

POLICY NOTE

THE CORONAVIRUS ACT 2020 (SUSPENSION: CHILDREN AND YOUNG PERSONS SOCIAL CARE) (SCOTLAND) REGULATIONS 2021

SSI 2021/315

The above instrument was made in exercise of the powers conferred by section 16 of the Coronavirus Act 2020.

Purpose of the instrument.

Sections 16 of the Coronavirus Act 2020 temporarily allowed Local Authorities to dispense with particular social care assessment duties where it would not be practical to comply with them, or to do so would cause unnecessary delay in providing associated support or services to any person.. It was intended to allow Local Authorities to provide urgent care without delay.

These Regulations suspend, in part (retaining only provisions required for transitional cases), the operation of section 16 (duty of local authority to assess needs: Scotland) of the Coronavirus Act 2020 insofar it relates to children's services and support for young carers – having been suspended for adult social care and adult carers on 30 November 2020.

Policy Objectives

Sections 16 of the 2020 Act was intended to allow Local Authorities the flexibility to focus on prioritising the most urgent need and protecting the lives of those who are most vulnerable while ensuring effective safeguards. Section 16 was commenced in April 2020 but there is scope to suspend section 16 when it is not required. When section 16 is in force Local Authorities are still expected to do as much as they can to meet people's needs. While section 16 relaxes assessment duties, the core duties on authorities to provide care and support for children in need under the Children (Scotland) Act 1995 remained in place.

Consultation

Following liaison with COSLA and Social Work Scotland, the Scottish Government developed and has issued regular surveys of Chief Social Work Officers to identify the extent of use of the powers under section 16 and the justification for this over the period from commencement of the regulations. These surveys have informed the two-monthly reports to the Scottish Parliament on use of powers under the Coronavirus Acts. Responses to the most recent survey (up to the end of June 2021) showed that only one Local Authority had continued to use the powers in respect of children's services under section 16. We have consulted Chief Social Work Officers and Cosla on the proposed suspension of the powers.

Impact Assessments

An Equality Impact Assessment has been undertaken and is attached.

Financial Effects

No BRIA is necessary as the instrument has no financial effects on the Scottish Government, local government or on business.

Scottish Government
Children & Families Directorate

2 September 2021