

Public Accounts and Public Administration Committee
- Care Home Commissioning for Older People Inquiry

1. Care Inspectorate Wales (CIW) welcomes the opportunity to submit evidence to the Committee's inquiry into Care Home Commissioning for Older People.
2. To help inform the Committee's considerations, we have set out below the context in which CIW registers, regulates and inspects social care services in Wales. We have detailed some basic information about the social care sector in Wales and our activity within it.

The role of CIW

3. CIW is the independent regulator of social care and childcare in Wales. We register, inspect and take action to improve the quality and safety of services for the well-being of the people of Wales.
4. We carry out functions on behalf of Welsh Ministers to provide assurance on the quality and safety of services. Our independence is protected through a Memorandum of Understanding (MOU) between the Chief Inspector and the relevant Welsh Ministers. A copy of this MOU is available on the CIW website: <https://careinspectorate.wales/sites/default/files/2021-07/210720-MOU-welsh-ministers-en.pdf>.

Care Home Commissioning for Older People: Report of the Auditor General for Wales – recommendations

5. CIW has been aware of the Audit Wales study in North Wales through our regular regional and national meetings with audit, inspection and regulation bodies in Wales. We are responding here to the recommendations made to the Welsh Government by the Auditor General in his national report. We have not commented on those arising from Audit Wales local audit work in North Wales.
6. **R1 – Planned policy reform and tackling the root causes of the issues:** CIW supports this recommendation. We are aware of the significant work underway on 'Re-balancing Social Care' and CIW is involved in a number of task groups taking this forward, including the development of a national framework for commissioning. It is too early to say whether this will address the root cause of the issues identified in North Wales.
7. **R2 - Reduce the complexity of funding responsibilities:** We agree with this recommendation. This is particularly important from the perspective of people in need of care and support and their families, as well as for providers of social care. The current complexities in relation to funded nursing care and continuing healthcare can at times compromise the way, and extent to which, people's care needs are met.
8. **R2 - Pooled funds:** As the regulator of social care, CIW does not have a view on the use of pooled funds. This is the remit of Audit Wales. Part 9 of Social Services and Well-being (Wales) Act 2014 describes the flexibilities set out in Section 33 of the National Health Service (Wales) Act 2006 which enables local

authorities and local health boards to develop formal partnerships and to delegate functions from one body to the other. Pooled funds are only one aspect of this as section 33 also enables the development of integrated services and integrated commissioning.

9. **R2- Strengthened scrutiny arrangements:** Governance arrangements for Regional Partnership Boards (RPBs) are complex, especially for the large RPBs such as Gwent and North Wales. This in turn makes scrutiny challenging. As external scrutiny bodies neither CIW, nor Healthcare Inspectorate Wales (HIW), have legal powers to review or make recommendations to RPBs, only to the constituent individual local authorities and health board.
10. Welsh Government's 'A Healthier Wales' action plan contains the following action: *Work with the Healthcare Inspectorate Wales, the Care Inspectorate Wales and other stakeholders to review the effectiveness of RPB joint working* (<https://gov.wales/sites/default/files/publications/2021-04/a-healthier-wales-actions.pdf>). In 2021/22 CIW and HIW contributed to a pilot self-assessment of two RPBs. The pilot focussed on the process of self-assessment. We are currently discussing next steps with the Welsh Government in taking this action forward.
11. **R2 – Outcome-based performance:** It is challenging to attribute improved outcomes for people directly to RPBs. It is our view that as RPBs mature, they are beginning to establish the conditions for improving outcomes for people through closer partnership working. There remains a distance to travel.
12. As a new code of practice relating to the performance and improvement of social services in Wales only came into effect in April 2020, it is too early to comment on its effectiveness, particularly as implementation has been slowed by the pandemic (<https://gov.wales/sites/default/files/publications/2020-03/measuring-activity-and-performance-guidance-2020-21.pdf>). The cornerstone of the code of practice is quality standards linked to the seven well-being goals of the Well-being of Future Generations (Wales) Act 2015. However, this performance framework is only for local authority social services, not health boards nor RPBs. CIW has been involved in the Welsh Government work, aligned to A Healthier Wales, to develop a joint Health and Social Care Outcomes Framework. Once completed, this may help take forward the Auditor General's recommendation for outcome-based performance reporting.

