

**Date:** 5 July 2000

**Venue:** Committee Room 2 , National Assembly for Wales

**Title:** Regulation & Inspection of Social and Health Care Services - A Care Standards Inspectorate for Wales

## **Purpose**

1. The purpose of this paper is to:

- i. provide Committee Members with a report on progress in planning the implementation of the new Care Standards Inspectorate for Wales (CSIW) from 2002 and;
- ii. to inform Members about the management structures for the CSIW that the Permanent Secretary is intending to establish.

## **Background**

2. The background to the policy on reform of the arrangements for Regulation and Inspection of social and private and voluntary healthcare is described in the Annex. Earlier Committee discussions on this issue are referenced. A separate paper on the progress of the Care Standards Bill has been tabled for this meeting to update members on introduction of the primary legislation that will enable the National Assembly to act as regulator for these services for vulnerable people.

## **The Context**

3. There are 5 main types of regulatory activity :

- inspection
- registration
- development
- dealing with complaints
- enforcement.

4. The current statutory responsibilities are discharged by 11 Local Authority and 5 Health Authority Inspection Units and also by LA Inspectors of day care for Under 8s including childminding. All told, this involves around **140** Inspectors (including 16 heads of units) and some **44** administrators. The Care Standards Bill allows for the transfer of these staff to the Assembly under TUPE- type arrangements. A significant extension of the scope of regulation is envisaged to cover areas such as independent health care, domiciliary care, day care centres, small homes, fostering and adoption services. Together, these additional functions are likely to need around **30** more Inspectors. In addition to a senior management structure, a wide range of **other professional inputs** are also needed e.g. legal advice, building surveyors, and medical professionals and pharmacists.. A full workload and staffing analysis is being undertaken but in total **around 240-250** people are likely to be required to cover all the functions.

5. Early progress on the management arrangements for the new regulator is being made since that impacts on other related areas such as the location of offices and IT procurement which have very long lead times. To ensure effective regulation of some **7,000 care settings**, there is an essential requirement for a local office presence. This also has other advantages i.e. identity and local knowledge, easier liaison with other statutory authorities, advice to providers etc . Around **10 regional/local offices** will be needed but there would be advantages in co-location with existing National Assembly offices where feasible

6. There will be the need for strong leadership and management from the centre but also clear delegation of decision making to officials at regional or the local level within an overall national framework and proper monitoring arrangements to ensure consistency of approach. This will secure a proper level of decentralisation and achieve an important objective of visibly separating these day-to-day functions from policy and political decisions. It will also enable effective and timely decision making in view of the number and range of settings to be covered. Enforcement decisions (eg closure of homes) will need to be made through a structured and transparent process although the legislation will allow for written representations to be considered. Ultimately, providers have recourse to a statutory independent Care Tribunal that will be operated on an England and Wales basis

## **Progress**

7. In advance of Royal Assent of the Care Standards Bill, there are constraints on the progress that can be made in establishing the detailed arrangements for the CSIW. However, where feasible progress has been made towards agreeing the framework for the implementation programme. The main areas of progress made are:

- Project Plan drafted
- Project Board and 3 Working Groups – at least 1 meeting each
- External Task Group – 3 Meetings

- Management Board decision on CSIW Management Structure
- Formulation of initial proposals for CSIW Regional Structure
- Workload and Activity Survey of Inspection Units completed
- Secondment Trawl completed for Inspectors to contribute to development of operational arrangements
- Consultancy Project designed and ready to commence on Royal Assent (to cover staffing, grading, accommodation, IT, current and future expenditure requirements, fees recovery, transfer of resources from LA and HA)
- Project Team resources agreed and staff being assembled

## **Management Structure**

8. The principles to be accommodated include:

- i. ensuring all parts of the system work in the same direction, ensuring coherence and clear linkages between the regulation and inspection of service delivery, higher level inspection and strategy and policy;
- ii. ensuring the operational; independence of the CSIW, through an executive management structure with appropriate delegations and accountabilities including a performance management framework;
- iii. a clear system of quality assurance and risk management to ensure robust regulation of new national standards and recognition of the business sensitivities of the new duties e.g. in closing care homes, refusing applications to register services, identifying poor care management.

