fair and clearly communicated way.
 - Engagement between providers and the regulator outwith inspections is deemed to be positive where the Care Inspectorate offers helpful, timely support.
- Services want to encourage a more open, transparent, accessible picture of their services through inspection reports.
- The sector has seen recent positive developments in the Care Inspectorate's improvement role, particularly in relation to the Hub website and the inputs of consultant staff, which providers value and commend highly.
- The positive support and communication offered by individual Inspectorate employees to services is working well to drive up care standards and address issues at an early stage.
2. **The variable application of the principles of clarity, partnership, consistency and fairness is a very real and concerning issue for the sector and the Care Inspectorate must take further steps to mitigate against this:**
 - The experience of inconsistency across all areas of regulation and inspection impacts significantly on providers' ability to develop and improve their services.
 - Whilst the grading system as a means of sharing inspection outcomes is welcomed, providers find the current practice of summarising service performance by the lowest achieved grade as unfair, unrepresentative and running counter to the Care Inspectorate's role in supporting service improvement.
 - Providers report negative inspection experiences where inspectors fail to demonstrate a collaborative, constructive approach.
 - Despite recent improvements, providers continue to report poor experiences of conflict

resolution, with the inability to successfully challenge inspection decisions without significant retribution seen as particularly problematic.

- Providers are keen that legitimate complaints about services are investigated thoroughly. However, issues relating to anonymity, resolution timescales and poor communication impact negatively on providers' experiences.
- Inconsistency of interpretation and approach and timescales for completion are significant issues in relation to the Care Inspectorate's processing of service registrations and variations.
- The means of reporting on and sharing inspection outcomes is raising concerns about the way in which those requiring services and their families obtain accurate, fair and useful information about a service.
- A proportion of providers share a sense that the Care Inspectorate views its role as 'policing' service provision rather than offering assistance to services to improve, to the extent that some providers feel unable to approach the Care Inspectorate for support.

3. The independent sector wants to achieve better partnership working with the regulator in order to improve both partners' work, and has some positive ideas about how this could be done:

- To improve the inspection experience, providers recommend the implementation of:
 - o Immediate and recorded feedback;
 - o Continuity of inspectors across a number of inspections and;
 - o The creation of clear, co-designed inspection criteria.
- By jointly reviewing the annual return and self-evaluation framework, data collection could be made more valuable and duplication could be minimised.

The landscape of social care in Scotland is changing, with the formation of local health and social care partnerships, the closer working regulatory relationships of the Care Inspectorate and Health Improvement Scotland and the Scottish

Government's focus on establishing new care pathways. Having the strongest, most constructive partnership possible between providers and their principle regulatory body is therefore going to be very important in being able to shape the care provision of the future. By recognising and building on existing good practice now, this can be carried forward to positively influence future care delivery and regulation.

It is important to recognise that proactive work is already underway with the Care Inspectorate and its partners, including Scottish Care, to build on good practice and address problematic areas of inspection and regulation. Both Scottish Care and independent sector providers welcome this positive action and, in some areas, are already beginning to see progress towards a more effective, partnership-based regulatory landscape. This is evidenced in the survey feedback and in this report, with many providers raising concerns but also looking to recognise and praise good practice when they have experienced it. The ambition of providers and the aim of this report is therefore to engage with the Care Inspectorate further so that it is more commonplace for experiences and outcomes to be positive, clear, consistent, fair and grounded in a partnership approach.

The sector already has some established patterns of engagement with the Care Inspectorate, in relation to both individual service matters and strategic development. These include the following forums and areas of practice:

- Scottish Care's internal High Level Regulation Advisory Group
- Strategic liaison between senior Scottish Care and Care Inspectorate staff
- Operational liaison through the Scottish Care/ Care Inspectorate Liaison Group
- Review of National Care Standards - Project Board
- Review of National Care Standards - Development Group
- Workforce regulation
- Support to individual services
- Communication links

Scottish Care sees the sector's close links with the Care Inspectorate through these mechanisms as hugely valuable in the quest to enhance the social care landscape in Scotland. Whilst some of these areas of engagement are at more advanced stages than others, the opportunities that all these links afford in relation to collaboration, co-production, improvement and innovation should not be underestimated. Indeed, one way in which Scottish Care hopes these links can be strengthened is by using the existing engagement mechanisms to carry forward the points raised in this report.

As essential as it is to share and build on the good practice that already exists within inspection and regulation of care services, it is imperative that the areas of concern highlighted are also addressed robustly. In particular, issues relating to subjective inspections, conflict resolution, collaborative working and supporting improvement need to be worked through by the independent sector and the Care Inspectorate jointly. One of the ways this can be achieved is by using the human rights framework articulated in the Care Standards as the central basis of inspection and regulation. With the review of the National Care Standards underway, it would be both timely and constructive to apply a framework of mutuality and co-production, where all stakeholders can be involved and engaged, to all aspects of regulation and inspection including

engagement with services. By placing the principles of human rights at the heart of engagement methodology, and by placing the four principles of clarity, partnership, consistency and fairness at the heart of practice methodology, Scottish Care firmly believes that regulation, inspection and service provision that is both fit for purpose and high quality can be secured for the future.

Scottish Care believes that those who rely on the services being provided across the sector deserve the best. The approach to regulation and inspection therefore correctly has to combine public assurance and the drive for quality and improved outcomes with improvement support for providers. The regulator also needs to be prepared to engage with the sector to highlight failures of commissioning and funding that contribute to poor outcomes. Whilst this report focuses on operational experiences of providers, it is imperative to recognise the wider factors impacting on services and resultantly, on regulation & inspection practices.

All of this, together with the new environment of health and social care integration, requires a strong strategic partnership between providers and the Care Inspectorate, and we hope that this report can help to move that agenda forward. Regulation and inspection has to be done with providers, rather than to them.



Reader Notes

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The voice of the independent care sector in Scotland

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