



Memorandum of Understanding between
Education Scotland
and
The Care Inspectorate

*A commitment to work together to improve the quality of education and care
for children and young people*

Date — July 2022 – July 2025

1. Interpretation

In this Memorandum of Understanding (MoU) unless the context otherwise requires, the following words and phrases shall have the following meanings:

'Children's Services' is to be construed in accordance with section 7 of the Children and Young People (Scotland) Act 2014 (the 2014 Act) as meaning any service provided in the area of a local authority by a person mentioned in subsection (2) of that section which is provided wholly or mainly to, or for the benefit of— (a) children generally, or (b) children with needs of a particular type (such as children and young people who are looked after, have a disability or need additional support with their learning).

'Early Learning and Childcare' is to be construed in accordance with section 46 of the 2014 Act as meaning a service, consisting of education and care, of a kind which is suitable in the ordinary case for children who are under school age, regard being had to the importance of interactions and other experiences which support learning and development in a caring and nurturing setting.

'Joint Inspection' means, in the context of this MoU, an inspection carried out jointly by Education Scotland and the Care Inspectorate at the request of Scottish Ministers in relation to the provision of (a) children's services; (b) such other services as the Scottish Ministers may specify in respect of which the parties have inspection functions; or (c) both, under section 115 of the Public Services Reform (Scotland) Act 2010 (the 2010 Act).

2. Purpose and Scope of MOU

The purpose of this MoU is to set out an agreed framework for cooperation and collaboration between Education Scotland and the Care Inspectorate. This reflects our commitment to work together to improve the quality of education and care for children and young people in Scotland. Education Scotland and the Care Inspectorate will work together, taking full account of the 2010 Act, to provide coordinated, efficient, and effective scrutiny of care and education services.

This MoU sets out the working arrangements between Education Scotland and the Care Inspectorate in respect of Joint Inspection responsibilities, any shared inspection work of regulated care services providing early learning and childcare where both organisations have a mutual interest, and any other areas of mutual interest in relation to their respective inspection and statutory responsibilities. The MoU aims to support and facilitate the exchange of information and the coordination of inspection activity.

Collaboration between Education Scotland and the Care Inspectorate is necessary to support the safety and wellbeing of individuals who use or are eligible to use care services and to support improvements to the quality of care/social services and through our joint inspections of children's services more generally.

This MoU is not a contract, is not legally enforceable and does not seek to transfer functions or responsibilities. However, Education Scotland and the Care

Inspectorate have a duty of cooperation under section 114 of the 2010 Act in relation to joint inspections, and recognise the complementary nature of their respective inspection functions in some areas and would wish to avoid duplication and limit the inspection burden where possible.

Education Scotland and the Care Inspectorate will keep this MoU under review and update it as necessary and, in any event, every three years.

3. Functions and Responsibilities of Education Scotland and the Care Inspectorate

The Care Inspectorate was established by section 44(1) of the 2010 Act. It brought together the work previously undertaken by The Care Commission, the HM Inspectorate of Education Child Protection team and the Social Work Inspection Agency (SWIA). The Care Inspectorate is formally named "Social Care and Social Work Improvement Scotland". It is an independent body responsible for the scrutiny and improvement of care services, social work services and services for children and young people across Scotland.

The Care Inspectorate has a general duty of furthering improvement in the quality of social services for the benefit of people who use or are eligible to use them. The system of regulation adopted by the Care Inspectorate takes account of the Health and Social Care Standards and the Codes of Practice for Social Service Workers and Employers of Social Service Workers, as published by the Scottish Social Services Council ('the SSSC Codes of Practice'). The Care Inspectorate has a statutory responsibility for ensuring that providers of care services are fit to provide the service and that they continue to comply with the 2010 Act and Regulations made under it, taking account of the Health and Social Care Standards, the SSSC Codes of Practice, and the Scottish Regulators' Strategic Code of Practice.

The Care Inspectorate has a range of statutory powers under the 2010 Act to enable it to fulfil these regulatory functions. The Care Inspectorate also has a responsibility to carry out Joint Inspections of children's services as conferred on it by the Scottish Ministers.

HM Inspectors of Education have statutory functions of inspection conferred on them by the Education (Scotland) Act 1980. They have a duty to provide independent and impartial external evaluations of the quality of educational provision at individual provider, local authority and partners, and national level. They became part of the executive agency known as Education Scotland when it was formed on 1 July 2011.

The 2010 Act places a duty on the Care Inspectorate and Education Scotland¹ to cooperate and coordinate activity to ensure efficiency, effectiveness, and economy. Whilst the duty requires cooperation between the two bodies it does not expressly require integrated inspection of regulated care services and it remains the

¹ The duty in section 114 of the 2010 Act is placed on "Her Majesty's inspectors of schools (that is to say, the inspectors of schools appointed by Her Majesty under the [Education \(Scotland\) Act 1980 \(c. 44\)](#))" (see paragraph 1 of schedule 20).

responsibility of each body to carry out inspection and report individually. This MOU sets out how the duty of cooperation can be taken forward and how information and training can be shared.

