

A guide to registering under the Regulation and Inspection of Social Care (Wales) Act 2016

Mae'r ddogfen yma hefyd ar gael yn Gymraeg.
This document is also available in Welsh.

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1.0 Introduction

The purpose of registration

As the regulator of social care in Wales, one of Care Inspectorate Wales' (CIW) core functions is to ensure that only those people who are judged to be fit and are likely to provide good quality care are registered to do so.

The registration process acts as a gatekeeper for those wishing to provide a regulated service and is the first step in how we protect people who use services from receiving poor care.

The register we keep provides a public record of those involved in providing care services in Wales and the individuals associated with them.

This guidance sets out our approach to registration, including the principles and processes we follow when using our powers under the Regulation and Inspection of Social Care (Wales) Act 2016 ("the Act").

Our work is based on a set of principles:

Being people focused – we put people who use regulated services at the centre of our work and consider the impact of services on improving people's well-being.

Supporting improvement – we make judgements about services. We acknowledge best practice, identify poor practice and promote improvement in care services.

Being transparent – we strive to write clear reports so that people can understand the basis on which judgements are made.

Being fair - we base our judgements on the evidence gathered as part of an inspection and provide an opportunity for providers to question factual accuracy and findings.

Being robust – we take firm and timely action when services provide poor care or place people at risk.

Being proportionate – by focussing on what matters most.

Being efficient - by making best use of ICT and seeking not to place unnecessary burdens on those providing care and support services.

Rights based approach

Upholding the rights of people is at the heart of our work. We take account of the objectives of the United Nations Convention on the Rights of the Child (UNCRC) and the Welsh Government's 'Children's Rights Scheme', which are enshrined in the Rights of Children and Young Persons (Wales) Measure 2010 and the Declaration of Rights for Older People in Wales (2014).

The relevant articles of the UNCRC, the European Convention of Human Rights, the Human Rights Act 1998 and the Equality Act 2010 are embedded within our inspection frameworks. Inspectors will consider how providers promote people's rights, to ensure children and adults have a voice, are safe, treated with respect and helped to develop their full potential.

Glossary of terms

We have used the following terminology frequently throughout this guidance:

“Service provider” – this refers to the legal entity registered to provide a regulated service under the Regulation and Inspection of Social Care (Wales) Act 2016.

“Regulated service(s)” – this refers to any of the types of services defined under the Act, such as a care home service or domiciliary support service. The full list of regulated services is set out at [Annex 8](#) of this guidance.

“Service(s)” – this refers to an individual service. For care homes this would be a care home, carried out at a specific location, such as Suncare Care Home, Cardiff. For domiciliary support services this would be an individual service, carried out in a specific area, such as Suncare Domiciliary Support Service Cwm Taf.

“Legal entity” – this means an individual or organisation that has legal rights and obligations.

For a full Glossary of our terms, please see [Annex 12](#).

2.0 Which services need to be registered?

Any person providing a “regulated service” under the Act is required to register with us. The definitions of the regulated services are set out under Schedule 1 of the Regulation and Inspection of Social Care (Wales) Act 2016 and at [Annex 1](#) of this guidance. As of April 2018 the law comes into effect for:

- Care home services;
- Secure accommodation services;
- Residential family centre services; and
- Domiciliary support services

Before submitting an application to register a regulated service, a provider should consider the definitions and exemptions set out below.

2.1 Care home services

A care home service provides accommodation, together with nursing or care, to an individual(s) because of their vulnerability or need.

“Care” means the day to day physical tasks and needs of a person being cared for and the mental processes associated with those tasks or needs, for example eating, washing and administering medication and remembering to eat, wash and take medication. Our Practice Note on the interpretation of Care and Support at [Annex 1](#) sets out some of the activities likely to fall into the definition of care within a care home.

“Nursing” is not defined in the Act, but in this context means the provision of care, or the planning, supervision or delegation of the provision of care by a registered nurse as part of a plan prepared for an individual receiving care, by either a local authority, health board or service provider.

A service providing accommodation and support only, does not meet the definition of a care home service. Our Practice Note on the interpretation of Care and Support at [Annex 1](#) sets out some of the activities likely to fall into the definition of support and therefore outside the definition of a care home service.

Schemes often referred to as “supported living” or “extra care”, are not required to register as a care home service, as long as the care is provided under separate contractual arrangements to those for the person’s housing. We will need to consider these arrangements carefully to ensure registration as a care home service is not required. The provider of the care and support will need to consider whether they are required to register as a domiciliary support service.

Exemptions

Hospitals and other regulated services, such as residential family centres, secure accommodation services and accommodation arranged as part of an adult placement service do not constitute a care home service. Where nursing care is provided and the accommodation belongs to an NHS Trust, Local Health Board or Welsh Ministers for the purposes of their functions under the National Health Service (Wales) Act 2006, this is exempt from registration.

Short breaks for adults (aged 18 or above) where accommodation and nursing or care is being provided for less than 28 days in any 12 month period are exempt. This means the service cannot be operational for 28 days or more over any 12 month period. The 28 days can either run consecutively or be made up of a number of periods over 12 months, which in total are less than 28 days.

Schools are exempt from the definition of a care home service, unless they provide or intend to provide accommodation, together with nursing or care, to at least one child for over the specified period of time. The specified period of time is 295 days or more in any 12 month period that falls within 24 months. For example if, during 2015 - 2017 a school provided care and accommodation to a child for 305 days between September 2015 to September 2016, this would meet the definition of a care home service.

Universities and the further education sector are exempt from the definition of a care home service unless they provide accommodation, together with care, to more than 10% of all of the students in receipt of education and accommodation. We will normally judge this by considering student numbers over 12 months, rather than just on a single day.

An institution within the further education sector means an institution conducted by a further education corporation, or an institution designated as such by an order of the Secretary of State for Education.

Accommodation together with nursing or care provided in the course of a **family or personal relationship** for which there is no financial gain is exempt from the definition of a care home service. A family or personal relationship is defined as:

- a) a family relationship includes a relationship between two persons who—
 - i) live in the same household, and
 - ii) treat each other as though they were members of the same family;
- b) a personal relationship is a relationship between or among friends;
- c) a friend of a person (A) includes a person who is a friend of a member of A's family.

This includes any care and support provided to a child by a parent, relative or foster carer.

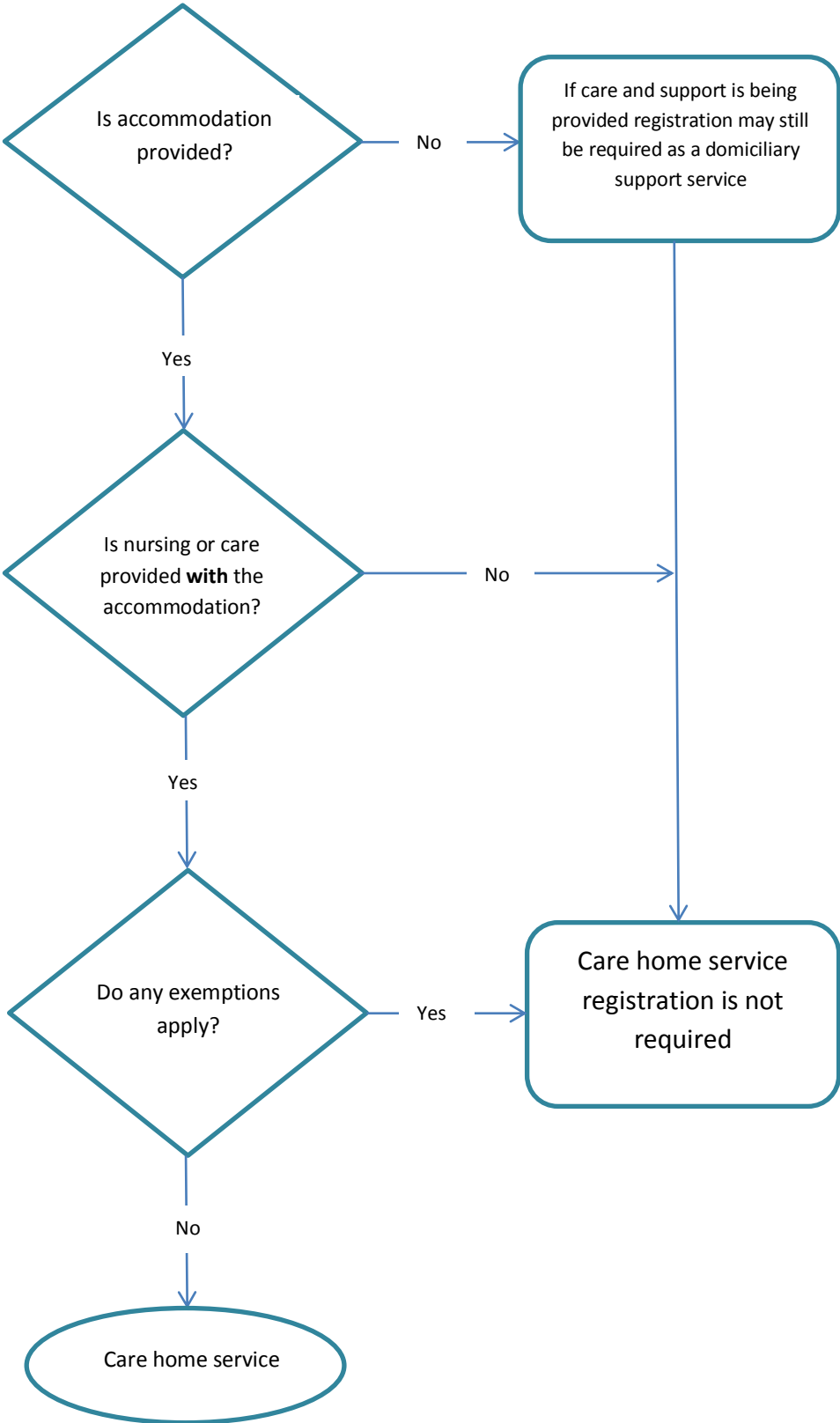
A **children's day care service**, registered with us under the Part 2 of the Children and Families (Wales) Measure 2010 only falls within the definition of a care home service if, over a 12 month period, there are 28 or more occasions when care is provided to any one child for an excess of 15 hours during a 24 hour period.

Various services associated with the **criminal justice system** are exempt from registration, such as approved bail hostels, approved probation hostels or an institute for young offenders.

Where accommodation and care is provided to children aged 16 and over for the purpose of enabling **training or an apprenticeship** this is exempt from the definition of a care home service, as long as it is not being provided to a disabled child.

Accommodation and care being provided to children because of their vulnerability or need for the purposes of a **holiday, or leisure, recreational, sporting, cultural or educational activity** is exempt from the definition unless accommodation and care is being provided to a disabled child, or it is being provided to any one child under the age of 16 for more than 28 days in a 12 month period.

