

PROTOCOL FOR THE SHARING OF INFORMATION BETWEEN THE CARE STANDARDS INSPECTORATE FOR WALES AND LOCAL AUTHORITIES

1. Introduction

1.1 The purpose of this protocol is to clarify the relationship between the CSIW and the local authorities in Wales in respect of their social services functions. It focuses particularly on the role of local authorities as commissioners of regulated services. It is designed to ensure consistency of information sharing between the CSIW and commissioners throughout Wales.

1.2 Government guidance has for many years suggested that the registration and inspection functions – discharged by local authorities themselves until 31 March 2002 – need to be seen as part of a wider management system aimed at ensuring the quality of care provided, and the quality of life of users. This guidance has called for clear definitions and a clear understanding of the relationship between inspection and those other quality mechanisms within the social services authority, including service specification, purchasing processes and care management.

1.3 The protocol is intended to assist the social services authorities and the CSIW in developing their different roles in ensuring quality, now that the registration and inspection functions have transferred from local authorities to the Assembly. It is intended to stand alongside other protocols between the CSIW and the social services authorities on such matters as child and adult protection, and alongside the protocols that the CSIW will be developing with other commissioners such as those within the NHS.

2. Background: the role of the Care Standards Inspectorate for Wales

2.1 The Care Standards Inspectorate for Wales (CSIW) was established as the regulator of social care and independent health care in Wales on 1 April 2002. It is a division of the National Assembly for Wales, but has full delegated authority for its regulatory decisions. It is responsible for ensuring that all registered establishments and agencies comply with the requirements of the Care Standards Act 2000. In the case of childminders and other day care settings for children under the age of eight, the CSIW ensures compliance with the Children Act 1989, as amended by the 2000 Act.

2.2 The CSIW is also responsible for ensuring compliance with the secondary legislation made by the National Assembly. From 1 April 2002, the following regulations are in force, each regulating one area of care:

- The Care Homes (Wales) Regulations 2002
- The Children's Homes (Wales) Regulations 2002

- The Private and Voluntary Health Care (Wales) Regulations 2002
- The Child Minding and Day Care (Wales) Regulations 2002

2.3 In due course, regulation under the Care Standards Act 2000 will be extended to previously unregulated services. These services include domiciliary care agencies, nursing agencies, some forms of private and voluntary health care settings, residential family centres and fostering and adoption agencies. Regulation of these areas will commence in 2003. The CSIW will also inspect – but not register – local authority fostering and adoption services, and both independent and local authority boarding schools.

2.4 In total, the CSIW will be concerned with standards in some 8,000 settings. It will inspect these services against the requirements of the Act, the relevant regulations and the national minimum standards made by the National Assembly. The regulations require the registered person to notify the CSIW of events - such as deaths, illnesses, accidents and injuries - which may trigger investigations by CSIW or other statutory authorities.

2.5 The CSIW will have a role to play in the investigation of complaints made against regulated services. Investigations may reveal matters that need enforcement action by the CSIW itself, or referral on to other agencies.

2.6 The CSIW will also be responsible for pursuing enforcement activities in regulated services. The Care Standards Act 2000 provides for two broad kinds of enforcement action where a provider is not fulfilling their obligations:

- the CSIW can pursue a **criminal** prosecution, or a formal written caution, where it considers there has been a statutory offence, a breach of conditions or an offence against the regulations; and
- the CSIW can take **civil** action that may include refusal of registration; imposition, variation or removal of conditions; or ultimately cancellation of registration, for which there are both urgent and ordinary procedures.

3. Background: the role of the Social Services Authority

3.1 The Government White Paper, "Caring for People: Community Care in the Next Decade and Beyond", described one of the key community care responsibilities of social services authorities as "monitoring the quality and cost-effectiveness of services" they provide or purchase. (Paragraph 3.1.3).

3.2 The quality of services was to be ensured in a number of ways which included the authority's use of its enabling role in arranging and purchasing services, assessment and care management of service users needs and the introduction of comments and complaints procedures.

3.3 The White Paper lays some emphasis on the authority's role as purchaser in quality assurance. It says that "whenever they purchase services, social services authorities should take steps to ensure that the

quality to be delivered is clearly specified and properly monitored" (Paragraph 3.4.9). It suggests too that "As purchasers, arrangers and providers of care services, local authorities must be responsible for ensuring adequate systems are in place for securing the necessary quality of services, and monitoring it over time." (Paragraph 5.14).

3.4 This role is further developed in the Policy Guidance "Community Care in the Next Decade and Beyond" which indicates that "A critical issue in commissioning care services will be the establishment of quality standards..." (Paragraph 4.18). Discussion about quality also refers to the need to use information obtained through inspection.