9. There are strong arguments for a degree of separation for the new Care Standards Inspectorate (CSIW) from Social Services Inspectorate for Wales (SSIW) and social care and non NHS acute care policy interests in the Assembly.. At the same time, it will be imperative that the CSIW can contribute to SSIW and to related policy work in several key areas:

- providing information about services locally
- evaluating and developing national standards
- safeguarding and protecting vulnerable people
- informing SSIW's programmes of thematic inspection and joint reviews
- informing strategic thinking, and policy and practice development

Together with research activity through WORD, the new structure will assist the Assembly to meet the new statutory duties it will be given through Section 8 of the Care Standards Bill (i.e. the general duty of

securing improvements in the quality of services and to make information available to the public about these services ).

10. The structure which the Assembly will adopt will ensure that CSIW and SSIW will be separate operational units with clearly distinct roles and responsibilities. There will be a common senior management team under the leadership of the Chief Inspector, which will provide strategic and professional leadership. In future, the Chief Inspector will report annually to the Committee on both the activities of the SSIW and of the CSIW.

## **Operational Structure**

11. Initial consideration has been given to the operational management structure of the new Inspectorate. In consultation with Heads of Inspection Units, 3 main options for the operational structure of the new CSIW have been considered ie

- Functional ie based on specialisms ie Under 8s, adults, nursing etc
- Territorial ie based on "patch" based management only
- Regional ie combining strengths of functional and territorial models

12. There are strengths and weaknesses of each of these models and the operational and management issues that would need to be taken into account in each case. Consultation with management and staff of the current LA and HA Inspection Units would suggest that the Regional Model has the most advantages. At this stage, the work has been progressed as far as **an outline framework only**. More analysis is needed and will emerge from a planned consultancy project that will also advise on the detailed financial implications of the new arrangements including staffing levels, accommodation, IT etc.

## **Implementation Programme**

13. There is a significant and complex implementation agenda to address if the new arrangements are to be established by April 2002 in parallel with England. As well as integrating 16 HA and LA Inspection Units and LA Under 8s Inspectors - 180 staff from a total of 27 different authorities, there will need to be a major recruitment exercise to employ the new Inspectors and other staff that will be needed to cover the significantly enhanced regulatory scope of the new regime. There is also an onerous estate management and related IT programme to tackle if suitable accommodation and support services are to be available on time. Links with professional and other management within the Assembly should help avoid isolation and secure broader partnership. Nursing, medical and other professional interests would need to be included within the new arrangements to work alongside social care and nursing inspectors so as to cover the extended scope of the new regulatory regime and ensure effective multi-disciplinary working.

14. An external Task Group has been set up to assist with the wide range of inspection operational and

procedural issues that will need to be looked at if a single, cohesive regulation and inspection process is to be shaped from the different methodologies currently used across Wales. A Project Team is being established to take forward the full range of issues which have to be resolved before implementation, and this is likely to include up to 6 secondees with relevant experience.

## **Financial Implications**

15. A full financial analysis and business plan for the CSIW will be completed in the Autumn so that we can estimate the resources that will be required to operate the new arrangements effectively in Wales. As now, the new regulatory regimes in England and Wales will be expected to recover the reasonable costs of regulation through fee income. Further work is being commissioned to develop a financial framework for the new arrangements. We will work closely with Department of Health in developing the future structure for regulatory fees. A paper on this will be submitted to the Committee at a later stage of the implementation process and following further analysis of the impacts on the sector and options available for introduction.

