

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

## Code of Practice for Inspection of Regulated Services

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

## Contents

<b>1. Introduction .....</b>	<b>2</b>
<b>2. The Code of Practice.....</b>	<b>4</b>
<b>3. Rights-based approach to inspection .....</b>	<b>5</b>
<b>4. The inspection process .....</b>	<b>7</b>
<b>5. Types of inspection.....</b>	<b>13</b>
<b>6. Scheduling of inspections.....</b>	<b>15</b>
<b>7. Conduct during inspection.....</b>	<b>17</b>
<b>8. Feedback at and reporting of inspection .....</b>	<b>19</b>
<b>9. Improving the quality of services .....</b>	<b>22</b>
<b>10. Information .....</b>	<b>23</b>
<b>11. Terminology used in this Code.....</b>	<b>25</b>
<b>12. References .....</b>	<b>26</b>

# 1. Introduction

## About us

1.1 Care Inspectorate Wales (CIW) is the independent regulator of social care and childcare. We register, inspect and take action to improve the quality and safety of services for the well-being of the people of Wales.

1.2 We aim to:

- provide independent assurance about the quality and availability of social care in Wales;
- safeguard adults and children, making sure that their rights are protected;
- improve care by encouraging and promoting improvements in the safety and quality of social care services; and
- inform policy, standards and provide independent professional advice to the people developing policy, the public and social care sector.

1.3 We achieve this by:

- carrying out functions on behalf of Welsh Ministers;
- deciding who can provide services;
- inspecting and driving improvement of regulated services and local authority social services;
- undertaking thematic reviews of social care services;
- taking action to ensure services meet legislative and regulatory requirements; and
- follow-up on concerns raised about regulated services.

1.4 We carry out our functions on behalf of Welsh Ministers under the following legislation:

- The Health and Social Care (Community Health and Standards) Act 2003 (the 2003 Act)<sup>1</sup> which gives powers to review the way in which local authorities discharge their social services functions; and The Care Standards Act 2000 (the 2000 Act)<sup>2</sup>, The Children Act 1989 (as amended)<sup>3</sup>, Adoption and Children Act 2002<sup>4</sup> and the Children and Families (Wales) Measure 2010<sup>5</sup> which give powers to register and inspect providers of social care services in Wales.

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<sup>1</sup> <http://www.legislation.gov.uk/ukpga/2003/43/contents>

<sup>2</sup> <http://www.legislation.gov.uk/ukpga/2000/14/contents>

<sup>3</sup> [www.opsi.gov.uk/acts/acts1989/Ukpga19890041en1.htm](http://www.opsi.gov.uk/acts/acts1989/Ukpga19890041en1.htm)

<sup>4</sup> [www.opsi.gov.uk/legislation/wales/wsi2003/20030181e.htm](http://www.opsi.gov.uk/legislation/wales/wsi2003/20030181e.htm)

<sup>5</sup> [www.legislation.gov.uk/mwa/2010/1/contents](http://www.legislation.gov.uk/mwa/2010/1/contents)

- In January 2016, the Regulation and Inspection of Social Care (Wales) Act 2016 (the 2016 Act)<sup>6</sup> was passed. This Act changed the regulation and inspection of social care in Wales. The 2016 Act replaces the powers under the 2003 Act and the 2000 Act and inserts provisions in the Social Services and Well-being (Wales) Act 2014 (the 2014 Act), which deal with the regulation of the exercise of local authority functions relating to looked after and accommodated children.

1.5 The 2016 Act places service quality and improvement at the heart of regulation, strengthening protection for those who need it, and ensures that services deliver high-quality care and support. This supports the aims of the Social Services and Well-being (Wales) Act 2014<sup>7</sup> which enshrines the rights of people using care and support services in Wales into law.

### **How we regulate**

- 1.6 Our primary concern is to ensure that people using services are supported to achieve the best possible outcomes and are not placed at risk or do not experience harm. In order to achieve this we:
- have a robust registration process, so that we only register service providers who have assured us that they will comply with regulations;
  - undertake both routine and responsive inspections; and
  - have a clear, progressive and proportionate enforcement pathway.

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<sup>6</sup> [www.legislation.gov.uk/anaw/2016/2/contents/enacted](http://www.legislation.gov.uk/anaw/2016/2/contents/enacted)

<sup>7</sup> [www.legislation.gov.uk/anaw/2014/4/pdfs/anaw20140004en.pdf](http://www.legislation.gov.uk/anaw/2014/4/pdfs/anaw20140004en.pdf)

## 2. The Code of Practice

### The purpose of the Code of Practice

- 2.1 This Code of Practice (CoP) is a requirement under Section 33 of the 2016 Act. It describes our approach to how we will inspect those services regulated under the 2016 Act, including the frequency in which these services will be inspected. It also sets out the principles guiding our inspection work. Inspectors are required to have regard to the guidance in the CoP and be able to explain how they have taken it into account when undertaking an inspection.
- 2.2 The CoP informs everyone about how care and support services are inspected in Wales. This includes, people using services, their families, friends and carers, as well as providers of care and support services, commissioners of those services and members of the public.