Care home service decision tree



2.2 Secure accommodation services

A “*secure accommodation service*” is the provision of accommodation for the purpose of restricting the liberty of children at residential premises in Wales where care and support is provided to those children.

There are no exemptions from this definition.

2.3 Residential family centre services

A residential family centre consists of accommodation, provided to children and their parents where:

- (a) the parents’ capacity to respond to the children’s needs and to safeguard their well-being is monitored or assessed, and
- (b) the parents are given such care and support as is thought necessary.

In this context “parent” refers to any person who is looking after the child.

Exemptions

The accommodation being provided is being provided to children and their parents in a **hospital, hostel or domestic violence refuge**.

The accommodation and other services and facilities are **primarily being provided to the adults** and the fact that those individuals are accompanied by their children is incidental to the main purpose of the accommodation.

2.4 Domiciliary support services

A domiciliary support service consists of the provision (or making arrangements for the provision) of care and support to people who are unable to provide it for themselves because of their vulnerability or need and is provided to the person where they live. This does not include the need for care and support which arises solely because of a person's young age.

This regulated service includes the provision of supported living and extra care housing. Providers of these types of services must ensure that the contractual arrangements they have in place with individuals using their services are separate from any contractual arrangements in relation to the accommodation provided.

“Care” means the day to day physical tasks and needs of a person being cared for and the mental processes associated with those tasks or needs, for example eating, washing and administering medication and remembering to eat, wash and take medication.

“Support” means counselling, advice or other help, provided as part of a plan prepared for the person receiving support by either a local authority, service provider or other person providing care and support to the person. This includes support with tasks such as shopping and cleaning.

Our Practice Note on the interpretation of Care and Support at [Annex 1](#) sets out some of the activities likely to fall into the definitions of care and support. A service providing only support will be exempt from the definition of a domiciliary support service.

Domiciliary support service providers must indicate the geographical area in which they intend to provide the service when they apply to register. These geographical areas follow the Regional Partnership Board footprints and can be found at [Annex 3](#). Each geographical area will become a condition of your registration and an individual service for the purposes of inspection.

Exemptions

Services which consist of the **provision of registered nurses** to individuals where they live are not required to register as a domiciliary support service.

Personal Assistants are exempt from registration on the basis that they work solely under the direction and control of the person receiving care or a related third party. A related third party means:

- a) an individual with parental responsibility for a child receiving care and support;
- b) an individual with power of attorney or other lawful authority to make arrangements on behalf of the individual receiving care and support;

- c) a group of individuals mentioned in either (a) or (b) who are making arrangements on behalf of no more than four named individuals receiving care and support;
- d) a trust established for the purpose of providing services to meet the care and support needs of a named individual.

Personal Assistant Agencies (including co-operative arrangements) are exempt providing they act solely to introduce individuals who provide a domiciliary support service to individuals who may wish to receive it, but have no ongoing role in the direction or control of the care and support provided. For more information on how we assess this, see our guidance on “Ongoing direction or control of care and support in Domiciliary Support Services” at [Annex 2](#).

Services that solely provide **registered nurses** to carry out nursing activities to individuals in their own homes are exempt from registration.

A service that provides care and support to **four or fewer named individuals** at any one time is exempt from registration. This includes co-operatives which employ carers to provide care and support to four or fewer named individuals.

Services that provide **support only** are not domiciliary support services. However, if support is provided as part of a wider package which includes the provision of “care” this does not fall within the exemption.

Care and support provided in the course of a **family or personal relationship** for which there is no financial gain is excluded from the definition of a domiciliary support service. A family or personal relationship is defined as:

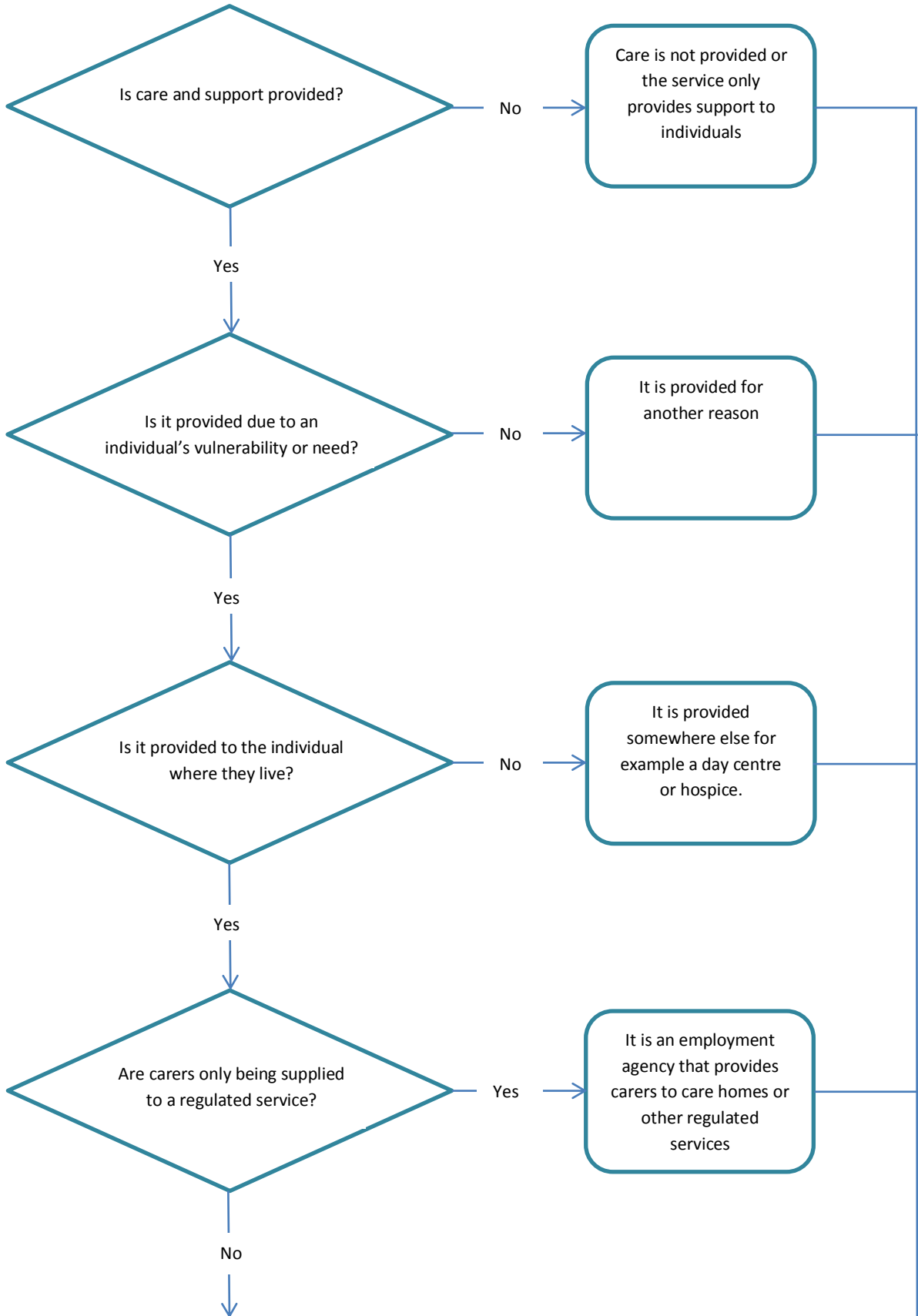
- a) a family relationship includes a relationship between two persons who—
 - iii) live in the same household, and
 - iv) treat each other as though they were members of the same family;
- b) a personal relationship is a relationship between or among friends;
- c) a friend of a person (A) includes a person who is a friend of a member of A’s family.

This includes any care and support provided to a child by a parent, relative or foster carer.

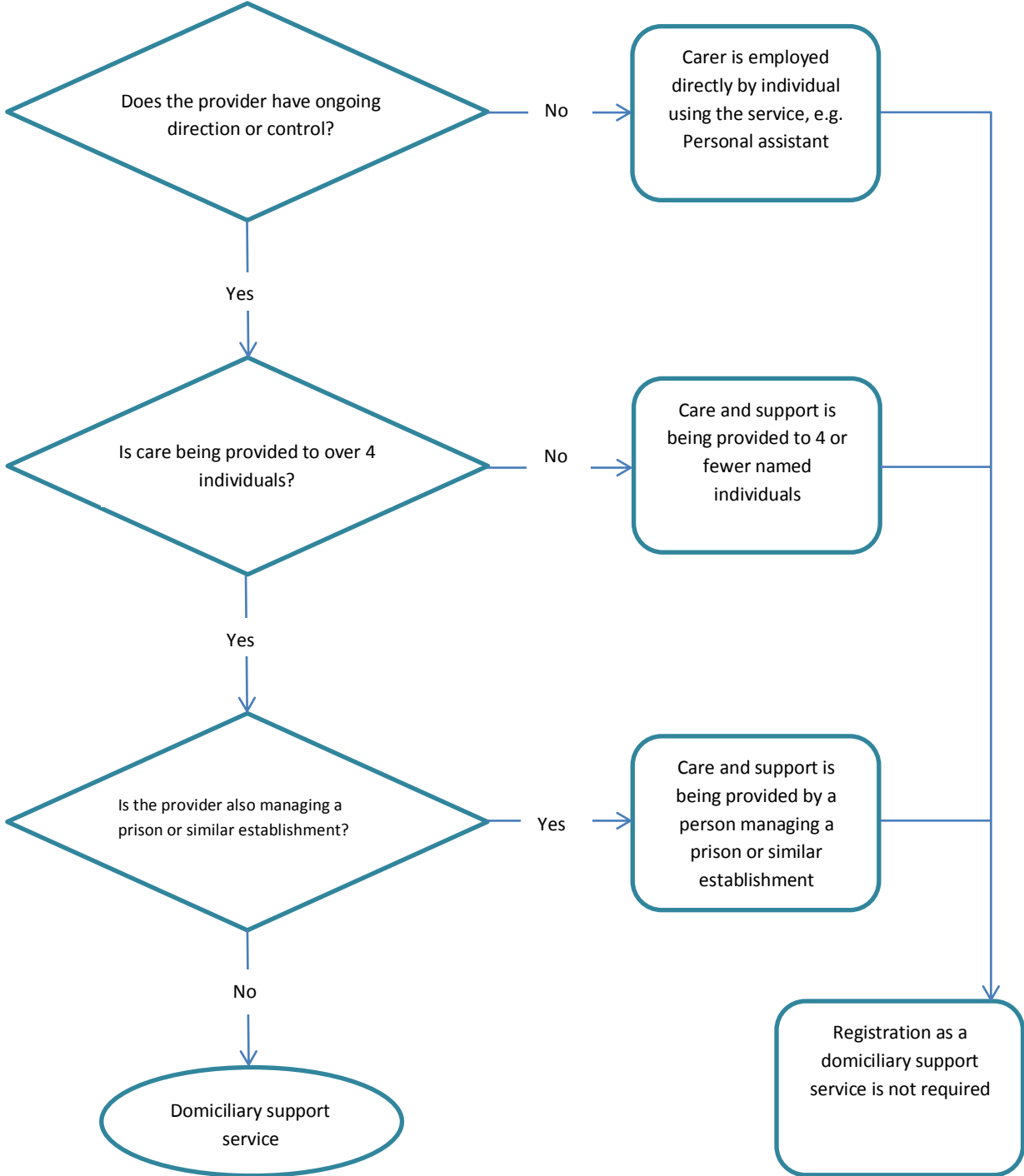
Employment agencies that **supply carers to other regulated services** registered with us are exempt from registration.