16. There will be a transfer of funds from local and health authorities equivalent to current expenditure on care regulation. There is a significant expansion of the scope of regulation beyond current coverage envisaged for the new arrangements; this will need to be funded and it is proposed to seek an appropriate allocation of resources as part of the Assembly's Budget Planning Round which has just started. Work will commence in the Autumn to establish the likely costs and the current forecast is that start up and capital costs will be in the order of £2-3m and running costs of the new Inspectorate will be £8-9m. The funds needed will be partly offset by the clawback of LA/HA funding and fees income.

## **Action**

17. The Committee is asked to note the progress in developing the implementation programme for the Care Standards Inspectorate for Wales.

**Jane Hutt**  
**Assembly Secretary**

**July 2000**

## **Contact Point**

Steve Milsom, Head of Branch, Social Care Policy Division

## REGULATION OF SOCIAL AND HEALTH CARE STANDARDS IN WALES

1. This note summarises the policy background to the new arrangements for regulation of social and health care in Wales that will be introduced in Wales in 2002, subject to Royal Assent of the Care Standards Bill.

### **Background**

2. There is an Social Services White Paper commitment, with all- party support, to introduce an independent inspection and regulation system for social and health care services in Wales. The underlying aim is to create improved arrangements for the protection of vulnerable people receiving social and health care services. The problems and failures of the present system include:

- Lack of independence
- Lack of coherence
- Lack of consistency

These deficiencies cause problems for providers and others. But, most importantly, they leave users at risk of abuse and ill treatment and exposed to poor standards. As well as the evidence uncovered by the North Wales Tribunal there have been other recent cases of abuse and poor care of children, older people and people with disabilities. .

3. At their meeting on 7 July (see HSS-01-99(p.3)) the Committee were content that a consultation paper on the structure, scope and management of the new social and health care service regulatory arrangements should be issued. At their meeting on 6 October the Committee supported the proposal that, following the outcome of the consultation, the new regulatory arrangements should be set up as part of the Assembly rather than as an Assembly sponsored body as is envisaged for England (see HSS-08-99 (p.2)).

4. At its meeting on 6 October, the Committee also supported the principle that that regulation of day care for Under 8s and inspection of early years education will also be handled differently in Wales. In England, the Government has decided that these matters will be dealt with by a new arm of OFSTED. Following discussions at the Health and Social Services Committee on 6 October and the Pre 16 Education and Children's Committee on 13 October(see PRE 16 06-99(p.3)) it was agreed that a new approach for Wales should be adopted. This would be based on a partnership between ESTYN and the Assembly's new social and health care regulator. Formal protocols would be established to manage and monitor the joint working needed between the two organisations.

5. The Care Standards Bill was introduced in the House of Lords on 2 December and is expected to receive Royal Assent by July. A separate paper on the progress of the Bill is being circulated for the

Committee's information. The Bill will establish the primary powers for these new regulatory arrangements. The policy requirements for Wales, agreed by the Committee, are reflected in the Care Standards Bill, which has completed its passage through the Lords and is now at Committee stage in the Commons. Approximately 60 Regulations will need to be made by the Assembly as a consequence of the Bill. Advice on the management of that process through the secondary legislation process will be submitted through the Legislation Committee.

## **Objectives of New Regulatory Regime**

6. The key proposals are to:

- a) Create a Care Standards Inspectorate for Wales (CSIW) to be responsible for regulation (registration, inspection and enforcement) of adult and children's services.
- b) Extend statutory regulation to domiciliary care agencies; independent fostering agencies; residential family centres; small children's homes; currently exempt adult homes, and local authorities' own homes; welfare arrangements in schools with boarding provisions.
- c) Introduce a system of national regulatory standards to provide greater clarity and consistency in the application of standards for both providers and users throughout the country.

The details of these proposals were contained in the White Paper 'Building for the Future' (March 1999).

7. The new regulatory system will address the risk of abuse and neglect to vulnerable people in a number of ways.

- Instances of bad practice, which may lead to undetected abuse or neglect, will be easier to identify with the more independent, coherent and consistent approach to regulation by the CSIW.
- The risk of abuse and neglect to people receiving care from services not covered by statutory regulation will be greatly reduced by extending regulation.
- Poor standards will be easier to identify by the application of consistent national regulatory standards.