### Which services does the CoP apply to?

- 2.3 The CoP only applies to those services that are regulated under the 2016 Act. These are:

- |   |                 |
|---|-----------------|
| <ul style="list-style-type: none"><li>• care homes (adults/children);</li><li>• secure accommodation;</li><li>• residential family centre;</li><li>• domiciliary support;</li></ul> | From April 2018 |
| <ul style="list-style-type: none"><li>• adoption;</li><li>• fostering;</li><li>• adult placement; and</li><li>• advocacy.</li></ul>   | From April 2019 |

### 3. Rights-based approach to inspection

- 3.1 We ensure that respect, diversity, promoting equality and upholding people's rights are embedded within our work. The Human Rights Act 1998<sup>8</sup>, The Equality Act 2010<sup>9</sup> the United Nations Convention on the Rights of the Child (UNCRC)<sup>10</sup> the United Nations Convention on the Rights of Persons with Disabilities<sup>11</sup> the United Nations Principles for Older Persons and the Welsh Government's Action on Independent Living Framework are reflected in our frameworks for inspection. We consider how service providers promote peoples' rights by considering how services ensure that people:
- have choice and control;
  - are safe;
  - are treated with respect;
  - have a voice; and
  - are helped to develop their full potential.
- 3.2 Further information on our commitment to promoting and upholding the rights of people who use care and support services is set out in our <sup>12</sup>Human Rights guidance document.
- 3.3 We take account of all relevant statutory frameworks and safeguarding policies and procedures when considering whether people using the service are safe. If during the inspection process we see care practice which demonstrates that people using the service are not safe or protected from harm, we will take enforcement action as well as make a safeguarding referral to the local authority. We will ensure that measures are put in place to safeguard people using the service.
- 3.4 Where people lack capacity, we will explore the extent to which providers of services adhere to the principles of the Mental Capacity Act 2005<sup>13</sup> and The Deprivation of Liberty Safeguards (DoLS)<sup>14</sup>.
- 3.5 The Welsh Language Standards<sup>15</sup> further support us in implementing a rights-based approach. We use the principles of the Standards during our inspections, this helps us ensure that people have a right to access a service in Welsh, if they so wish. The Standards support people who are Welsh

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<sup>8</sup> [www.equalityhumanrights.com/en/human-rights/human-rights-act](http://www.equalityhumanrights.com/en/human-rights/human-rights-act)

<sup>9</sup> [www.gov.uk/guidance/equality-act-2010-guidance](http://www.gov.uk/guidance/equality-act-2010-guidance)

<sup>10</sup> [www.gov.uk/government/publications/united-nations-convention-on-the-rights-of-the-child-uncrc-how-legislation-underpins-implementation-in-england](http://www.gov.uk/government/publications/united-nations-convention-on-the-rights-of-the-child-uncrc-how-legislation-underpins-implementation-in-england)

<sup>11</sup> <https://www.equalityhumanrights.com/en/our-human-rights-work/monitoring-and-promoting-un-treaties/un-convention-rights-persons-disabilities>

<sup>12</sup> <http://careinspectorate.wales/docs/cssiw/general/170309humanrightsen.pdf>

<sup>13</sup> [www.legislation.gov.uk/ukpga/2005/9/contents](http://www.legislation.gov.uk/ukpga/2005/9/contents)

<sup>14</sup> [www.gov.uk/government/publications/deprivation-of-liberty-safeguards-forms-and-guidance](http://www.gov.uk/government/publications/deprivation-of-liberty-safeguards-forms-and-guidance)

<sup>15</sup> [www.legislation.gov.uk/wsi/2015/996/schedule/1/made](http://www.legislation.gov.uk/wsi/2015/996/schedule/1/made)

speaking to have services provided in Welsh, when they need it, without them having to ask for it.

Some examples might include:

- Welsh speaking staff supporting people who speak Welsh;
- Welsh language signage to help orientate Welsh speakers; or
- information about the service provided in Welsh for those who want it.

Alongside reviewing how services implement the Welsh Language Standards we have an active offer, which includes providing Welsh speaking inspectors for services where Welsh is the main language of choice.

## 4. The inspection process

### Why do we inspect

4.1 Inspection is a core activity of CIW and helps ensure that people accessing care and support services are safe, their well-being is promoted and their rights are upheld. It is how we drive continual improvement in the social care sector and check that providers of services are meeting their statutory duties.