4. Working Together and Sharing Information

Both Education Scotland and the Care Inspectorate work within the requirements of the General Data Protection Regulation 2018 (GDPR) and the Data Protection Act 2018. Both parties recognise the importance of lawful and correct treatment of personal information to fulfilling their functions, and to maintaining the confidence of all individuals who come into contact with them. Both parties agree to share information only where this is in accordance with the Data Protection Act 2018, and where they are not subject to any other constraints restricting or preventing them from sharing information. Both parties are aware that processing of personal data must be carried out in accordance with the GDPR.

5. Inspection Planning and Delivery

Respective inspection programmes

Each year, HM Inspectors inspect and report on the quality of education in a sample of early learning and childcare settings, primary schools, secondary schools, special schools, community learning and development services, colleges, residential special schools, secure care services and mainstream independent schools, including those that provide accommodation for children. Establishments and services are inspected in accordance with the standards and evaluation framework and outlined in the Annual Scrutiny Plan which is approved annually by Scottish Ministers and published on the Education Scotland website. The findings of inspections are reported publicly.

The Care Inspectorate carries out inspections of the quality of all registered care services in Scotland. This includes services for children and young people such as the residential aspect of independent boarding schools, local authority hostels attached to schools, residential special schools, secure care services, childcare agencies, early learning and childcare settings including school aged childcare and childminders. Services are inspected in accordance with a Scrutiny and Assurance plan which is approved annually by Scottish Ministers. The findings of inspections are publicly reported. In addition, the Care Inspectorate has a duty to carry out investigations of complaints about registered care services. Where services do not make required improvements and there is a serious risk to the health and well-being of a person using the service, the Care Inspectorate has a range of enforcement powers.

At the request of Scottish Ministers, the Care Inspectorate leads on the programme of joint inspections of services for children and young people at risk of harm. These inspections look at the differences community planning partnerships are making to the lives of children and young people at risk of harm and their families. Education Scotland is one of the Care Inspectorate's partners for these joint inspections.

Shared inspection activities

Education Scotland and the Care Inspectorate will work together to coordinate and carry out activities relating to the inspection, and improvement of:

- school care accommodation services;
- secure care accommodation;
- care homes for children and young people which are attached to a school (but not registered as a school care accommodation service);
- early learning and childcare settings which to any extent are provided in the form of an educational activity service (funded in accordance with the 2014 Act); and
- joint services for children (led by Care Inspectorate).

Planning approaches

The Care Inspectorate has an overarching four-year inspection plan, including each of the care services registered with it. The Care Inspectorate will share this inspection plan with Education Scotland on at least an annual basis to support the planning and delivery of shared inspections to ensure they are carried out at the appropriate time.

Education Scotland will share information with the Care Inspectorate on at least an annual basis about establishments which may be inspected. This supports the planning and delivery of shared inspections to ensure they are carried out at the appropriate time.

In March each year, managers within the Care Inspectorate and Education Scotland will exchange with each other information on planned programmes of inspection for the forthcoming inspection year²². The relevant inspection planning team for each body should inform each other of any proposed changes to the agreed programme of inspections. Inspection planners from both organisations will coordinate their respective inspection activities to ensure that those services which provide both social care services and education provision are not ordinarily subject to two separate inspections within 18 months. There may, however, be circumstances in which additional visits are carried out by Education Scotland and/or the Care Inspectorate. In such individual circumstances, the two bodies will take account of all available intelligence when agreeing whether any further engagement with a setting or service will be undertaken simultaneously.

Arrangements for sharing information across the organisations will promote a risk-based, intelligence-led, targeted, and proportionate approach to

²² Education Scotland's inspection programme is aligned with the academic year and runs from August to July each year.

The Care Inspectorate's inspection programme is aligned to the financial year, April to March. For joint inspections, planning commences in November for the following year and the plan should be agreed with all scrutiny partners by the end of February

inspection planning as well individual and shared scrutiny and improvement activities.

Delivery arrangements

In shared inspections, inspectors from both organisations will bring together their respective professional knowledge, experience, and skills to focus on the quality of children's experiences and outcomes, and the success of the service, school or setting in improving the quality of care and education. In inspections of early learning and childcare settings, schools with boarding accommodation, secure services, and residential special schools each agency will carry out inspections following their own organisation's framework for inspection and will share information to inform each other's findings. Inspections will be carried out at the same time to limit the additional burden of regulation on the service. Reports will be published as follows:

- For early learning and childcare settings and regulated children and young people's services there will be one report which is jointly badged. The report will outline strengths and areas for improvement for the setting or service and include each organisation's evaluations as well as any requirements made by the Care Inspectorate.
- For joint inspections of services for children and young people, the 'Quality Framework for Children and Young People in Need of Care and Protection' (2019) developed by the Care Inspectorate in consultation with Education Scotland will be used and a report will be published by the Care Inspectorate only.

Early Learning and Childcare

Where there are shared inspections of early learning and childcare settings, the Care Inspectorate and Education Scotland will work together to reduce the burden on services. They will take a coordinated approach and undertake inspection activity in an integrated way. The shared inspection programme will focus on local authority early education and childcare settings, local authority nursery classes and independent or voluntary establishments that offer funded places in partnership with local authorities to provide early learning and childcare places for children aged two to five years.