8. Overall, the implementation of these policies is expected to address weaknesses in the current system and provide a new framework to protect vulnerable adults and children. The new arrangements should give greater certainty that poor care, neglect and abuse of vulnerable people are prevented and, together with related reforms to regulate and train the social care workforce, give greater confidence that care provided will be competent, safe, responsive and of good quality. These new regulatory responsibilities constitute a major new "business" for the Assembly that is complex and diverse, dependent on a wide range of professional inputs, geographically dispersed and likely to give rise to some publicity and the

need to handle problematic cases. However, in the wake of the Waterhouse Report, the Shipman case and recent publicity of abuse of elderly and people with learning disabilities the assimilation of these new statutory duties into the National Assembly will, subject to Royal Assent of the Care Standards Bill, need to be given a high priority.

## **National Standards**

9. A key feature of the new arrangements is that the CSIW will regulate against new statutory Nationally Required Standards. The purpose of National Standards is to:

- provide minimum standards below which no provider may operate
- ensure the protection of residents
- safeguard and promote the health, welfare and quality of life of residents
- provide standards which are robust, measurable and enforceable, in order to achieve these aims.

10. It is important to recognise the need for a realistic time scale for the implementation of National Standards. There will be 20 sets of standards to be developed and introduced to cover all aspects of the new arrangements. The right balance must be struck between ensuring protection and promoting quality of care for existing service users, and at the same time giving providers who will need to make improvements sufficient opportunity to do so. Different transitional periods may be needed for different sets of standards, according to levels of priority and feasibility. For example, developing a procedure for handling complaints and training staff accordingly can be achieved more readily than altering the physical layout of a care home. Full consultation including with the care home sector will be vital to achieve effective introduction of the new standards.

## **Description of New Functions**

11. This is a fairly specialised area of work, mostly undertaken by social services, health and nursing professionals. The scope of the new regulatory work is wide ranging - from care of the elderly mentally infirm to nursing and residential care, domiciliary care, to childminding. The proposed new regulatory authority is to take over regulatory responsibility for all those services **currently** regulated by local authorities i.e.

- *residential care homes;*
- *children's homes (for more than 4 children);*
- *independent boarding schools (welfare inspections only);* and
- *Nursing Homes regulated by Health Authorities.*

12. It is also proposed that the regulatory authority should take on **new functions** : to include

- *Local Authority care homes (on the same basis as those in the independent sector);*
- *domiciliary care in both the statutory and independent sectors;*

- *small children's homes (fewer than 4 children);*
- *independent fostering agencies; and*
- *maintained boarding schools (welfare inspections only).*
- *Voluntary and private sector health care*
- *Day care centres for adults – following a review 1 year from set up*

13. The Care Standards Bill was introduced in the House of Lords on 2 December and is expected to receive Royal Assent by end of July 2000. This will establish the primary powers for the new regulatory arrangements. In England the new regulatory functions will be undertaken by a new Department of Health sponsored NDPB "The National Commission for Care Standards". In Wales, following a consultation undertaken in the summer, the Administration decided that new regulatory arrangements should be set up as **a part of the Assembly rather than as an Assembly sponsored body**. This has all-party support in the Assembly and has now been included in the Care Standards Bill.

14. In England, day care for under 8s and early years regulation is to be given to a new arm of OFSTED where it will sit alongside inspection of under 8's education. Following consultation with the relevant Assembly Committees, the Administration decided that in Wales we should develop a different approach based on a partnership between Estyn and the Assembly's new care regulator. Estyn will continue to be responsible for inspecting the educational aspects of under 8's provision and the new regulator will be responsible for the welfare aspects of day care and child minding. Formal protocols are to be established to manage and monitor the robust joint working which will be needed to create a bridge between the differing care and educational imperatives for this age group.

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