### The principles of inspection

4.2 The work of inspection is guided by the following principles.

- **Being people-focused** – inspectors put people who use regulated services at the centre of their work, and assess services in terms of outcomes for people’s safety, well-being and rights.
- **Supporting improvement** – inspectors make judgements about services. We commend good practice, identify poor practice and promote improvement in care and support services.
- **Being transparent** – inspectors are open about the information they have used to inform their inspections, reports are clear and inform people about what we can expect from services.
- **Being fair and impartial** – inspectors base their inspections on evidence; this includes observations, speaking to people and information we read. We provide prompt feedback to the service provider about what we have found including areas of strength and where improvements are required. We give them the opportunity to address any concerns, provide further information and question any matters that are not correct.
- **Being robust** – inspectors take firm and timely action when services provide poor care or place people at risk.
- **Being proportionate** – inspectors focus on matters that directly affect people’s safety, well-being and rights. We apply our enforcement powers when we see that care services are failing in these areas.
- **Being consistent** – inspectors apply the same principles and undertake the same approach to all services and providers that we inspect.

## How we inspect

4.3 Inspections consist of four key stages including:

- inspection planning/preparation;
- the inspection visit;
- feedback; and
- reporting.

4.4 We hold a considerable amount of information on services through our registration and inspection processes as well as obtaining information from other intelligence sources. This helps us to determine the type and frequency of inspection required for a particular service. We use this information to plan and inform what we want to focus on when we visit the service and any specific measures we need to consider for engaging with the people using the service or staff. For example, where individuals have communication needs, the inspector can consider and plan for how they will engage with these individuals in line with our principles of inspection.

4.5 During an inspection visit, inspectors will seek three broad types of evidence.

- **What is said** - inspectors engage with and listen to people using services, along with their relatives, friends and carers, and talk to them about their experience of care. We also talk to providers, relevant professionals and staff working at the service. Where people are unable to communicate directly with us, we may use a specialist inspection tool (SOFI)<sup>16</sup>, where it is appropriate to do so, to observe and draw conclusions about how individuals are supported.
- **What is seen** - inspectors observe interactions that take place between people giving and receiving care and support during the course of the visit. We also observe the physical environment in which care and support is provided, and assess the degree to which it is safe and suitable for the purpose intended.
- **What is read** - inspectors consult written records, policy documents and other material in the course of the visit, seeking to confirm that they are comprehensive and up-to-date, and that they demonstrate how suitable processes are put into practice.

4.6 Inspectors make notes during the inspection, which inform our inspection reports. They may also ask for copies of documents, request that information be sent to them and remove records where required. When we remove original copies of individual care records and the information is still

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<sup>16</sup> A short observational framework for inspection (SOFI) used by inspectors to capture the experiences of people who use services who may not be able to express this for themselves.

required to inform staff how to support people, copies of the information will be provided to the service to ensure continuity and safety.

- 4.7 If the inspection visit is as a result of taking enforcement action and the inspector needs to seize information under 2016 Act<sup>17</sup>, we will inform the service provider of this and what it means. Where an inspector seizes and removes evidence they will do so having regard to the Police and Criminal Evidence Act 1984 (PACE)<sup>18</sup>.
- 4.8 After the inspection visit the service provider will be given feedback which will allow them the opportunity to challenge our findings and provide additional evidence in support of that challenge.
- 4.9 Subsequently the inspector's findings, supporting evidence and conclusions will be developed into an inspection report, which will be made publicly available once the service provider has had opportunity to comment.