A person managing a **prison or other similar custodial establishment** is exempt from the definition if they are providing care and support to the individuals detained there. However, if care and support is being provided to detained individuals by a domiciliary support service, this service will be required to register with us.

Domiciliary support service decision tree



Domiciliary support service decision tree continued



3.0 Provider Types

There are a variety of different legal entities that can register to provide a service. The application form provides a list of legal entities from which providers must indicate the type of legal entity they are registering. This list is set out below.

3.1 Individual

An individual may register to provide a regulated service as a sole trader. Registration as a service provider is in the individual's own name.

3.2 Corporate Bodies

Limited Company

A limited company is a type of business structure that is a legal entity in its own right. Limited companies may be limited by shares or by guarantee and must be registered with Companies House. In both cases the company can enter into contracts in its own name and is responsible for its own actions, finances and liabilities.

A limited company must have at least one director.

Where a company is a subsidiary of a parent or holding company, it is the legal entity responsible for providing the service must register with us. For example, this must be the company that enters into contracts with commissioners and individuals using the service, employs staff and holds a policy of insurance in respect of the service being provided.

Public Limited Company (“PLC”)

A PLC is a type of limited company whose shares can be freely bought and sold by the public. A PLC must be registered with Companies House and must have at least two directors and a secretary.

Limited Liability Partnerships (“LLP”)

A LLP is a body corporate and a legal entity separate from its members. A LLP is incorporated by registration at Companies House.

The members of a LLP are those that sign up to the incorporation document and any others who have subsequently become members by agreement with the existing members.

Charitable Company

A charitable company is registered both at Companies House (as a company) and with the Charity Commission as its own legal entity. By having corporate status a charitable company can enter into contracts in its own name and is responsible for

its own actions, finances and liabilities. As a limited company, the charity will have directors and members.

Charitable Incorporated Organisation (“CIO”)

CIOs are charitable organisations with their own legal identity. They are able to enter into contracts in their own name and have limited liability, which protects members and trustees from financial losses. CIOs are registered with the Charity Commission.

There are two types of governance structure for CIOs:

- Foundation CIO – the only members of the organisation are the trustees.
- Association CIO – this organisation has members and trustees.

3.3 Local Authorities

Local authorities are bodies corporate established under section 21 of the Local Government Act 1972.

3.4 Local Health Boards (“LHBs”)

LHBs are bodies corporate established under section 11 of the National Health Service (Wales) Act 2006.

3.5 Other corporate bodies

There are various other types of corporate bodies, such as unlimited companies and Community Benefit Societies, which can enter into contracts in their own name and are responsible for their own actions, finances and liabilities.

If the type of corporate body you are applying to register does not appear in the list above, you should select “Other corporate body” on the application form.

3.6 Partnerships

A partnership consists of two or more individuals agreeing to work together for a shared business venture. The individuals (partners) share in the profits and liabilities of the partnership. Each partner will be listed in the registration conditions of a service provider.

If an existing partner leaves or a new partner joins the registered partnership, generally this creates a new partnership, which is a new legal entity. Service Providers registered as a partnership are able to reflect these changes by making an application to vary their conditions of registration, rather than the new legal entity having to submit an application to register. How to do this can be found in [Section 8](#) of this guidance.

Whilst a partnership is not legally required to have a partnership agreement, we will need to be satisfied in relation to the governance arrangements in place.

3.7 Unincorporated bodies

Committee

A committee is a group of people who come together to work towards a common goal, often on behalf of a larger organisation. Where a committee is seeking to register with us, we will need to be satisfied that there are robust governance arrangements in place.

Charitable Trust

A charitable trust is an organisation that has been formed for the advancement of education, promotion of public health and comfort, relief of poverty, furtherance of religion, or any other purpose regarded as charitable in law.

In most cases a charitable trust will need to register with the Charity Commission.

3.8 Other unincorporated bodies

There may be other types of unincorporated bodies that wish to register as a Service Provider. If the type of unincorporated body you are applying to register does not appear in the list above, you should select “Other unincorporated body” on the application form.

4.0 Responsible Individuals

As part of the provider's application, a responsible individual ("RI") must be designated in relation to a service.

In considering the suitability of a designated responsible individual, we must be satisfied in relation to the following:

- whether the individual is eligible;
- whether the individual is fit and proper to be designated as RI; and
- whether the individual will comply with the RI duties set out in the regulations made under the Act.

4.1 Who is eligible?

Section 21 of the Act ([Annex 10](#)) sets out who is eligible to be designated as a responsible individual dependant on the type of provider.

Individual

For individual providers, the individual must be the RI.

Limited Company

Our expectation is that this would be a Director, registered with Companies House. Where a Director is unable to fulfil this role, you may designate a "similar officer". However, you will be required to provide an explanation as to why this role cannot be undertaken by a Director.

See below for the definition of a similar officer.

Public Limited Company ("PLC")

The RI should be either a Director or Company Secretary.

Limited Liability Partnerships ("LLP")

Any of the partners of the LLP should be the RI. Where none of the partners are able to fulfil this role you may designate a "similar officer". See below for the definition of a similar officer.

Charitable Company

For a charitable company, a RI could be any of the Directors registered at Companies House or any of the trustees registered with the Charities Commission. Where none of the Directors or trustees are able to fulfil this role you may designate a "similar officer", for example the Chief Executive. See below for the definition of a similar officer.

Charitable Incorporated Organisation (“CIO”)

Either a trustee or member of the CIO should be the designated RI. Where none of the trustees or members are able to fulfil this role you may designate a “similar officer”. See below for the definition of a similar officer.

Local Authorities

For Local Authorities our expectation is that the person designated by the Director of Social Services must hold a position of sufficient seniority within the organisation. Our expectation is that should be the director him or herself, a head of service or service manager.

Local Health Boards (“LHBs”)

For Local Health Boards our expectation is that the person must hold a position of sufficient seniority within the organisation.

Partnerships

The RI must be one of the partners.

Committee

The RI must be a member of the committee.

Charitable Trust

The RI must be either a trustee or member of the charity.

Other unincorporated bodies

The RI must be a member of the body.

Providers may be asked to provide additional documents to demonstrate that the individual designated does hold the level of seniority.

“Similar officer”

Where a provider designates a “similar officer” to be the responsible individual, we will consider the following criteria in assessing whether the individual holds a sufficient level of seniority within the organisation;

- authority to hire and fire managers and any other staff working in the service;
- authority to set pay rates for all staff working directly within the service;
- authority to decide on investment decisions in the service;
- oversight of health and safety for the relevant service; and
- accountability for determining assurance arrangements and setting any benchmarks within the service.

4.2 Fit and proper person test

We must be satisfied that the designated individual is fit and proper. How we make this assessment is set out in more detail at [paragraph 7.3](#).

4.3 Responsible Individual duties

The Regulated Services (Service Providers and Responsible Individuals) (Wales) Regulations 2017 (“the Regulations”) place certain duties on the RI and we will need to be satisfied that the RI designated for each service will comply with these. These duties have an emphasis on ensuring the effective management and oversight of the service with a focus on continuous improvement. When designating a RI, providers will need to be confident that the individual is competent to fulfil these duties.

As part of the registration process RIs will be required to complete a questionnaire and undertake a suitability interview. This questionnaire is intended to establish an individual’s ability to comply with the duties imposed upon them by the regulations and identify any areas to be discussed further at the suitability interview. The questions are set out at [Annex 4](#).

In considering the suitability of the RI we will also consider their appointment of a manager for the service. The legislation permits the RI to also act as the manager of the service in prescribed circumstances. These are set out below:

If you are registered as an individual this will only be possible if the following conditions apply:

- you are fit to manage the service;
- you are registered as a social care manager with Social Care Wales; **and**
- we agree to you undertaking both roles.

If you are the RI for a partnership or organisation, this will only be possible if the following conditions apply:

- the service provider is registered to provide no more than two services;
- you are fit to manage the service;
- you are registered as a social care manager with Social Care Wales; **and**
- we agree to you undertaking both roles.

5.0 Making an application

All applications to register a regulated service must be made via [Care Inspectorate Wales Online](#).

Whilst we recognise that a small number of applicants may have difficulty accessing Care Inspectorate Wales Online. We suggest seeking alternatives; such as local libraries or other venues offering reliable internet access.

If, having explored these options, applicants are still experiencing difficulties accessing Care Inspectorate Wales Online, arrangements can be made to visit one of our offices to complete the online application with digital assistance from a member of our staff.

Application Form

The application form is in **three** distinct parts:

5.1 Information about the service provider

This part of the form will capture details about the service provider. Where the service provider is an organisation, we require information about the individuals involved as part of our fit and proper person assessment. Applicants will need to specify the type of legal entity they are applying as, for example individual, limited company, charitable company etc. The different types of service provider can be found at Chapter 3.

5.2 The type of regulated service(s) you are applying to provide

Information about the regulated service(s), including:

- the location;
- premises;
- age range of people using the service;
- maximum number of people using the service (where appropriate)
- an uploaded Statement of Purpose for the service(s).

5.3 The designated responsible individual

The service provider will need to designate a RI for each service they are applying to register. If the designated RI is the individual completing the application, their section of the form will be displayed online. If the designated RI is not the person completing the application form, they will receive an email notifying them of their designation and requiring them to log in to Care Inspectorate Wales Online to complete their section of the application. When the RI logs in they must use the email address that has been specified on the application to ensure their details can be matched to the correct service.

Once all sections of the form are complete by the RI, the applicant will be notified and prompted to log in to Care Inspectorate Wales Online to submit the application.

Applicants are asked to indicate if they agree to communicate with us electronically. This will include all letters and legal Notices.

5.4 Required information and documents

Annex 8 contains a more detailed a summary of the information and documentation required in the application form.

We require a Disclosure and Barring Service check for all individual applicants and RIs. For this check to be valid it must be less than 3 months old at the point of submission of the application or the individual must be on the DBS Updates Service.

We will need to view this certificate, as part of the registration process. This can either be sent to us by recorded post or brought with the individual to their suitability interview.

