

Position statement:

Applying to register an existing care service
(Care homes for adults and daycare of children)

Legislation - Public Services Reform (Scotland) Act 2010

The Care Inspectorate is the national scrutiny body for all care services in Scotland. One of the statutory duties the Care Inspectorate has under legislation is to register all care services as defined in the Public Services Reform (Scotland) Act 2010 (the Act). Principles that relate to the registration function are the safety and well-being of all persons who use or are eligible to use a service and that their well-being should be protected and enhanced. People's independence is promoted with diversity, choice, and good practice evident in registered care services across Scotland. Registration is the foundation in making sure care services support positive outcomes for people.

Anyone who wishes to provide a care service must apply to register with Care Inspectorate. It is an offence to operate a care service in Scotland that is not registered. A provider of a care service is a "legal entity" and that individual, organisation or partnership hold that registration for a care service. Should that legal entity cease to operate, the registration is no longer in effect and the care service can no longer operate.

Should another legal entity wish to operate a care service from the same premises, there is a legal requirement for that service to undertake a full registration. The registration of a care service cannot be legally transferred between legal entities.

Registration is not planning consent or a building warrant. Planning consent and a building warrant are different legal requirements. To operate a care service, a provider of any care service defined in schedule 12 of the Act must be registered with the Care Inspectorate.

Registration applications

In considering an application to register a care service, the registration process includes assessing the:

- fitness of provider
- fitness of manager
- proposed care service operation
- policies and procedures
- staffing arrangements
- fitness of premises.

There are occasions when an existing service is purchased by another legal entity. The purchaser and potential provider of the care service is required to apply to the Care Inspectorate for registration before they can operate the care service. When assessing the registration application, the Care Inspectorate will consider, proportionately, all current legislative requirements and the impact on people accessing an existing care service that is operational. This will include the environment/premises.

Current expectations – environment/premises

“The Design Guide – care homes for adults”, and “Space to Grow for daycare of children’s services”, are guidance documents that have been published for the care sector and are the expected minimum standards for care services’ physical environments to ensure they are safe and will enhance the wellbeing of people who will use the service.

You can find these documents on the Care Inspectorate Hub or access them here:

<https://hub.careinspectorate.com/media/4808/care-homes-for-adults-the-design-guide.pdf>

<https://hub.careinspectorate.com/how-we-support-improvement/care-inspectorate-programmes-and-publications/space-to-grow/>

These resources were developed to support applicants who are thinking about operating a care home for adults or a daycare of children service. Any prospective applicant of a care service should review these resources when applying to register premises that are currently operating as a care service.

Registering existing care service premises

The principles of the legislation govern the Care Inspectorate's approach to supporting services and making sure they are fit for purpose. While the current expectation on environments is applied flexibly when registering premises currently providing a care service, new applicants will be required to make whatever improvements possible to meet current standards. We will work with the applicant to consider any improvements that are required to be met. As a minimum, all applications to register a care service currently operated by another provider must meet health and safety standards, infection, prevention and control and promote positive outcomes for people.

Where improvements are identified, it is likely that we will approve the application with an action plan. Reasonable timescales will be agreed for those improvements in conjunction with the applicant.

If an environment is not suitable, or the applicant is not willing to make the required improvements, we will propose to refuse the application. If this is the case, the applicant will have the right to appeal the Care Inspectorate's proposal.

It is important that applicants understand that for existing care services there is a likelihood that some improvements will be required. Improvements related to health and safety and infection prevention and control will be a key consideration. The quality of experience of people using or living in the service is paramount.

Prior to considering purchasing an existing care service, you should contact the Care Inspectorate for pre-application advice. This can be done by creating an account through the Care Inspectorate [digital portal](#) on our website. Following a site visit, you will receive initial advice with details of any required improvements in the short, medium or long term. This will inform the basis for progressing the application.

Frequently asked questions

Q. If I am registering a premises that has been operating as a care service for a number of years, why would I have to make any improvements not already identified through previous inspections?

A. There are several factors to be taken into consideration. While the Care Inspectorate applies premises standards flexibly and will work with you to achieve an agreeable action plan, the purpose of registration is to make sure care services support positive outcomes for people.