Care Home commissioning for older people, state of the care home market and quality of provision

13. In 2010, the Welsh Government published 'Commissioning Framework Guidance and Good Practice' the key elements of which remain relevant today (https://ipc.brookes.ac.uk/files/publications/Commissioning_framework_guidance_and_good_practice.pdf). The commissioning cycle involves analysing needs and planning how best to meet these to secure positive outcomes for people. The commissioning of care homes for older people is integrally linked to the commissioning / development of a range of other services including prevention and early intervention, reablement, extra care housing and domiciliary support.

The demand for and availability of these services impacts on the need for care home services. Care homes should not be commissioned in isolation.

14. The introduction of the Regulation and Inspection of Social Care (Wales) Act 2016 (the '2016 Act') was intended to improve the quality of social care services with a focus on outcomes for people. CIW had only just completed the re-registration of care homes under the 2016 Act when the pandemic struck. Its impact meant improvements in quality envisaged by the new legislation were interrupted whilst providers focused on maintaining core levels of care and support to sustain people's health and well-being.
15. From CIW's perspective, the overall state of the care home market is fragile. Our Chief Inspector's Annual Report 2020-21 provides detail of the impact of the COVID-19 pandemic on people living and working in care homes across Wales (<https://careinspectorate.wales/sites/default/files/2021-08/210818-chief-inspectors-annual-report-2020-2021-en.pdf>). Care homes are continuing to have outbreaks of COVID-19 which impact on staffing levels and prevent new admissions. CIW does not hold information on vacancy rates as these change daily. Between April 2020 and March 2022, 42 care homes for adults ceased to operate and 25 new care homes have been registered with CIW (as of April 2022, there are 1,033 registered care homes for adults).
16. We continue to prioritise inspection of services where we have concerns and to follow up on improvements required as a result of our enforcement action. Between April 2021 and March 2022, we issued enforcement notices to secure improvement to 342 care homes for adults. Quality is being undermined in several ways including poor leadership (lack of oversight), difficulties in maintenance of the environment due to lack of tradespeople and / or materials, lack of staff and overly restrictive arrangements for visiting. CIW's online data tool provides information on enforcement action at a national and local level. The data tool can be accessed via the following link: <https://careinspectorate.wales/data-tool>. We will be producing a report on the themes arising from these inspections later in 2022.
17. Whilst Social Care Wales is the workforce regulator, we know from our inspections recruitment and retention of staff remains extremely challenging.

CIW's perspective on the impact of the COVID-19 pandemic on our activities

18. On 16 March 2020, we paused our routine inspection programme. We did this to reduce the risk of asymptomatic transfer of the virus by our inspectors and to ensure local authorities and care providers could focus their resources on maintaining the health and safety of people using services and their staff.
19. Our key priority was to provide assurance to the public and Ministers about the safety of services. We quickly adapted our processes embracing technology to enable us to carry out our statutory functions as safely as possible. A copy of the statement we published on our website in May 2020 about our approach to providing assurance is attached at Annex A. Updated statements were published throughout the pandemic, with the latest statement published in August 2021:

<https://careinspectorate.wales/sites/default/files/2021-08/210805-our-approach-to-assurance-en.pdf>.

20. Between 30 March and August 2020, we made 10,958 check-in calls to all adult and children's services. Our aim was to understand how providers were managing during the pandemic and offer support, signposting services to sources of guidance and advice as appropriate.
21. From June 2020, with testing and Personal Protective Equipment (PPE) available, we resumed risk assessed inspections where we had concerns about people's safety and well-being. This included care homes where there was an outbreak of COVID-19 if our concerns were so serious we did not want to wait until the outbreak had ended. Between June 2020 and March 2022 we carried out 1,464 inspections of adult and children's regulated services.
22. We have worked co-productively with the sector and partners to respond to the unprecedented events throughout the pandemic. This has included facilitating regular communications and online webinars for providers to enable them to keep abreast of rapidly changing guidance. We also provided a 'Frequently Asked Questions' area on our website which we regularly reviewed and updated.
23. We have been in the unique position of having oversight and links to the sector nationally. In September 2020, we published an 'Overview of feedback from the social care sector' based on CIW's check-in calls with providers of registered services for adult and children. This document is available on our website: <https://careinspectorate.wales/sites/default/files/2020-09/200925-COVID-19-Overview-of-feedback-from-the-social-care-sector-en.pdf>.
24. We also carried out assurance checks of each local authority to ensure they were fulfilling their statutory functions. We published our findings in a 'National overview report' in November 2021. This report is available on our website: <https://careinspectorate.wales/sites/default/files/2021-11/211104-national-overview-report-of-assurance-checks-en.pdf>.