5.5 Progress updates

Once the application has been submitted, the applicant can track its progress via Care Inspectorate Wales Online.

An application will not be accepted until it has passed our **completeness check** (Annex 9), this is to ensure that key information is valid and or included. Where an application does not pass our **completeness check** the applicant will be notified of the areas requiring their attention.

Once the **completeness check** has been passed, the application is accepted by us and the applicant is notified.

The progress of your application will be displayed on CIW Online.

6.0 Assessing the application

Once the application has been accepted we carry out a **quality assessment**.

6.1 Factors for determination

When determining an application we will consider the following:

- Does the application form contain all of the required information?
- Are we satisfied that the applicant is a ‘fit and proper person’?
- Are we satisfied that the designated RI is suitable?
- Are we satisfied that the service provider will comply with the requirements of the regulations and any other relevant legislation?

[Annex 6](#) sets out our Determinations Framework, which includes the sources of evidence we consider in making our decisions and our expectations.

6.2 Does the application contain all required information?

Our initial completeness check will ensure that the application form contains all of the required information. If we find that the information or documentation that has been provided is not sufficiently detailed we will ask for this to be rectified.

6.3 Fit and Proper person

When making any decision about the registration of a service provider we must be satisfied that the service provider and RI are “fit and proper” to be providing regulated services. Section 9 of the Act ([Annex 11](#)) sets out the fit and proper person test. Subsections (4) – (8) set out various matters which are likely to affect the fitness of a service provider or RI, such as: the commission of offences, an association with a person who has committed offences, previous involvement in the misconduct or mismanagement of a regulated service and issues of non-compliance with the regulations made under the Act. However, we must also have regard to all matters that we think appropriate.

Our assessment of fitness will include any information that is already known to us about a service provider or RI. We may contact other regulators (such as Social Care Wales or the Care Quality Commission) for information where appropriate. When considering any previous issues concerning the misconduct or mismanagement of a regulated service we will, amongst other matters, take account of:

- (a) the seriousness and duration of the misconduct or mismanagement;
- (b) harm caused to any person, or any evidence of an intent to cause harm;
- (c) any financial gain made by the person;
- (d) any action taken by the person to remedy the misconduct or mismanagement.

Individual applicants and RIs will be required to undergo a Disclosure and Barring Service (DBS) check as part of the registration process.

In the event of a positive disclosure on a DBS check we will consider whether any further action is required. This may include holding an interview, in order to establish whether the disclosure is likely to have an impact on the individual's suitability to be providing a regulated service.

Individual applicants and RIs must provide 2 references in relation to their competence to fulfil the role of RI for the regulated service(s).

6.4 Responsible Individual suitability

Chapter 4 sets out the suitability criteria we apply when considering the designation of a RI.

The same RI may be designated in relation to more than one service. However, we will need to be satisfied that this will not impact upon their ability to perform their duties in relation to each of those services. In making our assessment we will consider the following:

- The range of regulated services
- The size and complexity of the services
- The geographical location of the services
- The responses provided in the RI questionnaire
- Whether the RI is concerned with any other regulated services within the UK

6.5 Compliance with all relevant legislation

We will need to be satisfied that the service will be provided in such a way that it complies with all relevant legislation. This will include the regulations made under the Act and any other legislation that is relevant to the service, such as health and safety legislation.

The Regulations and accompanying Welsh Government Guidance¹ set out the requirements on service providers. Our Determination Framework provides greater detail on the sources of evidence we use to reach our registration decisions.

We undertake a premises assessment as part of all registration applications. This assessment is carried out against the Statement of Purpose. [Annex 5](#) includes the various documentation we require at the premises assessment.

¹ "Statutory guidance for service providers and responsible individuals on meeting service standard regulations" February 2018.

In reaching our determination decision, we will be reasonable and proportionate in the information we request and only ask for additional evidence when it is necessary to assist us in our decision making.

We will endeavour to determine registration applications in a timely fashion. If we require any additional information or where there are specific issues that need to be resolved in relation to a service, we may need to extend the time it takes us to process the application.

7.0 Registration decisions

Applicants applying to register a single service, will receive a single determination Notice

Where a service provider has applied to register more than one service as part of the same application, we issue a determination Notice per service resulting in the service provider becoming registered with us. This is to prevent any delays registering each service.

7.1 Granting an application

Where an applicant has indicated their agreement to the proposed conditions of registration on the application form and we intend to grant the application, we will issue a Notice of Decision to grant the application. Registration takes effect on the same day the Notice is issued.

7.2 Granting an application with imposed conditions

Where we intend to grant an application but, the applicant has not indicated their agreement to the proposed conditions of registration on the application form or we propose to impose additional conditions, we will issue a Notice of Proposal to impose conditions. For example, where an applicant has asked to register a care home with a maximum capacity of 60 people, but we propose to register the service with a maximum capacity of 50 people.

The Notice will set out the conditions we intend to impose, the reasons why and the timescale the applicant has to make representations about our proposal.

In certain circumstances we may specify action which, if taken within a specified time limit, would result in us not imposing that condition. For example, a proposal to reduce the maximum capacity of the service, unless remedial action is taken to improve the premises.

A Notice of Decision to grant an application issued following a Notice of Proposal takes effect 28 days after it is issued, unless an appeal is made to the Tribunal.

Therefore, if no appeal is made, registration takes effect 28 days after we issue the Notice of Decision. If an appeal is made, registration will not take effect until either the Tribunal determines the appeal or the appeal is withdrawn.

7.3 Refusal of an application

Where we intend to refuse an application to register, we will issue a Notice of Proposal. In certain circumstances we may specify action which, if taken within a specified time limit, would result in us not taking the proposed action. For example, a proposal to refuse an application, unless an alternative satisfactory RI is designated.

The Notice will set out the reasons why we are refusing the application and the timescale for making representations about our proposal.

A Notice of Decision to refuse an application issued following a Notice of Proposal takes effect 28 days after it is issued, unless an appeal is made to the Tribunal.

7.4 Representations and Appeals process

Representations

In the event that we issue a Notice of Proposal to either impose conditions on a registration or refuse an application, the Notice will give a deadline to make representations to us. This will be set out in the Notice, but must be a minimum of 28 days.

We will aim to respond by issuing a Notice of Decision within 28 days of the deadline for representations elapsing. If we are not able to respond within 28 days we will inform the applicant of this and the reasons why. In such cases we will issue a Notice of Decision within 56 days of the deadline for representations elapsing. We consider representations in line with our Representations Process [Annex 7](#).

The Notice of Decision will set out whether we intend to take the proposed action, the reasons why and explain any rights of appeal.

Appeals

Any appeal must be made directly to the Tribunal by the deadline specified in the Notice of Decision. The Tribunal will then set the timetable for the proceedings.

The Tribunal can uphold the decision to refuse the application, reverse the decision, direct that the application be granted, or make any other order it thinks appropriate.

8.0 Conditions of registration and Variations

8.1 Conditions of registration

Under the Act certificates of registration are no longer required. However, our website will contain a register of all registered providers and their conditions of registration.

These conditions will vary depending on the type of service. For accommodation based services the service will always have the following standard conditions of registration:

- Location of the service
- Designation of the Responsible Individual
- Maximum number of individuals the service can accommodate

For community based services the service will always have the following standard conditions of registration:

- The geographical area in which the service is being provided
- Designation of the Responsible Individual

For service providers that are partnerships, we list the names of the partners as conditions of registration. This is to avoid a change in the membership of the partnership requiring an application to register a new legal entity.

We are able to impose conditions on a Service Provider's registration both at the point of registration and once the service has become operational.

8.2 Variations of conditions

A Service Provider's conditions of registration can be varied either by us taking action to do so, or by Service Provider application.

Action taken by us

In the following circumstances we will issue a Notice of Proposal:

- Imposing conditions on a service provider's registration
- Varying conditions on a service provider's registration (excluding variation of responsible individual)

We will issue an Improvement Notice in the following circumstance:

- Removing a regulated service or service from a service provider's registration
- Cancelling the registration of a service provider
- Cancelling the designation of a responsible individual

All Notices we issue will set out the action we intend to take, the reason(s) for taking the action and a deadline for the recipient to make representations to us. The timeframe for making representations may vary depending on the circumstances, but in all cases must be a minimum of 28 days from the date the Notice is issued.

Our Representations Process at [Annex 7](#) sets out the process for making representations and how we respond to them.

Applications by Service Providers

Service Providers can apply to vary their conditions in the following ways via CIW Online:

- Adding a service
- Removing a service
- Designating a new Responsible Individual for a service
- Cancelling the designation of a Responsible Individual for a service
- Varying the maximum number of individuals the service can accommodate
- Varying conditions imposed on their registration
- Adding or removing a partner from a partnership

Where we intend to grant an application, we will issue a Notice of Decision to grant the application. The decision takes effect on the same day the Notice is issued.

Where we intend to refuse an application, we will issue a Notice of Proposal. In certain circumstances we may specify action which, if taken within a specified time limit, would result in us not taking the proposed action. In the event that we issue a Notice of Proposal to refuse an application, the Notice will give a deadline to make representations to us. Our Representations Process at Annex 12 sets out the process for making representations and how we respond to them.

Annex 1. Guidance on the interpretation of care and support

This Practice Note relates to services requiring registration under the Regulation and Inspection of Social Care (Wales) Act 2016 (“the Act”).

Legal framework

Section 3 of the Act defines care and support in the following terms:

“*care*” means care relating to—

- (i) the day to day physical tasks and needs of the person cared for (for example, eating and washing), and
- (ii) the mental processes related to those tasks and needs (for example, the mental process of remembering to eat and wash);

“*support*” means counselling, advice or other help, provided as part of a plan prepared for the person receiving support by—

- (i) a service provider or other person providing care and support to the person, or
- (ii) a local authority (even if the authority does not provide care and support to the person).

This Practice Note seeks to provide some practical examples of the types of activities that fall into either care or support within the different regulated services. The list is not exhaustive.

Care home services

A care home service provides accommodation, together with nursing or care, to an individual(s) because of their vulnerability or need.

Care includes:

- Assistance with bodily functions, such as feeding, bathing and walking (including prompting the individual to do this)
- Assistance with managing continence (including prompting the individual to do this)
- Assistance with oral and dental care (including prompting the individual to do this)
- Preparing meals and drinks
- Medication administration (including prompting the individual to do this)
- Assistance with getting dressed (including prompting the individual to do this)
- Assistance to maintain skin integrity (including prompting the individual to do this)

Where children are accommodated, care also includes:

- Assistance to ensure physical safety such as:
 - monitoring the individual’s whereabouts and responding to any unexplained absences

- limiting visitors;
- setting curfews;
- restricting access to money (without legal authority);or
- behaviour management strategies or measures.