Requirements for care services evolve and change. For example, we know more now about the importance of highly effective infection control procedures, including preventing cross infection in managing laundry.

During inspection, it may be that an area was not observed. But now that we know about deficiencies in a service that would impact on the well-being of people, we have a duty to support improvement. A registered service must have appropriate facilities to support the health and well-being of people. It may also be that since the last inspection, the facilities have changed and no longer meet current best practice.

By using our quality frameworks as a self-evaluation tool, providers should review and improve their services in line with best practice on an ongoing basis.

Q. Will I be registered for the current number of registered places?

A. Usually we register a care service with the current number of places. However, this will be dependent on several factors including facilities for care homes such as, the number of bathrooms, access to the outdoors and accessibility of the environment. So, for example, you might have to consider reducing the number of bedrooms to accommodate an additional bathroom or toilets in the service.

For daycare of children services, space standards will be considered in the number of registered places.

Q. The design guide for adult care homes specifies that 60 registered places is considered the ideal number to promote positive health and wellbeing. If the care home I am proposing to register has more than 60 places will I be asked to reduce my current number of registered places to 60 over an agreed period of time?

- A. No, we will not ask that you reduce the number of registered places. However, if improvements are required, some places may be lost to accommodate the improvement.
- Q. If I buy a building that was previously a registered a care service that has cancelled its registration, do I need to consider the design guidance?
- A. Yes. If applying to register a care service in a building that previously operated as a care service, we expect that you will meet the standards as described in the design guide.
- Q. If I purchase a care home for adults and it has limited outdoor garden or patio areas, will the care home not be registered?
- A. It is important to the health and wellbeing of adults that they have opportunities to regularly access suitable outside spaces. We will discuss with you how you plan to make sure anyone living in your care home would have access to suitable outside spaces, outings or activities.
- Q. I am applying to register a currently operating care home. However, there is some work needed to improve the environment for the people living in the home. Will the work be required to be completed before my application can be approved?
- A. Where there is an immediate risk to residents, we will require work to be completed as soon as practicable. In most instances, an action plan with reasonable and agreed timescales is achievable.
- Q. If I want to register a daycare of children's service that does not currently have access to an outdoor play area, will this be registered?
- A. It is important the children have access to outdoor play and learning opportunities every day. We will discuss your plans on how to achieve this and consider your proposals.
- Q. The outdoor space in the premises I propose to use for a daycare of children's service is small, but there is a park adjacent. Will I still be able to register an out of school care service?

- A. The documents Space to Grow and indoor/outdoor settings will provide advice about how best to use the space available to provide children with quality outdoor experiences. A small outdoor space does not mean that we would not grant registration. We would assess the environment, how you plan to use it and how you plan to use the local community to promote children's health and wellbeing.
- Q. The premises I propose to use does not have direct access to the outdoor space. Will this stop me registering my early year's service?
- A. Requesting pre-application advice would mean that we can explore with you how children would have positive outdoor experiences. We would discuss how you plan to support children to experience daily, outdoor play. No direct access to an outdoor space does not mean that you would not be registered. We would make that assessment as part of the registration process. Using Space to Grow and Indoor/outdoor practice documents could support you to think innovatively about how this could be achieved.
- Q. I am currently registered to provide a care home service for 31 people. This includes two shared rooms. There are 29 bedrooms. Will there be a change to the registered numbers if I re-register ?
- A. There will be no change for the existing occupants where the shared room is occupied by individuals who consent to share with a partner , relative or friend (with a pre-existing relationship). The Care Inspectorate registers the number of bedrooms available. So, the care home will be registered for 29 single bedrooms with a condition to allow continued use by current occupants. Where a shared room is required for individuals in a similar situation in future, a variation application can be made for a similar condition to be applied to the registration where the bedroom is of a suitable size.

Note

Care services vary greatly therefore it is not possible in a position statement to cover all variables. We therefore stress it is crucial to engage with the Care Inspectorate at the earliest opportunity so that we can provide professional support and advice.

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This publication is available in alternative formats on request.



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