

Briefing for the Public Petitions Committee

Petition Number: [PE01836](#)

Main Petitioner: James A Mackie

Subject: Calls on the Scottish Parliament to urge the Scottish Government to expand the remit of the Care Inspectorate to investigate individual child protection complaints

Introduction

The petitioner calls for the remit of the Care Inspectorate to be expanded to enable it to investigate individual child protection complaints. In the background information submitted alongside the petition, the petitioner states that there is “no independent vehicle for investigating individual complaints in child protection, especially when a statutory body/local authority refuses to investigate complaints about their staff/employees/agents.” He goes on to state that the only action available is civil action through the courts, which is financially restrictive for many families.

The Care Inspectorate (the Inspectorate) is the independent scrutiny and improvement body for social care and social work across Scotland. It regulates, inspects and supports improvement of care services, aiming to ensure people receive high-quality care. This briefing sets out details of the Inspectorate’s current remit around investigating complaints, as well as detailing other avenues for complaints.

Care Inspectorate complaints remit

The Inspectorate has a statutory duty to deal with complaints made to them about registered care services. The [complaints process document](#) outlines how it deals with complaints. Complaints falling under the Inspectorate’s investigation remit include those concerning:

- Inadequate standards of care.
- Failure to uphold the rights of a person using a service, or their relatives or carers.
- A care service’s failure to follow appropriate safe care practices.
- The practice of staff, including treatment by, or conduct of, a member of staff, fitness of staff, inadequate staff training and staff numbers or deployment.

The Inspectorate does not deal with complaints in the following areas:

- Requests for compensation.
- Issues that are in court or have already been heard by a court or tribunal.
- A complaint that has already been upheld by the care service and action taken to change/improve practice.
- Staff employment issues that are covered by contract, grievance and employment conditions.
- Issues that are not within the remit of the care service.
- Complaints about social work decisions or contracting with a care service.
- An attempt to reopen a previously concluded complaint or to have a complaint reconsidered where we have already given their final decision.
- Child and adult protection issues – complaints of this nature are referred to the relevant authority, such as social services or police.
- Criminal offences - complaints are referred to the relevant authority, such as police.

In cases where a complaint made is not within the Inspectorate's remit, the complainer will be given information about how to get in touch with the relevant organisation. The Inspectorate's decision on whether a complaint meets the criteria is final and there is no right to appeal.

Handling of complaints in relation to child protection issues

The [Scottish Government National Guidance for Child Protection \(2014\)](#) outlines the process of dispute resolution around Child Protection Case Conferences (CPCC).

An example of disputes that may be managed under this process include:

- challenges about decision-making and outcomes;
- challenges by young people or their parents or carers about the CPCC decisions;
- complaints about practitioner behaviour.

Paragraph 425 of the guidance states:

“The agencies and services involved in child protection work have clear complaints procedures, which should be followed where there is a complaint about an individual practitioner. There should be clearly defined local arrangements for challenging inter-agency CPCC processes:

- **Agency representatives** – where a member of staff wishes to raise an issue about the process or disagrees with CPCC decisions, they should go through their normal line management processes.

- **Parent/carer** – where they wish to challenge the decisions of the CPCC, they should follow the process contained within local inter-agency child protection procedures. If the complaint is about a specific practitioner, they should follow that agency’s complaints procedures.
- **Child** – children and young people should be able to access child- and family friendly information on how to challenge a decision or make a complaint from any of the practitioners with whom they have contact.”

Concerns and complaints about individual social workers can be made to the Scottish Social Services Council (SSSC). All social workers in Scotland must be registered with SSSC. The [SSSC’s Codes of Practice](#) set out national standards of conduct and practice that apply to all social service workers.

Section 2.8 of the Code for Employers sets out that employers must “Report workers whose fitness to practise may be impaired to the relevant authority.”

Section 2 of the Code for Workers states that workers must create and maintain trust, being “truthful, open, honest and trustworthy”.

If a concern is raised about a social services worker, [this will be investigated](#). The investigation may result in: no further action being taken; imposed sanction with consent; or referral to a Fitness to Practice Panel hearing.

[Concerns and complaints relating to the Scottish Children’s Reporter Administration \(SCRA\)](#) in relation to the organisation carrying out its role in an individual case can be made to SCRA.

Other professionals involved in Children’s Hearings and CPCC processes will also be subject to their own organisation’s Code of Practice.

If a complaint is not resolved once the complaints process has been exhausted, the complainant can ask the [Scottish Public Service Ombudsman \(SPSO\) to investigate](#). However, the SPSO cannot normally look at complaints that have been or will be considered in court.

Independent Care Review

A ‘root and branch’ review of the care system in Scotland was announced by First Minister Nicola Sturgeon in October 2016. Chaired by [Fiona Duncan](#), CEO of the [Corra Foundation](#), 5,500 people with experience of the care system were involved over the course of the review.

[The review – called The Promise](#) – was published in February 2020, setting out steps Scotland can take to embed significant change in the care system.

With regards to the Care Inspectorate, The Promise recommends that the Care Inspectorate, the Scottish Social Services Council (SSSC) and other

regulators work together to drive changes in the care sector with the creation of a new framework, guided by principles including:

- Prioritising the quality of relationships experienced by children, with the rights and voices of children at the heart;
- Consistency across all regulators to align and avoid duplication;
- High quality inspectors who value and understand relationship-based practice. Support and training should be provided for less experienced inspectors.

The report does not mention extending the remit of the Inspectorate to include individual investigations.

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November 2020

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