Support includes:

- Assistance to attend appointments
- Assistance with trips out such as shopping or attending a place of worship
- Support to manage affairs, such as assistance with reading
- Assistance to take part in activities within the home
- Assistance with sensory impairment, such as prompting the individual to use aids and understand their importance
- Supporting the individual to manage their money
- Assistance with developing life skills, such as cooking and cleaning
- Emotional or other psychological support

A service providing accommodation and support only, does not meet the definition of a care home service.

Domiciliary Support Services

A domiciliary support service consists of the provision (or making arrangements for the provision) of care and support to people who are unable to provide it for themselves because of their vulnerability or need and is provided to the person where they live. This does not include the need for care and support which arises solely because of a person's young age.

Care includes:

- Assistance with bodily functions, such as feeding, bathing and walking (including prompting the individual to do this)
- Assistance with managing continence (including prompting the individual to do this)
- Assistance with oral and dental care (including prompting the individual to do this)
- Administration of medication held in the premises where the individual lives (including prompting the individual)
- Assistance with getting dressed (including prompting the individual to do this)
- Assistance to maintain skin integrity (including prompting the individual to do this)
- Assistance with personal care involving intimate personal touching, such as shaving or nail care.

**Note – these activities must be delivered where the person lives, ie. within the physical premises that they are living in.*

Support includes:

- Assistance to attend appointments
- Assistance with trips out such as shopping or attending a place of worship

- Support to manage affairs, such as advice and support to manage a tenancy agreement
- Advising and supporting the individual to manage their money
- Assistance to maintain the security of a dwelling
- Assistance with housework or gardening

A service providing support only, does not meet the definition of a domiciliary support service.

Annex 2. Guidance on “Ongoing direction or control of care and support in Domiciliary Support Services”

Summary

The definition of domiciliary support service has an exemption for persons who introduce a care worker to an individual, but who then have no “ongoing role in the direction or control of the care and support provided”.

This guidance clarifies the meaning of ‘ongoing direction or control of the care and support provided’.

*Note the use of the term “care worker” in this guidance is intended to include individuals undertaking a variety of roles and is not intended to fall within the definition of “social care worker” under the Regulation and Inspection of Social Care (Wales) Act 2016.

Definition of Domiciliary support service

Section 8(1) of Schedule 1 of the Act contains the definition of a domiciliary support service:

(1) A “*domiciliary support service*” is the provision of care and support to a person who by reason of vulnerability or need (other than vulnerability or need arising only because the person is of a young age) is unable to provide it for him or herself and is provided at the place in Wales where the person lives (including making arrangements for or providing services in connection with such provision).

Exemption

Section 8(3) of Schedule 1 of the Act contains the exemption:

(3) A person who introduces individuals who provide a domiciliary support service to individuals who may wish to receive it but has no ongoing role in the direction or control of the care and support provided is not to be treated as providing a domiciliary support service (regardless of whether or not the introduction is for profit).

Personal Assistants are exempt from registration on the basis that they work solely under the direction and control of the person receiving care or a related third party. A related third party means:

- an individual with parental responsibility for a child receiving care and support;
- an individual with power of attorney or other lawful authority to make arrangements on behalf of the individual receiving care and support;
- a group of individuals mentioned in either of categories about making arrangements on behalf of no more than four named individuals receiving care and support;

- a trust established for the purpose of providing services to meet the care and support needs of a named individual.

What constitutes an ‘ongoing role’?

A person must register as a domiciliary support service if they introduce a care worker to an individual and does **ANY** of the following:

- Monitors the service provided to the individual and, as a result of this monitoring, takes responsibility for replacing the care worker for any reason.
- Seeks the views of the individual receiving the service or acts as their advocate and, as a result, advises or directs changes to the activity of the care worker (such as changes to the frequency of visits, or the type of care provided, or the way in which the care worker performs the agreed tasks).
- Arranges a rota of care workers so that visits and care are provided when required by the individual.
- Continues to charge the individual for the service being provided by the care worker, excluding where arrangements have been made to enable a one-off introduction fee to be paid by instalments. This differs from when the provider merely carries out a payroll function for the person who is employing the worker.
- Agrees to organise cover for any sickness or leave that may arise – other than when the individual makes an independent request to the person to introduce another care worker to cover leave or sickness.
- Reviews the service user care plan, including making changes as necessary, in consultation with the individual.

What does not constitute an ‘ongoing role’?

A person is not required to register as a domiciliary support service where they have introduced an individual to a care worker and have undertaken any of the activities set out below:

- Introducing an additional or replacement care worker if the person receiving care is not satisfied with the existing care worker and asks for an additional or replacement care worker. This further introduction is because the person receiving care has requested an additional or replacement care worker and is not as a result of monitoring by the person who may have identified a need for a change.
- Providing a range of practice guidance (usually referred to as ‘procedures’) as an extra service to the person receiving care. The care worker can follow these procedures once employed if the person directs them to do so. The

person who introduced the care worker does not monitor the performance of that worker in respect of these procedures.

- Making an assessment of the needs of the individual, but only in order to determine the type of care worker required or the most suitable worker. Or the person might arrange for someone (usually referred to as a case worker or assessor) to carry out an assessment of needs. This is not the same as writing a care plan detailing the activities needed to deliver the personal care required. For example, this type of assessment might determine what an individual's needs are, but not how these needs will be met. Such an assessment may be carried out only to enable the person to recruit and introduce a care worker who can be available for the time required and who has the skills needed. The assessment is not ongoing.
- Charging a 'one-off' fee for the introduction – even though part or all of the fee may be reimbursed by the person if either the care worker or the person receiving care terminates their agreement with each other. The fee may be paid in instalments and may or may not be related to the length of the contract.
- Contacting the person receiving care to make sure that they are satisfied with the service of making the introduction, including the suitability of the care worker supplied. This contact is only for the purpose of quality assuring the introduction process, not for monitoring or controlling or directing the service being provided by the care worker.
- Agreeing to carry out a payroll function for the person who is employing the worker. This function must have no influence on the direction and control of the service being provided. There should be a clear separation between the introduction and the provision of the payroll service. Ideally, such an arrangement will be under a separate contract from the one of introduction, to emphasise the separate nature of the person's activities.
- Making available a range of training packages for care workers to purchase. This should be limited to situations where the need is identified by the care worker. This does not include supervision or monitoring of training by the person making the introduction.

Where can I get further advice?

If you are unsure about whether the service you are providing falls within the definition of a domiciliary support service, you may wish to seek legal advice.

You can also contact our national Registration Team on 0300 7900 126 or CIWregistration@gov.wales.

Annex 3. Regional partnership board areas in relation to Domiciliary Support Services

1. Partnership arrangements under the direction of **Gwent** regional partnership Board
 - Aneurin Bevan University Health Board
 - Monmouthshire County Council
 - Newport City Council
 - Torfaen County Borough Council
 - Blaenau Gwent County Borough Council
 - Caerphilly County Borough Council.
2. Partnership arrangements under the direction of **North Wales** regional partnership board
 - Betsi Cadwaladr University Health Board
 - Flintshire County Council
 - Wrexham County Borough Council
 - Isle of Anglesey County Council
 - Gwynedd County Council
 - Denbighshire County Council
 - Conwy County Borough Council.
3. Partnership arrangements under the direction of **Cardiff and Vale** regional partnership board
 - Cardiff and Vale University Health Board
 - Cardiff City and County Council
 - Vale of Glamorgan Council.
4. Partnership arrangements under the direction of **Western Bay** regional partnership board
 - Abertawe Bro Morgannwg University Health Board
 - Swansea City and County Council
 - Bridgend County Borough Council
 - Neath Port Talbot County Borough Council.
5. Partnership arrangements under the direction of **Cwm Taf** regional partnership board
 - Cwm Taf University Health Board
 - Rhondda Cynon Taf County Borough Council
 - Merthyr Tydfil County Borough Council.

6. Partnership arrangements under the direction of the **West Wales** regional partnership board

- Hywel Dda University Health Board
- Pembrokeshire County Council
- Carmarthenshire County Council
- Ceredigion County Council

7. Partnership arrangements under the direction of **Powys** regional partnership board

- Powys Teaching Health Board
- Powys County Council.

Annex 4. Responsible Individual Suitability Questionnaire

Question 1.

Please set out the arrangements you have in place to appoint a suitable manager for the service. What is your understanding of your duties in relation to reporting this appointment?

This question is designed to assess how the designated RI will appoint a manager with due diligence, the arrangements in place should that manager be absent from the service and the RI's understanding of the various duties that relate to reporting the appointment. RIs should consider regulations 67, 68, 69, 70 & 71 when providing their answer.

Question 2.

Please set out the systems and processes you have in place to oversee the management of the service, including when the manager is absent or not at the service.

This question is designed to assess the systems in place for the RI to oversee the management of the service; including reviewing and supervising the manager with a focus on management, quality, safety and effectiveness of the service. This should include the arrangements in place for when the manager is absent or not at the service. RIs should consider regulations 66 & 72 when providing their answer.

Question 3.

Please set out how you intend to fulfil your duties in relation to visiting the service, including the frequency of these visits.

This will assess how the responsible individual plans to undertake monitoring visits to the service in person including talking to individuals using the service and their representatives (if applicable) and staff. RIs should consider regulation 73 when providing their answer.

Question 4.

Please describe the systems and processes in place for monitoring, reviewing and improving the quality of the service provided, including the quality of care review. Your answer should include how you engage with others as part of these processes.

This question is designed to establish how the RI plans to monitor the performance of the service in relation to its statement of purpose, including the arrangements in place for obtaining the views of the individuals who are receiving care and support, any representatives of those individuals on the quality of care and support provided

and how this can be improved. RIs should consider regulations 76 & 80 when providing their answer.