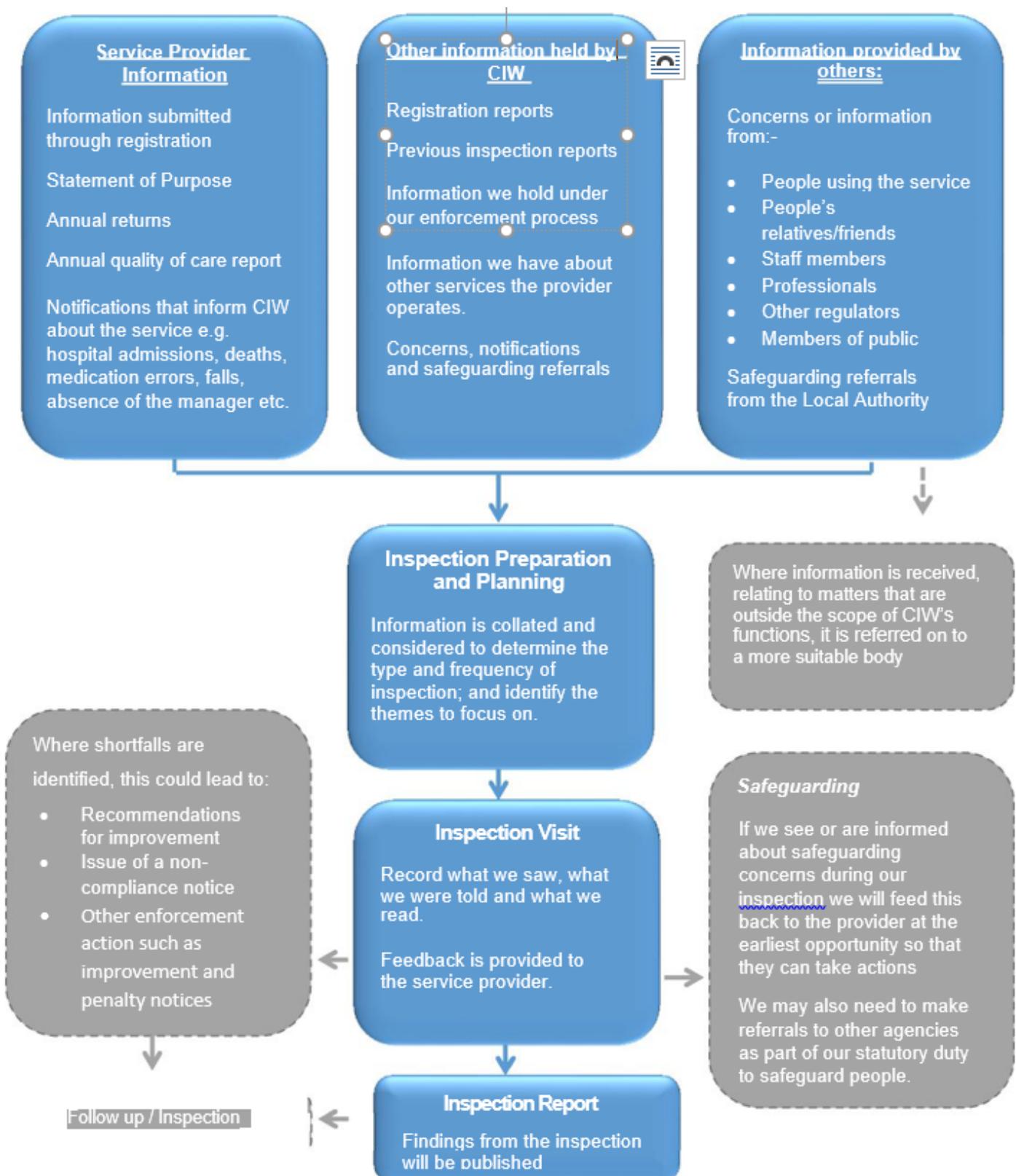
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<sup>17</sup> Section 34(4)(d) - <http://www.legislation.gov.uk/anaw/2016/2/section/34/enacted>

<sup>18</sup> [www.legislation.gov.uk/ukpga/1984/60/contents](http://www.legislation.gov.uk/ukpga/1984/60/contents)

## How information is considered throughout the inspection process

4.10 The following diagram demonstrates what information is used throughout the inspection process and what we do with it:



## When will services be inspected?

- 4.11 The 2016 Act allows us to inspect regulated services at any time and on any day. The frequency of inspection for different service types is set out in section 6.
- 4.12 Our inspections will usually be unannounced, however for some service types e.g. fostering services, adoption services, advocacy services and domiciliary support services we may give the provider a short period of notice where it is appropriate to do so. This is because the views of people using the service are critical to our inspections and for these service types, we need to plan visits in advance.

## Focus of inspection

- 4.13 To understand people's experiences of care, the focus of our inspections is on the quality and safety of services and the outcomes for the people using services. Therefore we consider the following themes during inspections:-

Assessment theme	What inspectors evaluate
<b>Well-being:</b> the well-being of individuals receiving care and support.	Inspectors evaluate the extent to which outcomes are being achieved.
<b>Care and support:</b> the quality of care and support staff provide.	Inspectors evaluate the degree to which people receive a high-quality service which reflects best practice, is provided by staff who have the appropriate knowledge and skills and supports people to achieve the best possible outcomes.
<b>Environment:</b> the physical setting in which care and support is provided. <i>This theme does not apply to regulated service types that do not provide accommodation.</i>	Inspectors evaluate the degree to which outcomes for people are supported by surroundings that are safe, clean, accessible, comfortable, welcoming, well-maintained, stimulating, and suitably equipped and furnished.
<b>Leadership and management:</b> organisational arrangements for the provision of care and support.	Inspectors evaluate the degree to which organisational arrangements provide assurance for the delivery of high quality services, by motivated staff in a well led and managed service.

4.14 The number of themes considered will be dependent upon the type of inspection undertaken, as described in section 5. To support a consistent approach to the inspection process, we have developed inspection frameworks for each regulated service that focuses on outcomes and what good looks like.