Providing assurance on the quality and safety of services during the COVID-19 pandemic May 2020

1. Statement of purpose

During the COVID-19 emergency, our priority is to continue to provide assurance to the public and Ministers that the services we inspect and regulate are doing all they can to promote the safety and well-being of people. We are guided by three key principles:

- we will focus our activity where it is needed most to ensure people receive safe care – this means concentrating on those areas where we see the risk to the quality of care is the highest and where we can make the biggest difference
- we will support providers by looking at how we can act flexibly and proportionately
- we will honour our duty of care to our colleagues in Care Inspectorate Wales (CIW)

To achieve this, we will adapt our approach to provide independent scrutiny while ensuring CIW will not put people using services, staff or its own staff at unreasonable risk and will work in line with national guidance. This will enable us to:

- fulfil CIW's statutory duties to monitor the safety and well-being of people using social care and childcare and play services, without adding unreasonable burdens to a system currently dealing with unprecedented challenges; and
- promote transparency about the response to COVID-19 and ensure that lessons can be learned quickly

2. Overview of our approach to assurance and monitoring

We are carrying out the following strands of oversight activity. These strands are likely to be undertaken simultaneously.

1. Understand and monitor impact of policy changes

- consider impact of new legal powers relating to childcare and social care introduced as part of the response on services and people
- monitor the use of new powers to open social care services exempt from registration under emergency COVID-19 legislation

2. Establish lines of communication to ensure the following intelligence and information (not an exhaustive list) is received regularly and collated within CIW

- regular liaison with Welsh Government policy officials
- regular meetings with the Deputy Minister for Health and Social Services
- regular liaison with the Older People's Commissioner for Wales and the Children's Commissioner for Wales
- input into COVID-19 meetings led by the Welsh Government
- daily situation reports from ECCW (Emergency Coordination Centre Wales)
- information received via correspondence and phone calls to CIW
- information from key partners and stakeholders
- information from media channels including social media
- collation of intelligence from check-in calls with providers
- collation of intelligence from discussions with local authorities
- weekly EPSO (European Partnership for Supervisory Organisation) calls to understand approaches of other inspectorates internationally

3. Analyse information gathered to assess risks and determine priorities

- identify specific problems and concerns in individual services/local authorities such as:
 - acute staffing shortfalls
 - clusters of COVID-19 infection and deaths
 - leadership concerns
 - emerging concerns about local capability and proportionality of response
 - existing non-compliance
 - providers who are not following Public Health Wales (PHW) / local health board (LHB) guidance in their response to COVID-19
- identify emerging themes across services/local authorities such as:
 - shortages of equipment
 - shortages of staffing
 - placement sufficiency
 - reduction in safeguarding referrals
- use the information to make risk-based recommendations for monitoring and/or inspection (weekly updates)

4. A more active monitoring approach if the analysis above suggests that it is required. This could include one or more of the following actions:

- informing providers / local authorities / health boards / Welsh Government of our concerns in writing and asking for a response
- seeking information virtually from specific services

- assurance meetings with local authority senior leaders
- inspection visits to services

3. How we will monitor

Regulated services

For services registered with us, our focus is on the safety of people and ensuring people's rights are upheld. We are also interested in the leadership of services including approaches to staff well-being, managing COVID-19 outbreaks and infection control.

We aim to work closely with commissioners and other organisations to reduce the burden on providers and to ensure support is co-ordinated.

A key part of the approach involves calling services to check-in and have open and honest conversations so we can support providers to resolve any issues and make decisions to help keep people safe.

Our check-in conversations will help us to understand and explore:

- the stresses and challenges for care providers and for the wider care system
- how services are using innovative ways to manage, so that we can share learning

We will use the information about services, from both existing and new sources, to decide whether / how frequently we need to check-in for a supportive conversation. We will also use our additional knowledge and experience of individual services to prioritise calls. We are available to offer support to all providers during this difficult period and we encourage them to call us if they would like advice.

A service where there are concerns or which is on our enforcement pathway will have more contact from their inspector, as we will continue to monitor and engage with the service until the emergency period is over. This approach means we are able to target our support and action most effectively.