Annex 5. Summary of the information and documentation required in the application form

Information required in the application form

Information about the service provider	
Individuals	<p>Name Address D.O.B Contact details Professional qualifications and experience Employment history Details of any previous or current involvement in other regulated services in the UK Details of any other business interests DBS certificate number or DBS Updates Service details. (a DBS certificate must be less than 3 months old at the time of submitting the application or the applicant must be signed up to the DBS Updates Service)</p>
<p>Limited Companies Limited Liability Partnerships Private Limited Companies Charitable Companies Charitable Incorporated Organisation Other Body Corporate</p>	<p>Organisation name Organisation address Company number/Charity number Organisation contact details Links to other companies All organisational officer details, including: name, D.O.B, contact details and details of any other involvement with regulated services. Details of any previous or current involvement in other regulated services in the UK Details of any other business interests Designation of a responsible individual</p>
<p>Committee Charitable Trust Other Unincorporated Body</p>	<p>Organisation name Organisation address Organisation contact details Links to other organisations All organisational officer details, including: name, D.O.B, contact details and details of any other involvement with regulated services. Details of any previous or current involvement in other</p>

	<p>regulated services in the UK</p> <p>Details of any other business interests</p> <p>Designation of a responsible individual</p>
Partnerships	<p>Partnership name</p> <p>Partnership address</p> <p>Partnership contact details</p> <p>Partner details, including: name, D.O.B, contact details and details of any other involvement with regulated services.</p> <p>Details of any previous or current involvement in other regulated services in the UK</p> <p>Details of any other business interests</p> <p>Designation of a responsible individual</p>

Information about the RI	
	<p>Name</p> <p>Address</p> <p>D.O.B</p> <p>Contact details</p> <p>Professional qualifications and experience</p> <p>Employment history</p> <p>Details of any previous or current involvement in other regulated services in the UK</p> <p>Details of any other business interests</p> <p>DBS certificate number or DBS Updates</p> <p>Service details. (a DBS certificate must be less than 3 months old at the time of submitting the application or the applicant must be signed up to the DBS Updates Service)</p>

Information about the service	
<p>Accommodation based services (care home services, residential family centres & secure accommodation service)</p>	<p>Name</p> <p>Address</p> <p>Contact details</p> <p>Maximum capacity of the service</p> <p>Age range of individuals using the service</p> <p>Range of needs you intend to provide a</p>

	service for Manager of the service, including their name, D.O.B and Social Care Wales registration number
Community based services (domiciliary support services)	Name Regional partnership footprint area Office address(es) Contact details Age range of individuals using the service Range of needs you intend to provide a service for Average number of hours of domiciliary support you intend to provide per week Manager of the service, including their name, D.O.B and Social Care Wales registration number

Documents required in the application form

Document Title	Who- needs to upload these documents
Statement of Purpose	For every service
Structural plan of the organisation	All applicants except Individuals
Floor Plans	Accommodation based Services
Medical Reference	Every RI needs to upload this
Bankers Reference	All applicants except Local Authorities and Local Health Boards
Business Plan	
Projected Cash Flow	
Last 2 annual accounts	All limited companies, public limited companies, limited liability partnerships, charitable companies, charitable incorporated companies or any other corporate bodies.

Documents to be available at the premises assessment

Please make available a copy of the policies for the inspector to take with them for further assessment

Medication

Supporting individuals to manage their money

Infection Control

Behaviour support

Use of control or restraint

Whistleblowing

Admissions and commencement of the service

Complaints

Safeguarding

Staff support and development

Staff discipline

If the service is being provided to children, the following policies must also be available:

Prevention of bullying

Dealing with allegation of bullying

Procedure to follow when a child is absent without permission

Please ensure any other policies and procedures that support the aims and objectives of your Statement of Purpose are also available

We will also need to see the following documents during the premises assessment:

- Certificate of Insurance
- Proof of ownership or tenancy agreement
- Food business registration
- Completed risk assessment as required under the Regulatory Reform (Fire Safety) Order 2005 (1)

Annex 6: Registration Determination Framework

Does the application form contain all of the required information?

What we look at	Why	Our expectation is:
Application form	To ensure compliance with the Registration Regulations	<ul style="list-style-type: none"> All of the questions are completed
		<ul style="list-style-type: none"> The information provided is valid e.g. DBS certificate number is correct and the correct check has been applied for, i.e. for vulnerable adults or children.
		<ul style="list-style-type: none"> All of the required documents have been provided

Are we satisfied that the applicant is a 'fit and proper person'?

What we look at	Why	Our expectation is:
Application form	To cross check the information provided with other sources of evidence	<ul style="list-style-type: none"> The applicant has selected the correct provider type.
Companies House	To confirm legal entity	<ul style="list-style-type: none"> That the legal entity is registered as a company. That the directors listed on the application form are registered with Companies House. All other company information provided matches the information held on Companies House.
Charity Commission	To confirm charitable status	<ul style="list-style-type: none"> That they are registered as a charity. That the persons listed on the application form are registered with the Charity Commission as trustees. All the information held with the Charity Commission matches.
Other regulatory bodies	Assessment of fitness	<ul style="list-style-type: none"> Where the provider also has a professional registration, such as NMC, there are no fitness to practice issues. Where the provider is also registered with another regulatory body, for example CQC, there are no other factors that would call into question their fitness.

<p>Declarations (For domiciliary support services this includes the undertaking in s.8 of the Act)</p>	<p>Assessment of fitness</p>	<ul style="list-style-type: none"> • The declaration has been signed by a person with sufficient seniority to do so. • The applicant has confirmed the fitness of the provider. • For domiciliary support services the applicant has agreed to provide the service in accordance with s.8 of the Act.
<p>Information held by CIW (CaSSI)</p>	<p>Assessment of fitness</p>	<ul style="list-style-type: none"> • There are no other factors that would call into question fitness.

Is the designated RI is suitable?

What we look at	Why	Our expectation is:
Application form & Structural plan of organisation (excl. individuals)	Assessment of eligibility	<ul style="list-style-type: none"> • That the designated individual meets the eligibility criteria – see Chapter of this Guidance. • The Structural plan of the organisation clearly demonstrates how the individual fits within the governance
Identity document	Proof of identity	<ul style="list-style-type: none"> • That the designated individual will bring photographic proof of their identity to their suitability interview. Acceptable forms of photographic identity are a driving licence or passport.
Evidence of qualifications (if listed in the application form)	Proof of qualifications	<ul style="list-style-type: none"> • Where the designated individual has listed relevant qualifications on the application form, proof of these must be brought to their suitability interview.
Report of medical practitioner or equivalent	Assessment of fitness	<ul style="list-style-type: none"> • No issues have been identified with the individual's ability to perform the role of a responsible individual.
DBS certificate	Assessment of fitness	<ul style="list-style-type: none"> • The individual has declared any offences/convictions appearing on the DBS certificate. • The DBS certificate relates to area. i.e. children or vulnerable adults. • There are no other factors that would call into question fitness.
References	Assessment of fitness	<ul style="list-style-type: none"> • The references provided raise no issues relating to fitness – see Chapter of this Guidance

Information from other regulatory bodies	Assessment of fitness	<ul style="list-style-type: none"> • Where the designated individual also has a professional registration, such as with the NMC, there are no fitness to practice issues. • Where the designated individual is involved with other service(s) registered with another regulatory body, for example CQC, there are no other factors that would call into question their fitness.
Declarations	Assessment of fitness	<ul style="list-style-type: none"> • The designated individual has declared that all information provided is correct.
RI Questionnaire	Assessment of suitability	<ul style="list-style-type: none"> • All of the questions are complete. • That the designated individual has a satisfactory understanding of their duties under the Regulations and has demonstrated that they are likely to fulfil those duties.
RI Interview	Assessment of suitability	<ul style="list-style-type: none"> • All supplementary questions identified following RI Questionnaire are answered to our satisfaction. • All required documentation (e.g. proof of identity) is supplied. • Any issues of fitness identified have been addressed.
Appointment of Manager	Assessment of suitability	<ul style="list-style-type: none"> • That a manager has been appointed and has the appropriate registration with Social Care Wales. • Where no manager has been appointed satisfactory arrangements are in place for a manager to be appointed prior to the service becoming operational. This will be discussed with the individual at the RI interview.

Compliance with the requirements of the regulations and any other relevant legislation?

What we look at	Why	Our expectation is:
Statement of Purpose (SoP)	To ensure compliance with the Regulations	<ul style="list-style-type: none"> The SoP Complies with Schedule 2 of the Registration Regulations and our Guide to Compiling a Statement of Purpose.
Policies and Procedures	To ensure compliance with the Regulations	<ul style="list-style-type: none"> The applicant makes available a copy of the mandatory policies and procedures required by the Regulations at the registration inspection. The applicant makes available a copy of any additional policies and procedures required in accordance with the type of service, at the registration inspection. All policies and procedures meet the requirements of the Regulations and Statutory Guidance. We have the option to take the copy of the policies and procedures away with us and return them at a later date.
Registration inspection assessment (Annex) – this will include planning/fire/food hygiene etc.	To ensure compliance with the Regulations	<ul style="list-style-type: none"> The premises reflects the floor plan provided as part of the application. The design, layout, facilities and equipment available will support people to achieve their best possible outcomes and promotes and maintains their independence, safety and wellbeing.
Certificate of insurance	To ensure compliance with the Regulations	<ul style="list-style-type: none"> Public liability insurance is in place for the named service, in date and accounts for losses under both public and employers liability.

Proof of ownership or tenancy agreement	To ensure compliance with the Regulations	<ul style="list-style-type: none"> • The applicant has legal right to use the premises for the purpose of providing a regulated service. • Where the applicant is renting or leasing the premises, the agreement has a sufficient notice period, for example for care home services our expectation would be a notice period of 6 months.
Financial Assessment (excl. LA & LHB)	To ensure compliance with the Regulations	<ul style="list-style-type: none"> • There are no concerns in relation to the financial viability of the applicant to provide to service as set out in the application and SoP.

Annex 7. Representations Process



CIW Representations Process

Terminology

“**Regulated service(s)**” – this refers to any of the types of services defined under the Regulation and Inspection of Social Care (Wales) Act 2016 (the Act), such as a care home service or domiciliary support service.

“**Service(s)**” – this refers to an individual service registered under the Act or the Children and Families (Wales) Measure 2010 (the Measure). For example, a care home, child minder or day care provision.

“**Notice**” – refers to a Notice of Intention, Notice of Proposal or an Improvement Notice, unless otherwise stated.

Legal framework

The Regulation and Inspection of Social Care (Wales) Act 2016

The Act requires us to follow a set process depending on the type of action we are proposing to take.

We are required to issue a **Notice of Proposal** in respect of the following actions:

- Refusing an application to register
- Granting an application to register with imposed conditions
- Refusing an application to vary registration conditions (including adding or removing a regulated service or service)
- Imposing conditions on a service provider’s registration
- Varying conditions on a service provider’s registration (excluding variation of responsible individual)
- Responding to a service provider’s application to vary or remove a condition by proposing to vary conditions on different terms or imposing a different condition.

We are required to issue an **Improvement Notice** in respect of the following actions:

- Cancellation of a service provider
- Removing regulated service or service from a service provider’s registration
- Cancelling the designation of a responsible individual

*Note – these procedures do not apply to urgent action taken by us.

The Children and Families (Wales) Measure 2010

We are required to issue a **Notice of Intention** in respect of the following actions:

- Refusing an application to register
- Impose a new condition on a person's registration
- Vary or remove any condition imposed on a person's registration
- Refuse to grant an application for the variation or removal of any such condition
- Cancel a person's registration

Right to make representations

All Notices we issue will set out the action we intend to take, the reason(s) for taking the action and a deadline for the recipient to make representations to us. The timeframe for making representations may vary depending on the circumstances, but in all cases must be a minimum of 28 days from the date the Notice is issued.