4.15 These inspection frameworks are accessible on the 'providing a care service' area of our website<sup>19</sup>.

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<sup>19</sup> <https://careinspectorate.wales/providing-a-care-service/our-inspections>

## 5. Types of inspection

- 5.1 All providers must register any service(s) they deliver in Wales that is regulated under the 2016 Act as part of a single registration. As a result we can undertake inspections of the individual service(s) or the regulated service pertaining to that registration or undertake an inspection of the service provider as a whole. The following sets out the different types of inspections.

### Full inspection

- 5.2 Full inspections involve in-depth consideration of all four themes. In the case of services that do not provide accommodation, environment is not considered.
- 5.3 The first full inspection takes place approximately six months after a provider is registered and/or begins providing services at or from a particular location.
- 5.4 It is an opportunity for inspectors to check that providers are adhering to legislative and regulatory requirements, and are meeting the conditions of their registration. After the first full inspection, services will receive further full inspections in line with the frequency set out in section 6.

### Focused inspection

- 5.5 Focused inspections are usually carried out in response to a specific concern, or to follow-up on regulatory breaches or other issues identified at a previous inspection. Focused inspections are generally shorter than full inspections, and will not necessarily cover all four themes. However, a focused inspection will always cover the theme of 'well-being'.
- 5.6 Where the follow-up inspection is in regards to a previously identified regulatory breach, the follow-up inspection will usually take place within 6 months of that previous inspection. However the timing of that inspection will be based on the judgement of the inspector in considering the severity of the regulatory breach and the time required by the provider to address the issue(s).

### Provider inspection

- 5.7 Where a service provider is delivering regulated services at or from a number of places, we will maintain oversight of all the services delivered by the provider. Where we identify patterns or high volumes of non-compliance, concerns or safeguarding issues in a number of services, this may trigger a provider inspection.
- 5.8 Provider inspections will look specifically at the corporate governance and management arrangements of the service provider. Depending on the circumstances this may also include an inspection of all the services within the provider's portfolio, focusing on specific areas of concern. These

inspections of the individual services will normally be focused inspections, but could be full inspections depending on the circumstances.

- 5.9 To ensure the regulator has sufficient oversight of larger service providers (those with five or more registered services within its portfolio), we will nominate a senior manager who has responsibility for engaging with the provider and overseeing the performance of all their services. This may include regular meetings with the provider to discuss performance, provider development, improvement work etc.

### **Thematic inspections**

- 5.10 Thematic inspections focus on certain areas of practice across the social care sector. For example, this could include reviewing care practice in learning disability residential homes, medication practice in care homes or dementia care. This enables us to have an understanding of, report on and make recommendations in relations to specific care practices across Wales.

### **Length of inspections**

- 5.11 The size and complexity of the service will determine how long the inspection should be and the number of inspectors present. A small service where there are no concerns will normally be inspected by one inspector over the course of one day. A service that is large or has complex issues could result in more than one inspector being present and could take longer than one day. As part of the inspection we have discussions with people using the service, their representatives and staff. We may do this separately to the site visit for example when we visit people receiving domiciliary support services.

## 6. Scheduling of inspections

- 6.1 When a provider has registered with us, we will ensure each service(s) pertaining to that registration is monitored through a rolling programme of scheduled inspections. Information received between scheduled inspections will also be monitored. The information gathered through this monitoring process informs us how the service(s) is performing and when a subsequent inspection should be scheduled.
- 6.2 Our approach to identifying when an inspection should be scheduled is based on:
- our consideration of the risks associated with that type of service and
  - knowledge of how that specific service is operating.
- 6.3 We use an evidence based approach to prioritise risks and make decisions about how we regulate services. There are a range of factors that will be considered to inform our scheduling of inspections that include but are not limited to:
- incoming concerns and safeguarding referrals - these can be predictive of risk to people using the service;
  - if the service is a newly registered service - some newly established services can be of greater risk during the initial set up period;
  - if the service has been issued with a non-compliance notice or where there is a history of non-compliance with legal requirements;
  - if there is an absent manager/vacant manager post and/or absent Responsible Individual for more than three months - this may impact on the safe operation of the service; and
  - if the service or provider is deemed to be a 'service/provider of concern' within our enforcement pathway.
- 6.4 In order to determine the frequency of inspection we have developed a scheduling model that captures and weighs the factors listed above. Our scheduling model will use the available information to identify whether a service requires a **routine**, **early** or **priority** inspection. However the scheduling model is only a tool used for the specific purpose of scheduling an inspection. The quality of the service is determined at inspection.
- 6.5 Table 1 sets out the scheduling of inspections for different types of services and the intervals that could be expected if a service is identified as requiring a routine, early or priority inspection.