We will also keep our Frequently Asked Questions up-to-date on our website (<https://careinspectorate.wales/coronavirus-covid-19-frequently-asked-questions-faqs>).

Specific concerns about care homes

CIW's experience and evidence indicates care homes are unusually high-risk environments during the current outbreak. Specific concerns include:

- environmental issues in some care homes including shared bathroom facilities
- a higher likelihood of existing poor physical health with immune systems and respiratory health
- people who lack capacity to conform to social distancing guidance

- a higher likelihood of poor mental health, which can be further affected by isolation, withdrawal of visits and lack of activity
- staff shortages and deteriorating morale can affect the ability of the service to care for people

Monitoring activity in adult and children's services

Monitoring activities include:

- regular check-in telephone calls to providers. Information captured on a survey and stored in our online records management system (CaSSI). Themes are then collated and analysed.
- daily analysis of notifications relating to COVID-19. Follow-up with providers where necessary (for example, high numbers) with responses recorded in CaSSI.
- daily analysis of deaths reported in care homes. Follow-up with providers where necessary (for example, high numbers) with responses recorded in CaSSI.
- weekly contact with local authority commissioning teams to share intelligence about providers
- follow-up all outstanding non-compliance by letter seeking progress update
- all concerns received are considered and followed up as necessary

The intelligence collated as part of our monitoring activities is analysed and triangulated to identify services under pressure. These are considered by senior managers in line with the process set out in internal guidance.

Monitoring activity in Childcare and Play services

Monitoring activities include:

- monitoring concerns received and following up with services as necessary
- monitoring notifications of COVID-19 outbreaks and following up with services
- oversight of notifications of relaxation of the National Minimum Standards (NMS) including increase in numbers and following up with services
- monthly meeting with local authority childcare lead officers
- monthly meeting with stakeholder representatives through 'Cwlwm'
- follow-up all outstanding non-compliance by letter seeking progress update
- check-in calls with services still operating prioritised according to date of last inspection or where we have concerns
- taking appropriate enforcement action where required

Inspection visits

Where our monitoring activity identifies people may be at high risk we may need to carry out an inspection visit. This will only happen where our off-site monitoring activity, including engagement with the provider, has failed to provide sufficient

evidence to satisfy us that people are safe or where we have received concerns which can only be properly considered on-site. In carrying out an inspection, we will:

- keep time on site to the minimum we need to assess the situation and gather the necessary information
- provide Personal Protective Equipment (PPE) for inspectors in line with PHW guidelines
- seek volunteers from staff without caring responsibilities / underlying health conditions
- where necessary, carry out visits with a public protection officer from either PHW or the local authority

Where we need to take action, we will follow our securing improvement and enforcement process (<https://careinspectorate.wales/sites/default/files/2020-01/200121-securing-improvement-enforcement-policy-en.pdf>).

For local authorities we are interested in how safeguarding is being managed and people's rights are being upheld. We will also monitor leadership of services including approaches to supporting the social care sector, managing COVID-19 outbreaks and infection control. Our activities include:

- writing to all local authorities seeking assurance about safeguarding
- regular contact with heads of service / directors
- liaison with Healthcare Inspectorate Wales (HIW), Estyn and Audit Wales regarding emerging concerns
- regular discussion with Welsh Government policy officials to share intelligence

We will continue our enhanced assurance activity of local authorities of concern. This may include frequent structured engagement with senior leaders, enhanced monitoring and assurance reviews and joint regulators conversations.

4. Our approach to registration

We have adapted our registration processes to enable us to continue to progress registration applications and variations. We are prioritising work which will create greater capacity for the social care and childcare and play sectors.

5. Other activity to support our response to COVID-19

We are continuing to provide a single point of contact for providers and members of the public.

We issued a joint statement with HIW to encourage people to share any concerns with us.

Our information team is collating and analysing data to inform monitoring activity as well as national planning and policy making.

Regular, clear communication with key stakeholders is essential during the pandemic. We will do this in a number of ways:

- share correspondence and information with providers on behalf of the Welsh Government and PHW
- contribute to the weekly bulletin co-ordinated by ADSS Cymru for local authorities and RISCA (Regulation and Inspection of Social Care (Wales) Act 2016) registered providers
- keep the CIW website including FAQs and useful resources up-to-date
- share regular updates with representative organisations