Mainstream Independent Boarding Schools and Local Authority Hostels

The inspection programme will coordinate planning to allow the Care Inspectorate and Education Scotland to inspect school care accommodation in the mainstream independent schools in an integrated way. Each agency will inspect against their own frameworks and share information to inform each other throughout the inspection. Education Scotland will carry out inspections of education across the school and the Care Inspectorate will inspect the residential accommodation in mainstream independent schools and local authority hostels attached to schools. Care Inspectors will carry out inspections of these residential provisions at a frequency and intensity appropriate to the service's risk rating and previous evaluations.

School Care Accommodation, Secure Care Establishments, and Care Homes for children and young people which are attached to a school (but not registered as a school care accommodation service)

HM Inspectors and Care Inspectors will conduct shared inspections of a sample of school care accommodation, care homes for children and young people, and secure care establishments. Shared inspections will be carried out on a proportionate basis, in line with Education Scotland's sampling approach rather than a cyclical model. The Care Inspectorate aims to carry out one annual inspection visit to all residential special schools, care homes for children and young people, and secure care establishments.

Joint Inspection of Services for Children and Young People

Multi-agency inspection teams will be formed to carry out joint inspections of services for children and young people. The teams will be led by the Care Inspectorate and will include HM Inspectors from Education Scotland. As part of this process, Education Scotland and the Care Inspectorate will continue to share data and intelligence to inform the joint inspections and to support post-inspection improvement activity.

Through participation in the children's joint inspections methodology review group, HM Inspectors in Education Scotland will contribute to the ongoing monitoring, review, and refinement of methodology for joint inspections of services for children and young people.

Administrative support

Where shared inspections are being carried out in relation to each body's respective inspection functions, both organisations will coordinate administrative support as appropriate and this arrangement shall be kept under review.

6. Sharing information

Education Scotland and the Care Inspectorate agree to exchange such information, routinely or by exception, as is necessary to fulfil their joint or shared inspection responsibilities with respect to Joint Inspections and their respective statutory functions where there is, or appears to be, a common interest.

Contact between Education Scotland and the Care Inspectorate will be at an appropriate level within each organisation depending on the matter under discussion. The following levels of management will deal with the following issues: -

- (i) Senior managers from both organisations will meet quarterly to share information and update each other on strategic issues.
- (ii) Operational managers from both organisations will meet quarterly to exchange information and intelligence on the sectors for which they have responsibility. These meetings will support a risk-based, intelligence-led, and proportionate approach to inspection.

- (iii) HM Inspectors in Education Scotland and operational managers in the Care Inspectorate will routinely share key information arising from recent or current inspections, and with regard to registration and complaints that is relevant to the other organisation.
- (iv) The Care Inspectorate and Education Scotland will exchange information about their respective planned programmes of inspections. Both organisations will keep each other informed of any changes to the agreed programme of inspections.

The exchange of information between the parties will take place in accordance with the Data Protection Act 2018; General Data Protection Regulation 2018; and Freedom of Information (Scotland) Act 2002.

Information disclosed by either party to the other under the terms of this MoU is not a disclosure under the Freedom of Information (Scotland) Act 2002.

Both parties will take appropriate steps to protect the confidential nature of documents and information that the other may provide. It is acknowledged that information may be subject to disclosure in the context of enforcement action, legal proceedings or to satisfy statutory functions or functions otherwise conferred by the Scottish Ministers.

Education Scotland and the Care Inspectorate will cooperate and collaborate over the handling of media interest where both organisations are involved or have a mutual interest.

Education Scotland and the Care Inspectorate will meet when appropriate to discuss any other areas of common interest which arise, taking action as may be required. Meetings may be minuted.

Both organisations will facilitate joint training for inspectors on inspection approaches and on the work undertaken by the respective organisations.

Education Scotland and the Care Inspectorate may from time to time cooperate on joint projects, for example, as part of the joint action plan, in a response to a consultation document, or to develop a joint publication, with each body working to and within its respective remit.

Education Scotland and the Care Inspectorate will independently and jointly publish information about their partnership working for stakeholders, users of services, parents/carers and members of the public via their respective websites and relevant national bodies.

7. Inspection Reporting

Each organisation will be responsible for posting its own inspection reports or parental letters on its respective website with clear signposting and hyperlinks to the other's website. This will support stakeholders and service users to navigate to the most recent reports on these services.

Reports on the joint inspections of services for children and young people will be posted on the Care Inspectorate website and Education Scotland website will provide signposts and links to these reports for visitors to its site.

8. Evaluating our partnership working

Regular meetings of senior managers from the two organisations will ensure there are opportunities both to reflect on the effectiveness of joint working and to address any issues arising. Senior managers will also arrange an annual meeting which will focus on evaluating formally the effectiveness and impact of cooperative and joint inspection activities. This formal evaluation will include taking account of stakeholders' and service users' views and data on the numbers of inspections carried out.

**Chief Executive
Care Inspectorate**



27 July 2022.

**Her Majesty's Chief
Inspector of Education
Education Scotland**



26 July 2022