**Table 1: Inspection intervals**

Type of regulated service	Maximum interval between inspections		
	Routine	Early	Priority
Children's homes and secure accommodation.	12 months	N/A	6 months
Care homes adults	18 months	12 months	6 months
Care homes providing care for people assessed as requiring 24 hour nursing care	12 months	N/A	6 months
Domiciliary support	18 months	12 months	6 months
Adult placement	48 months	12 months	6 months
Residential family centres	48 months	12 months	6 months
Advocacy	48 months	12 months	6 months
Adoption	48 months	12 months	6 months
Fostering	48 months	12 months	6 months

6.6 The timescales for inspection, set out in the table, are based on maximum intervals between inspections. For example, a newly registered care home service could be identified as requiring a priority inspection in order to have a full inspection 6 months after it has been registered. If following that first full inspection the service is fully compliant with legislative and statutory requirements as well as its own conditions of registration, then the service could be identified as requiring a routine inspection thereafter (subject to ongoing performance).

6.7 It is important to note that we may undertake a focused inspection at any time in response to incoming concerns, notifications and safeguarding referrals.

## 7. Conduct during inspection

### Inspectors

7.1 Inspectors employed by CIW have come from a variety of professional backgrounds within health and social care; many have previously worked as nurses, social workers, teachers or as registered managers of care services. However all inspectors are civil servants and must meet the professional standards set out in the Civil Service Code<sup>20</sup>. As with social care workers, inspectors also act in accordance with the Code of Professional Practice for Social Care<sup>21</sup>. This brings the expectation that inspectors will:

- carry out their work with care, integrity, courtesy, sensitivity and professionalism;
- evaluate the provision of services objectively ensuring evidence is both triangulated and weighted appropriately;
- report on the inspection honestly, fairly and impartially;
- communicate clearly and openly to promote the health, safety and wellbeing of people who use care services;
- act in the best interests of people using services;
- respect confidentiality of information;
- be accountable and take responsibility for the quality of their work; and
- promote, uphold and respect the privacy, dignity, rights, health and wellbeing of people who both use or are employed by care services.

### How service providers and staff can support the inspection process

7.2 We will always seek to minimise the impact that an inspection visit can have on the service, its staff and the people using the service. To help inspectors achieve that aim, service providers and their staff can assist the inspection in the following ways:

- talk to the inspector;
- tell the inspector about any possible risks;
- tell the inspector if their presence will upset people;
- do what you would normally do (we want to see what it is normally like for people);
- allow the inspector to walk around communal areas, as long as it is safe to do so;
- allow inspectors a private area to talk to people using the service, staff and visitors;

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<sup>20</sup> [www.gov.uk/government/publications/civil-service-code/the-civil-service-code#standards-of-behaviour](http://www.gov.uk/government/publications/civil-service-code/the-civil-service-code#standards-of-behaviour)

<sup>21</sup> [https://socialcare.wales/cms\\_assets/file-uploads/Code-of-Professional-Practice-for-Social-Care-web-version.pdf](https://socialcare.wales/cms_assets/file-uploads/Code-of-Professional-Practice-for-Social-Care-web-version.pdf)

- if during feedback you disagree with anything the inspector tells you, please tell them and be clear about the reasons why; and
- if you have any concerns about how the inspection is being conducted raise this immediately with the inspector or their manager.

7.3 We will be polite and courteous in our dealings with you and therefore expect you to be polite and courteous in your dealings with us. However, we will not tolerate unreasonable, aggressive or abusive behaviour, unreasonable demands or unreasonable persistence. We regard any incident of this nature as serious and we will take action in accordance with Welsh Government policy to protect our staff where necessary.

## **8. Feedback at and reporting of inspection**

### **Feedback**

- 8.1 We strive to ensure our inspection reports are fair and that our findings are properly based on the triangulation of evidence we gather. Therefore in the interests of fairness and transparency, we accept the right of service providers to respond to our reports and comment on our findings where they believe them to be inaccurate or unfair. This gives us the opportunity to correct any errors and consider additional information before an inspection report becomes publicly available.
- 8.2 The inspector will provide feedback to the Responsible Individual following an inspection visit. This will be an overview of findings at the end of the inspection visit as further analysis may be required before firm conclusions can be drawn. Feedback will be structured around the assessment themes and should focus on areas of compliance and non-compliance. Where it is not possible to provide feedback to the Responsible Individual at the end of the inspection visit, the inspector will provide feedback to the most senior person present. At the earliest opportunity we will contact and provide feedback to the Responsible Individual. The inspector may also provide feedback during the inspection visit if immediate action is required.
- 8.3 This feedback will give the provider the opportunity to challenge any inaccurate information and provide the inspector with any further evidence which may inform the report.
- 8.4 Where an inspector considers that a service has not met the requirements of the regulations and is thinking of or intending to issue a non-compliance notice or take other enforcement action, the inspector will clearly inform the provider accordingly.

### **Inspection report**

- 8.5 People's experiences of services are at the heart of our reports including the impact of those services on their well-being. Whilst providers and professionals read our reports, they are written for the general public. This enables people who use and choose services and their relatives to understand the quality of care provided.
- 8.6 Inspectors base their reports on the evidence they gather prior to, during and following the inspection visit. The inspector considers a variety of evidence to support their findings in their report. This will be a consideration of what is said, what is seen and what is read to inform our findings and our overall judgements.

