

Briefing for the Citizen Participation and Public Petitions Committee on [petition PE2114: ‘Ensure effective regulation and oversight of social care services in Scotland’](#), lodged by Bill McCabe on behalf of BetterCareScotland

Brief overview of issues raised by the petition

[PE2114](#) calls on the Scottish Parliament to urge the Scottish Government to ensure the effective regulation and oversight of social care services by replacing the Care Inspectorate with a new, independent oversight body. The petitioner states that this oversight body should:

- have a specific focus on risk management,
- use regulatory and analytical expertise to identify and eradicate poor practice,
- meaningfully engage with service operators and those with lay expertise to help deliver better, more transparent social care outcomes for people in Scotland.

[The petitioner represents BetterCareScotland](#), a group self-described as “an evidence-based campaign for a social care system which works in the interests of people in Scotland.”

Social care regulation and inspection in Scotland

[The Care Inspectorate is Scotland’s national regulator for care services](#). It regulates care settings including care homes for adults and children, care at home services, and nurseries and playgroups. Care services in Scotland must be registered with the Care Inspectorate.

The petitioner argues that the Care Inspectorate does not currently ensure that its inspectors have sufficient risk management, regulatory, and analytical skills to thoroughly assess care settings, and challenge inappropriate practices and care environments. The BetterCareScotland website states that the organisation holds data suggesting that “soft skills” are prioritised by the Care Inspectorate when training its inspectors. This data is not in the public domain, and therefore could not be verified when preparing this briefing.

The Care Inspectorate's [website details its qualification requirements for prospective inspectors](#). Inspectors must be registered with their relevant professional body, e.g. an inspector with a social care background must be registered with the [Scottish Social Services Council](#) (SSSC). Inspectors were also previously required to hold or gain a Regulation of Care Award (ROCA). However, the [Care Inspectorate is now working with SQA to develop a new regulator qualification](#), as the ROCA was no longer considered appropriate for the changing regulation landscape. While the new qualification is being developed, [new inspectors are offered the opportunity to complete either European Foundation for Quality Management \(EFQM\) or Public Services Improvement Framework \(PSIF\) training](#).

New inspectors also [receive specialist training as part of the Care Inspectorate's induction process](#). The Care Inspectorate's website states that this training covers learning about "regulation, scrutiny and improvement and an understanding of the different functions of our work: registration complaints, inspection and enforcement." It does not make specific reference to risk management or analytical skills, two of the areas highlighted by the petitioner.

In [its written response to the petition, the Scottish Government stated](#) that the Care Inspectorate agreed with Ministers in 2019 that it would take a risk-based, intelligence-led approach to its regulatory activities. This approach, the Government noted, involves prioritising resources and efforts based on the level of risk to the safety and well-being of individuals using care services.

The letter also stated that "the Care Inspectorate evaluates various factors that could pose risks to individuals receiving care. This includes reviewing past performance data, complaints, notifications they receive from care services, incident reports, and other relevant intelligence, including information from other bodies. Services that are deemed higher risk, due to factors like poor past performance or concerns raised by service users or other stakeholders, are more likely to receive close scrutiny."

How is the Care Inspectorate held to account?

Both the petition and the [BetterCareScotland website](#) state that in their view, the Care Inspectorate is not currently adequately held to account for failing to identify risks during its inspections.

BetterCareScotland was founded in response to a female care home resident's experience of abuse in a care home, and [her story is detailed on the organisation's website](#). Both the person who experienced the abuse and her family felt that the Care Inspectorate had not fulfilled its duty to assess risks and protect residents from harm, particularly as the person who allegedly conducted the abuse remained employed by the care home, and retained his SSSC registration.

Currently, complaints regarding the Care Inspectorate itself are made directly to the organisation in the first instance, and investigated according to [the Care Inspectorate's complaints policy](#). If a complainant is dissatisfied with the

outcome of the Care Inspectorate’s investigation, [they may make a complaint to the Scottish Public Services Ombudsman](#) (SPSO). The petitioner suggests that the introduction of an independent oversight body for social care in Scotland could therefore positively impact upon the workload of the SPSO.

The Scottish Government’s written response to the petition highlights that the Care Inspectorate is an independent non-departmental body, which operates at arm’s length from Government. The Care Inspectorate’s Board sets the organisation’s strategic direction. However, Scottish Ministers are kept informed of any significant concerns that the regulator may have about quality of care or safety, welfare, and health of those using services.

Scottish Government actions

In September 2022, the Scottish Government announced an [Independent Review of Inspection, Scrutiny, and Regulation of Social Care](#) (IRISR) in Scotland. The findings of this review were published in September 2023, and [38 recommendations were made](#), many of which are pertinent to the issues raised in the petition. In particular, the petitioner expresses a wish for meaningful engagement between regulators and service operators and lay people. Several of the report’s recommendations discuss reforming the inspection and regulation process to create a culture of trust, and involve providers and people with lay experience, including the establishment of a formal paid role for lay inspectors.

The review also recommended that “the Scottish Government should make arrangements to ensure appropriate oversight of regulatory provision of social care support and consider whether there should be separate arrangements put in place for Scotland, in this respect.”

“In addition to these views, the Review also considers a mechanism which ensures the independence of regulators and inspectors from Scottish Government in their operational function as essential, as is the achievement of consistency through regulation of regulators in a cost-effective way.”

The [Scottish Government accepted all the recommendations of the review](#) in March 2024.

Scottish Parliament actions

There has been no Scottish Parliament action concerning this issue to date.

Sarah Swift

Researcher

12 September 2024

<p>The purpose of this briefing is to provide a brief overview of issues raised by the petition. SPICe research specialists are not able to discuss the content of petition briefings with petitioners or other members of the public.</p>
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However, if you have any comments on any petition briefing you can email us at spice@parliament.scot

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