

Statement under Article 13 of EU Services Directive (Directive 2006/123/EC) (“the Directive”)

Under Article 13.4 of the Directive, the Care Inspectorate has put in place different arrangements from those provided by Article 13.3. This means that an application to register a care service, or to vary conditions of registration, will NOT be deemed to have been granted when any specified (or extended) time period has expired. The Care Inspectorate will only grant such applications when it has:

- considered in full all of the documentation submitted to it
and
- satisfied itself about all of the matters specified in the Public Services Reform (Scotland) Act 2010 and associated secondary legislation
and
- satisfied itself that it is appropriate to grant the application to register or vary conditions of registration.

These arrangements are justified because there are overriding reasons for them, relating to the public interest. These reasons include the legitimate interests of third parties, such as:

- people who use, or who may use, care services and their relatives
- local authorities and others who may commission, or purchase, such services.

It would not be in the public interest for care services for vulnerable individuals to have an application for registration or variation granted, simply because a time limit has expired. It is in the public interest that those who provide, or seek to provide, care services to vulnerable people and the proposed care services themselves should be subject to all necessary and appropriate scrutiny, checks and inquiries, however long it may take to carry these out properly and fully. It is in the legitimate interests of third parties that the Care Inspectorate should carry out all necessary inquiries, and give full consideration to all information arising from such inquiries, before any application to register, or vary the conditions of registration of, a care service is determined.

The Care Inspectorate has a complaints procedure that allows any applicant to make a complaint if they think the Care Inspectorate has not followed its registration procedures. The Care Inspectorate’s complaints procedure cannot be used to challenge a decision by the Care Inspectorate to grant or refuse an application to register, or vary the conditions of registration of, a care service.