## When will the inspection report be published?

- 8.7 We aim to draft, finalise and publish inspection reports within **50 working days** following the completion of inspections. However, in a small number of instances, this timescale may be extended due to issues such as the availability of the Responsible Individual or service manager to respond to the inspection report or where there are provider challenges to the inspection report.
- 8.8 Each inspection report is expected to be written and issued to the relevant person as a draft version within **25 working days** of the last inspection activity. However the 'last inspection activity' could be, for example, the inspection visit itself or follow-up telephone calls to relatives or professionals or reviewing questionnaires.
- 8.9 Our responding to inspection report process offers the opportunity to question our inspection reports and submit comments about the factual accuracy, completeness of the evidence and/or the findings upon which our judgements are based.
- 8.10 A period of **10 working days** is allowed for the service provider to consider and respond to the draft report.
- 8.11 Any challenges should always specify the part(s) of the report that are contested and provide details about why it is being challenged with supporting evidence. This will enable inspectors (and managers) to consider the information fully and provide a clear response. Our response and a copy of the amended report, where appropriate, will be provided to the service provider within **5 working days**, following receipt of the challenge.
- 8.12 A further **5 working days** is allowed for the service provider to consider the response and the revised inspection report. If we do not hear from the provider within this time then the report will be made available to the public.
- 8.13 We will consider and respond to any second challenge raised by the service provider within a further **5 working days**.
- 8.14 Further detail on how we publish inspection reports and how we process responses to those reports, is set out in our policies for publishing and responding to inspection reports.

## Ratings

- 8.15 Under the 2016 Act, ratings may be issued as a judgement of the quality of care and support provided by a service provider, following an inspection.
- 8.16 At present we do not issue ratings for services regulated under the 2016 Act; however our inspection frameworks have been developed with ratings in mind. Our inspectors will continue to use these inspection frameworks to

make judgments about their findings and capture these in the narrative of their report under each theme, using qualitative language.

- 8.17 Further development and consideration of ratings as a judgement will be undertaken prior to any implementation. CIW will engage with the social care sector prior to the introduction of any ratings in our inspection reports.

### **Raising a complaint about an inspection**

- 8.18 If the service provider, a person using the service or a member of the public has a complaint about the conduct, attitude or behaviour of an inspector, or any CIW staff member, we have a complaints policy<sup>22</sup> that should be followed.

- 8.19 The complaints policy is separate to the responding to inspection report process described in paragraphs 8.7 to 8.13. A complaint made against the conduct of an inspector will not normally delay the publication of an inspection report.

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<sup>22</sup> <https://careinspectorate.wales/contact-us/complaints-about-us>

## 9. Improving the quality of services

- 9.1 Inspectors use a proportionate approach when inspecting a service which looks at the impact on or risk to people using the service whilst taking into consideration the requirements of the 2016 Act and regulations.
- 9.2 The types of actions we take will be proportionate and will look at the impact on or risk to people using the service. This could include:
- Where we identify that outcomes for people could be improved, we may make recommendations.
  - Where the provider is not meeting the legal requirements but there is minimal impact on or risk to people using the service, we will inform the provider that they are non-compliant and will expect them to take action to address the issues identified. In these cases we will not issue a non-compliance notice; however this will be followed up and reported on at the next scheduled inspection.
  - Where the provider is not meeting the legal requirements and there is a significant negative impact on or risk to people using the service, we will issue a non-compliance notice which is the first step in our enforcement process. In these cases, we will undertake a follow-up focused inspection to test whether the provider has made the required improvements.
  - In certain circumstances, where we determine that the risk to people is so significant; we may take urgent action to place restrictions on or cancel the provider's registration. This could include for example preventing further admissions or closing the service.
- 9.3 We want to make sure that services providing poor care do not continue to do so. We have a range of actions we can take under our enforcement process to make sure people are safe. These include:
- issuing a non-compliance notice;
  - requiring the provider to meet with us to discuss what actions have been taken to address poor care.;
  - imposing, varying or removing conditions on the provider's registration;
  - cancelling the provider's registration;
  - issuing an improvement notice;
  - issuing a penalty notice;
  - prosecuting the provider.