Those making representations to us should clearly state this in their communication with us. We will seek to clarify the status of any communications received in response to a Notice, where it is unclear if the person is making representations.

Representations can be made either in writing or orally. The process for both is set out below.

Representations should be submitted with any supporting evidence being relied upon. Failure to do so is likely to affect our consideration of the representations or cause a delay.

Timeframe

Once representations have been received, we aim to respond by issuing a Notice of Decision/Cancellation within 28 days of the deadline for representations elapsing. This is not 28 days after receipt of the representations. If we are not able to respond within 28 days we will notify the recipient of the Notice. In such cases we will issue a Notice of Decision within 56 days of the deadline for representations elapsing and explain the reasons for the delay.

Process

Upon receipt of representations, a Decision Maker will be allocated. The Decision Maker will be someone of an equivalent or senior grade to the inspector who signed the Notice and will have had no involvement with the decision to take the proposed action.

Written representations

These can be submitted by post or email, along with any supporting evidence. Care should be taken to protect the personal or sensitive personal data of individuals at the service.

Oral representations

Those wishing to make oral representations, should notify us of this as soon as practicable. Oral representations will be heard by the Decision Maker at a mutually convenient time and location. This should be within 28 days of notification by the recipient of the Notice that they wish to make oral representations.

The recipient of the notice can attend to make their objections in person or they can arrange for their objections to be made by a representative. It would generally be expected the person would attend with their representative.

If, for any reason, the recipient of the notice does not attend but wishes their representative to proceed to make oral objections in their absence, we require written authorisation from the recipient of the notice to this effect.

The oral representations hearing does not include individuals giving evidence or the calling of witnesses, and there is no provision for the attendance by the inspector or manager responsible for issuing the Notice.

Decision making

The Decision Maker will consider all evidence relevant to the proposed action, including:

- the Notice proposing the action,
- any supporting evidence relied upon for taking the action,
- the representations made by the recipient of the Notice, and
- any supporting evidence supplied by the recipient of the Notice.

As part of reaching their decision, the Decision Maker may request additional information including requesting an inspection of the service(s). The outcome of the inspection will be considered in the form of a draft inspection report. Due to the timescales we must adhere to in considering representations, there is insufficient time to await the publication of the report before considering the outcome of the inspection. Where the Notice is upheld by the Decision Maker and the draft report is challenged by the recipient of the Notice, this should be identified in any appeal made to the Tribunal.

The Decision Maker may seek advice from Legal Services on matters of law and procedure. However, responsibility for the decision rests with the Decision Maker.

Outcomes following a Notice of Proposal

Having reached a decision, the Decision Maker must issue a Notice of Decision setting out their decision and the reason(s) for it. The decisions available to the Decision Maker are:

- to uphold the Notice, or
- to uphold the Representations

Outcomes following an Improvement Notice

Representations made in relation to an Improvement Notice may challenge the grounds upon which a Notice has been issued and/or make the case that the requirements within the Notice have been complied with.

A Decision Maker must firstly consider whether they are satisfied that the grounds for issuing the Notice were valid at the time it was issued. If the Decision Maker is not satisfied that the grounds for issuing the Notice were valid, then the Notice must be withdrawn. The recipient will be informed of this decision in writing.

If the Decision Maker is satisfied that the grounds for issuing the Notice were valid, then they must move on to consider whether the requirement(s) set out in the Notice have been met within the specified timeframe.

If the Decision Maker is satisfied that the requirement(s) set out in the Notice have been met, they must issue a Notice informing the recipient that the proposed action has been withdrawn.

Where the Decision Maker is not satisfied that the requirement(s) set out in the Notice have been met, the available outcomes vary depending on the type of action being proposed.

Where the proposed action is to **cancel the registration of a service provider or to remove a regulated service or service from a service provider's registration** and the Decision Maker is not satisfied that the **information** specified in the Notice has been received, they **must** uphold the Notice.

Where the proposed action is to **cancel the registration of a service provider or to remove a regulated service or service from a service provider's registration** and the Decision Maker is not satisfied that the **action** specified in the Notice has been taken, the Decision Maker can **either**:

- issue a Notice of Decision to uphold the proposed action, or
- issue a Notice informing the service provider that the action has not been taken and set a new date for the action to be taken by. Following this date, an inspection to be undertaken to assess whether the action specified in the original Notice has been taken.

Where the proposed action is to **cancel the designation of a Responsible Individual** and the Decision Maker is not satisfied that the information specified in the Notice has been provided or the action required has not been taken, they **may** issue a Notice of Cancellation. The Notice of Cancellation must be issued to both the Service Provider and Responsible Individual.

Outcomes following a Notice of Intention

Having reached a decision, the Decision Maker must issue a Notice of Decision setting out their decision and the reason(s) for it. The decisions available to the Decision Maker are:

- to uphold the Notice, or
- to uphold the Representations

Appeals

Where there is a right of appeal to the Health and Social Care Tribunal, this will be clearly stated on the Notice of Decision.

Annex 8. Regulated Services under the Act

Care home services

(1) A “*care home service*” is the provision of accommodation, together with nursing or care at a place in Wales, to persons because of their vulnerability or need.

(2) But accommodation together with nursing or care provided at the following places does not constitute a care home service—

- (a) a hospital;
- (b) a school (but see sub-paragraph (3));
- (c) a residential family centre;
- (d) a place providing a secure accommodation service;
- (e) a place providing accommodation for an adult arranged as part of an adult placement service.

(3) Accommodation together with nursing or care provided at a school does constitute a care home service if, at the time accommodation is provided for children at the school—

- (a) accommodation has been provided at the school or under arrangements made by the school's proprietor for at least one child for more than 295 days in any period of 12 months falling within the previous 24 months, or
- (b) such accommodation is intended to be provided for at least one child for more than 295 days in any period of 12 months falling within the following 24 months.

(4) The provision of accommodation and care to a child by a parent, relative or foster parent does not constitute a care home service.

(5) In sub-paragraph (2)(b), “*school*” has the meaning given by section 4 of the Education Act 1996 (c.56).

(6) In sub-paragraph (4), “*parent*” means a person who has parental responsibility for a child (within the meaning given by section 3 of the Children Act 1989 (c.41)).

(7) For the purposes of sub-paragraph (4) a person is a foster parent in relation to a child if the person—

- (a) is a local authority foster parent, or
- (b) fosters the child privately.

Secure accommodation services

A “*secure accommodation service*” is the provision of accommodation for the purpose of restricting the liberty of children at residential premises in Wales where care and support is provided to those children.

Residential family centre services

- (1) A “*residential family centre service*” is the provision of accommodation for children and their parents at a place in Wales where—
- (a) the parents’ capacity to respond to the children's needs and to safeguard their well-being is monitored or assessed, and
 - (b) the parents are given such care and support as is thought necessary.
- (2) In sub-paragraph (1), “*parent*” in relation to a child, means any person who is looking after the child.

Adoption services

- An “*adoption service*” is a service provided in Wales by—
- (a) an adoption society within the meaning of the Adoption and Children Act 2002 (c.38) which is a voluntary organisation within the meaning of that Act, or
 - (b) an adoption support agency within the meaning given by section 8 of that Act.

Fostering services

- A “*fostering service*” means any service provided in Wales by a person other than a local authority which consists of or includes—
- (a) the placement of children with local authority foster parents, or
 - (b) exercising functions in connection with such placement.

Adult placement services

- (1) An “*adult placement service*” means a service carried on (whether or not for profit) by a local authority or other person for the purposes of placing adults with an individual in Wales under a carer agreement (and includes any arrangements for the recruitment, training and supervision of such individuals).
- (2) In sub-paragraph (1) “*carer agreement*” means an agreement for the provision by an individual of accommodation at the individual's home together with care and support for up to three adults.

Advocacy services

- (1) An “*advocacy service*” is a service specified for the purposes of this paragraph by regulations made by the Welsh Ministers.
- (2) A service may be specified as an advocacy service only if, and to the extent that, the following requirements are satisfied in relation to the service.
- (3) The first requirement is that the service is a service which is carried on (whether or not for profit) for the purpose of representing the views of individuals, or assisting individuals to represent those views, in respect of matters relating to those individuals’ needs for care and support (including matters relating to assessing whether those needs exist).

(4) The second requirement is that the service is not carried on by a person, in the course of a legal activity (within the meaning of the Legal Services Act 2007 (c.29)), who is—

- (a) an authorised person for the purposes of that Act, or
- (b) a European lawyer (within the meaning of the European Communities (Services of Lawyers) Order (S.I. 1978/1910)).

(5) Before making regulations under sub-paragraph (1) the Welsh Ministers must consult any persons they think appropriate.

(6) But the requirement to consult does not apply to regulations which—

- (a) amend other regulations made under that sub-paragraph, and
- (b) do not, in the opinion of the Welsh Ministers, effect any substantial change in the provision made by the regulations to be amended.

Domiciliary support services

(1) A “*domiciliary support service*” is the provision of care and support to a person who by reason of vulnerability or need (other than vulnerability or need arising only because the person is of a young age) is unable to provide it for him or herself and is provided at the place in Wales where the person lives (including making arrangements for or providing services in connection with such provision).

(2) But the provision of care and support does not constitute a domiciliary support service if—

- (a) it is provided by an individual without the involvement of an undertaking acting as an employment agency or employment business (within the meaning given to those expressions by section 13 of the Employment Agencies Act 1973 (c.35)), and who works wholly under the direction and control of the person receiving the care and support, or
- (b) it is provided—
 - (i) at a place where a care home service, secure accommodation service, residential family centre service or accommodation arranged as part of an adult placement service is provided, or
 - (ii) at a hospital.

(3) A person who introduces individuals who provide a domiciliary support service to individuals who may wish to receive it but has no ongoing role in the direction or control of the care and support provided is not to be treated as providing a domiciliary support service (regardless of whether or not the introduction is for profit).