## 10. Information

- 10.1 The knowledge and information we hold is one of our most important assets. It ensures that the decisions we make and the advice we give is underpinned by a robust evidence base.
- 10.2 Through our registration and inspection processes we gather and hold a considerable amount of information on providers, as well as information obtained from other intelligence sources. This valuable information helps us to assess whether a registered provider and/or designated responsible individuals (depending on the legislation) is complying with their legislative and regulatory responsibilities.
- 10.3 On occasion we may receive a request to release information relating to an individual case or service. Any individual has the right to request recorded information that we hold, and subject to the statutory requirements of legislation around information handling, to be given a copy of this information.
- 10.4 To ensure that the right information is available at the right time, and that we uphold the statutory requirements that are required of us, we:
- Safeguard the information we hold, in line with Welsh Government procedures, to ensure high standards of information security and data protection.
  - Store our information in the correct way, adhering to the Welsh Government's records management<sup>23</sup> principles.
  - Respond to requests for information within the established processes and timeframes required by law.<sup>24</sup>
  - Share information appropriately and lawfully, to enhance and re-use our knowledge, work collaboratively and reduce duplication.
- 10.5 Our Privacy Notice<sup>25</sup> summarises how we handle all the types of personal information we collect. This includes the legal basis for collecting the information, how the information is processed, how long it is kept for, who it might be shared with, what your rights are in relation to it and the relevant contacts that you might need.
- 10.6 In certain cases CIW may participate in or undertake an inspection jointly with other regulatory bodies or agencies, such as the Police or Health and Safety Executive. Sharing information with these regulatory bodies or agencies is crucial in ensuring an effective use of information and resource.

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<sup>23</sup> <http://gov.wales/about/foi/policies/recordsmanagement/?lang=en>

<sup>24</sup> There are four laws governing our handling of requests for information, these are the Data Protection Act (DPA) 1998, General Data Protection Regulation (GDPR) 2016, Freedom of Information Act (FOIA) 2000 and Environmental Information Regulations (EIR) 2004.

<sup>25</sup> <https://careinspectorate.wales/how-we-use-your-information>

In these situations we share information in line with the statutory requirements placed upon us.

## 11. Terminology used in this Code

**Care and support.** Care addresses the physical and mental tasks and needs of the person cared for, while support refers to counselling, advice or other help provided as part of a plan prepared for the person receiving support.

**Care Inspectorate Wales (CIW).** The independent regulator of social care and childcare. We register, inspect and take action to improve the quality and safety of services for the well-being of the people of Wales.

**Code of Practice for Inspection.** High-level description of the manner in which the inspection of regulated services is to be carried out, in accordance with the requirements of the Act and associated regulations.

**Concerns.** An issue which has been reported to CIW that relates to the safety, well-being or rights of people using the service.

**Compliance.** Where a provider is meeting their regulatory responsibilities or conversely is non-compliant when they are not.

**Inspection framework.** A structured approach to support how CIW focuses its inspection activity throughout the inspection process.

**Regulator.** Organisation established by government to supervise, by means of rules and regulations, an area of commercial or social activity.

**Safeguarding.** General term for actions taken to promote the welfare of children and vulnerable adults and protect them from neglect, abuse and exploitation.

**Service(s).** This refers to an individual service within a provider's portfolio. 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.

**Well-being.** Broadly refers to the state of a person being healthy, happy, safe and comfortable with their life.

**Whistleblower.** Someone who raises an issue of public concern about wrongdoing, risk or malpractice that they are aware of through their work. Whistleblowers are protected by law, from being mistreated or dismissed from their jobs.

## 12. References

Active Offer

<https://socialcare.wales/learning-and-development/more-than-just-words-and-the-active-offer>

Care Inspectorate Wales (CIW)

<https://careinspectorate.wales/>

Civil Service Code

[www.gov.uk/government/publications/civil-service-code/the-civil-service-code](http://www.gov.uk/government/publications/civil-service-code/the-civil-service-code)

Code of Professional Practice for Social Care

<https://socialcare.wales/collections/code-of-professional-practice-for-social-care--resources>

Human Rights Act 1998

[www.legislation.gov.uk/ukpga/1998/42](http://www.legislation.gov.uk/ukpga/1998/42)

Mental Capacity Act 2005

[www.legislation.gov.uk/ukpga/2005/9/contents](http://www.legislation.gov.uk/ukpga/2005/9/contents)

Police and Criminal Evidence Act 1984 (PACE)

[www.legislation.gov.uk/ukpga/1984/60/contents](http://www.legislation.gov.uk/ukpga/1984/60/contents)

Regulation and Inspection of Social Care (Wales) Act 2016

[www.legislation.gov.uk/anaw/2016/2/contents/enacted](http://www.legislation.gov.uk/anaw/2016/2/contents/enacted)

Policy for Publishing Inspection Reports

<https://careinspectorate.wales/our-reports/regulated-services-inspection-reports>

CIW Responding to Inspection Reports Policy

<https://careinspectorate.wales/sites/default/files/2018-04/180403inspreportspolicyen.pdf>

United Nations Convention on the Rights of the Child (UNCRC)

[www.unicef.org.uk/what-we-do/un-convention-child-rights/](http://www.unicef.org.uk/what-we-do/un-convention-child-rights/)