Annex 9. Registration Exemptions under the Regulated Services (Service Providers and Responsible Individuals) (Wales) Regulations 2017

Care home services

(1) The following things are not to be treated as a care home service, despite paragraph 1 of Schedule 1 to the Act (regulated services: definitions, care home services)—

- a) the provision of accommodation, together with nursing or care, to an adult—
 - i) in the course of a family or personal relationship, and
 - ii) for no commercial consideration;
- b) the provision of accommodation, together with nursing or care, to adults for a period of less than 28 days in any 12 month period or for a number of periods which in total are less than 28 days in any 12 month period;
- c) the provision of accommodation, together with nursing, where the accommodation is vested—
 - i) in the Welsh Ministers for the purposes of their functions under the National Health Service (Wales) Act 2006;
 - ii) in an NHS trust;
 - iii) in a Local Health Board.
- d) the provision of accommodation, together with care, where the accommodation is provided—
 - i) by an institution within the further education sector; or
 - ii) by a university.
 - iii) But this exception does not apply if the number of persons to whom such accommodation is provided is more than one tenth of the number of students to whom it provides both education and accommodation.
 - iv) For the purposes of this paragraph, “further education sector” (“*sector addysg bellach*”) has the same meaning as in section 91(3) of the Further and Higher Education Act 1992;
- e) the provision of accommodation, together with care, where the accommodation provided constitutes day care for children, within the meaning of section 19(3) of the Children and Families (Wales) Measure 2010.
 - i) But this exception does not apply if—
 - ii) in any 12 month period there are 28 or more periods of 24 hours during which more than 15 hours of day care are provided in relation to any one child (whether or not the child is aged under 12);
 - iii) the accommodation is provided to a disabled child.
- f) the provision of accommodation, together with care, where the accommodation is provided for children aged 16 and over only for the purposes of enabling the children to undergo training or an apprenticeship.
 - i) But this exception does not apply if the accommodation is provided to a disabled child;
- g) the provision of accommodation, together with care, where the accommodation is provided to children at an approved bail hostel or approved probation hostel;

- h) the provision of accommodation, together with care, where the accommodation is an institution for young offenders provided under or by virtue of section 43(1) of the Prison Act 1952;
- i) the provision of accommodation, together with care, where the accommodation is provided to children because of their vulnerability or need for the purposes of—
 - i) a holiday;
 - ii) a leisure, recreational, sporting, cultural or educational activity;

But this exception does not apply—

- i) in any case where the accommodation is provided to a disabled child;
- ii) if the accommodation is provided to any one child for more than 28 days in any 12 month period, unless the accommodation is only provided to children over the age of 16.

(2) For the purposes of paragraph (1)(j) of this regulation, a child is “disabled” if the child has a disability for the purposes of the Equality Act 2010.

Domiciliary support services

(1) The following things are not to be treated as a domiciliary support service, despite paragraph 8 of Schedule 1 to the Act (regulated services: definitions, domiciliary support services)—

- a) the provision of support only;
- b) the provision of care and support to four or fewer named individuals at any one time;
- c) the provision of care and support for an adult—
 - i) in the course of a family or personal relationship, and
 - ii) for no commercial consideration;
- d) the provision of care and support for a child by a parent, relative or foster parent;
- e) the provision of care and support by a carer where such care and support is provided without the involvement of an undertaking acting as an employment agency or employment business (within the meaning given to those expressions by section 13 of the Employment Agencies Act 1973), and where the carer works wholly under the direction and control of a related third party;
- f) arrangements for the supply of carers to a service provider by an undertaking acting as an employment agency or employment business for the purpose of the provision of a regulated service by the service provider;
- g) the provision of care and support where the care and support is provided by a person managing a prison or other similar custodial establishment.

(2) In paragraph (1)(e) and (f), “carer” means an individual who provides care to a person referred to in paragraph 8(1) of Schedule 1 to the Act.

(3) In paragraph (1)(e), “related third party” means—

- a) an individual with parental responsibility (within the meaning of section 3 of the Children Act 1989) for a child to whom care and support is to be provided;

- b) an individual with power of attorney or other lawful authority to make arrangements on behalf of the individual to whom care and support is to be provided;
- c) a group of individuals mentioned in either of sub-paragraphs (a) or (b) making arrangements on behalf of no more than four named individuals to whom care and support is to be provided;
- d) a trust established for the purpose of providing services to meet the care and support needs of a named individual.

Residential family centre services

(1) The following things are not to be treated as a residential family centre service, despite paragraph 3 of Schedule 1 to the Act (regulated services: definitions, residential family centre services) —

- a) the provision of accommodation for children and their parents where the accommodation is provided in a hospital⁽²⁾;
- b) the provision of accommodation for children and their parents where the accommodation is provided in a hostel or a domestic violence refuge;
- c) in any other case, the provision of accommodation for children and their parents the main purpose of which is the provision of accommodation together with other services and facilities to adult individuals and the fact that those individuals may be parents, or may be accompanied by their children, is incidental to the main purpose of the provision of the accommodation.

⁽²⁾ “Hospital” is defined in paragraph 9 of Schedule 1 to the Act and includes an independent clinic.

Annex 10. Responsible individual Eligibility (s.21 of the Act)

- (1) In this Part, “*responsible individual*” means an individual—
- (a) who is eligible to be a responsible individual under subsection (2),
 - (b) who the Welsh Ministers are satisfied is a fit and proper person to be a responsible individual (see section 9), and
 - (c) designated by a service provider in respect of a place at, from or in relation to which the provider provides a regulated service and specified as such in the service provider's registration.
- (2) To be eligible to be a responsible individual the individual must—
- (a) where the service provider is an individual, be the service provider;
 - (b) where the service provider is a partnership, be one of the partners;
 - (c) where the service provider is a body corporate other than a local authority—
 - (i) be a director or similar officer of the body,
 - (ii) in the case of a public limited company, be a director or company secretary, or
 - (iii) in the case of a body corporate whose affairs are managed by its members, be a member of the body;
 - (d) where the service provider is an unincorporated body, be a member of the body;
 - (e) where the service provider is a local authority, be an officer of the local authority designated by the authority's director of social services.
- (3) For the purposes of subsection (2)(e), a local authority's director of social services may designate an officer only if the director thinks that the officer has the necessary experience and expertise to be a responsible individual.
- (4) The same responsible individual may be designated in relation to more than one place at, from or in relation to which a regulated service is provided.

Annex 11. Fit and proper person test (s.9 of the Act)

- (1) This section applies to any decision of the Welsh Ministers as to whether—
- (a) a service provider,
 - (b) a person applying to be a service provider,
 - (c) a responsible individual, or
 - (d) a person to be designated as a responsible individual,
- is a fit and proper person to be a service provider or, as the case may be, a responsible individual.
- (2) In making such a decision the Welsh Ministers must have regard to all matters they think appropriate.
- (3) In particular, the Welsh Ministers must have regard to any evidence falling within subsections (4) to (8).
- (4) Evidence falls within this subsection if it shows that the person has—
- (a) committed—
 - (i) any offence involving fraud or other dishonesty, violence, firearms or drugs or any offence listed in Schedule 3 to the Sexual Offences Act 2003 (c.42) (offences attracting notification requirements),
 - (ii) an offence under this Act or regulations made under it,
 - (iii) an offence under Part 2 of the Care Standards Act 2000 (c.14) or regulations made under it, or
 - (iv) any other offence which the Welsh Ministers think is relevant, or
 - (b) practised unlawful discrimination or harassment on the grounds of any characteristic which is a protected characteristic under section 4 of the Equality Act 2010 (c.15), or victimised another person contrary to that Act, in or in connection with the carrying on of any business.
- (5) Evidence is within this subsection if—
- (a) it shows that any other person associated or formerly associated with the person (whether on a personal, work or other basis) has done any of the things set out in subsection (4), and
 - (b) it appears to the Welsh Ministers that the evidence is relevant to the question as to whether the person is a fit and proper person to be a service provider or, as the case may be, a responsible individual.
- (6) Evidence is within this subsection if it shows that the person has been responsible for, contributed to or facilitated misconduct or mismanagement in the provision—
- (a) of a regulated service or a service provided outside Wales which, if provided in Wales, would be a regulated service;
 - (b) of a service which would have fallen within paragraph (a) had the regulatory system established by this Part been operating at the time the service was being provided.

(7) When having regard to evidence within subsection (6), the Welsh Ministers must, among other things, take account of—

- (a) the seriousness and duration of the misconduct or mismanagement;
- (b) harm caused to any person, or any evidence of an intent to cause harm;
- (c) any financial gain made by the person;
- (d) any action taken by the person to remedy the misconduct or mismanagement.

(8) Evidence is within this subsection if it shows that the person has previously failed to comply with—

- (a) an undertaking given under section 7(1)(a)(ii) or 11(3)(a)(ii),
- (b) a condition imposed under this Part, or
- (c) a requirement imposed by regulations under section 27(1) or 28(1).

(9) The Welsh Ministers may by regulations amend this section to vary the evidence to which they must have regard.

Annex 12. Glossary of terms

Disclosure and Barring Service (DBS)

Datgelu a Gwahardd Gwasanaeth

The Disclosure and Barring Service (DBS) helps employers make safer recruitment decisions and prevent unsuitable people from working with vulnerable groups, including children. A standard DBS check will show any unspent convictions, warnings and reprimands. An enhanced DBS check will show all cautions, warnings and reprimands, as well as spent and unspent convictions. It can also search the children and vulnerable adults 'barred list' to see if the applicant is prohibited from working with these groups. Local police can add any relevant information about the applicant.

Enforcement

Gorfodi

A range of actions taken by CSSIW against a service provider who does not comply with regulatory requirements or the conditions of their registration. This can range from the issuing of non-compliance notices to cancellation of a service provider's registration.

Fit and proper person

Person addas a phriodol

Someone deemed by the Welsh Ministers to be eligible and suitable for the role of service provider or responsible individual. See Annex 5 for the full test.

Inspection

Arolygu

This is when the inspectorate checks and assesses the standard of care and support provided by a service provider in the course of providing a regulated service.

Legal entity

Endid cyfreithiol

This means an individual, company, or organisation that has legal rights and obligations.

Regulation and Inspection of Social Care (Wales) Act 2016 ("the Act")

Rheoleiddio ac Arolygu Deddf 2016 Gofal Cymdeithasol (Cymru)

Legislation introducing a new system of service regulation and inspection that will come into force in April 2018 and be fully implemented and operational by April 2019

Regulations

Rheoliadau

Sets out the requirements that providers and responsible individuals must meet in order to register and operate a service.

Regulated service(s)

Gwasanaeth(au) rheoleiddiedig

This refers to any of the types of services defined under the Act, such as a care home service or domiciliary support service.

Responsible individual (RI)

Unigolyn cyfrifol

A person designated by a service provider to act on their behalf in relation to a registered service(s).

Service

Gwasanaeth

This refers to an individual service. For care homes this would be a care home, carried out at a specific location. For domiciliary support services this would be an individual service, carried out in a specific area.

Social Care Wales

Gofal Cymdeithasol Cymru

Social Care Wales is the social care workforce regulator in Wales. It sets standards for, and develops the social care workforce; making them accountable for their work and provides information on care and support for the public, the workforce and other organisations.

Statement of Purpose

Datganiad o ddiben

The Statement of Purpose is the key document which sets out your visions for the service and how you intend to meet the needs of the people using it.

For more information on what the Statement of Purpose must contain, please see our [guidance](#) on compiling a Statement of purpose.

The Act

Y Ddeddf

The Regulation and Inspection of Social Care (Wales) Act 2016.

The 2014 Act

Deddf 2014

The Social Services and Well-being (Wales) Act 2014. This legislation is the legal framework for improving the well-being of people who need care and support, and carers, and for transforming social services in Wales