4. Key Principles

4.1 A number of key principles underlie this understanding:

- An overarching principle of this protocol is that Adult and Child Protection issues will necessitate the sharing of information in line with locally agreed procedures.
- The sharing of relevant and appropriate information should continue as far as is possible along the lines that operated under the former regulatory framework. There should be no reduction in exchanges of information that protect individuals and ensure appropriate standards of care are maintained.
- A key consideration in sharing information will always be to ensure vulnerable children and adults are adequately protected.
- This protocol is based on the principle that as part of the wider statutory responsibility the Director of Social Services in the area where a regulated service is situated has the lead role in ensuring the wellbeing of those who use social care in that locality.
- In order for the protocol to operate effectively, it is the expectation of the CSIW that the Director of Social Services where the service is situated will adopt the primary role of liaising with other placing authorities and with self-funding users and their families as appropriate. It is understood between the CSIW and the social services authorities that such liaison is likely to be triggered only where there is a significant and immediate risk to service users, such as the imminent closure of a home. It is understood too that it may be appropriate for the CSIW to assist in this process, by for example providing up to date information on the placement status of service users.
- Social services authorities may have additional arrangements in place with the registered persons for receiving information about the service through the contractual relationship. Examples might include requirements to

notify where a serious occurrence takes place or when a complaint investigation is underway.

- The protocol recognises that information compiled by the CSIW and outlined in paragraph 6 below will assist both the local authority and the Social Services Inspectorate for Wales in preparing for the SSIW evaluation of local authority services.

5. Framework for Co-operation

5.1 Regular meetings already exist between Directors of Social Services, their management teams and Regional Managers from the CSIW. These have a broad agenda about the relationship between the CSIW and the social services authority.

5.2 In addition, meetings will be instituted on a six-monthly basis to bring together, for each CSIW Region, contract management staff nominated by the local Director(s) of Social Services and the Regional Manager and their nominees from the CSIW. The meeting will be quite separate from any local arrangement for discussions with service providers, either statutory or independent. Where agreed locally, an invitation will be extended to local NHS commissioners, for all or some of the meetings.

6. Information CSIW will provide to Social Services Authorities

- The CSIW will provide information about the processes connected with registration, inspection, complaints investigation and enforcement when requested.
- The CSIW will ensure that information concerning the registration status of any regulated setting is up to date and available on the Public Register which the CSIW intends to make available on the Internet.
- The CSIW will provide copies of publicly available inspection reports for all regulated services to the social services authority in which the service is situated, and – in the case of children’s homes – to any other authorities with children placed there at the time of the announced inspection.
- The CSIW will provide copies of publicly available inspection reports to any other social services authority on request.
- Where the CSIW undertakes a complaints investigation as a result of information supplied by any social services authority, it will inform the social services authority of the outcome of the investigation.
- The CSIW will inform the local social services authority where the service is situated when it takes any of the enforcement action set out below:

- the serving of a formal notice issued where in the opinion of the CSIW the regulated setting is in breach of regulations (offence).
 - the start of any criminal proceedings,
 - the outcome of any criminal proceedings,
 - the issuing of a formal caution,
 - any Notice of Proposal to cancel a Registration,
 - any decision on cancellation using the ordinary procedures,
 - any situation where urgent procedures are being instigated for the cancellation of registration, or varying, removing, or imposing conditions, and
 - the outcome of any such procedure.
- Where the CSIW has taken enforcement action, it will notify the local authority where the service is situated when the Registered Person has subsequently achieved compliance.
 - The CSIW will advise the social services authority where the service is situated of serious concerns about financial viability, particularly where individuals may need to access an alternative service in the near future.
 - The CSIW will inform the social services authority where the service is situated of any concerns that may need to be dealt with under child or adult protection procedures, as provided for in the separate protocols in these areas.

7. Information the Social Services Authority will provide to CSIW

- The social services authority will provide information about the processes connected with care management and contract management when requested.
- The social services authority will provide the CSIW with any information gained from contract management activity that it believes indicates a breach of the requirements of the Act and regulations. The authority will have in mind both single major occurrences and emerging patterns of more minor concerns.
- The social services authority will provide the CSIW with any information gained from care management activity, which it believes, indicates a breach of the requirements of the Act and regulations.
- The social services authority will inform the CSIW of the outcome of any complaints investigations undertaken by the social service authority in any regulated service.
- The social services authority will inform the CSIW of any referrals through child protection or protection of vulnerable adult procedures in any regulated setting. It will ensure that CSIW has the opportunity to participate in any such procedures.

8. Review

8.1 The CSIW and the local authorities will review the operation of this protocol after it has been in operation for one year, and consider whether any amendment is needed.

Annex: roles and responsibilities

1. The Support Team Leader will send all publicly available inspection reports to the Director of Social Services of the authority where the service is situated. In the case of children's homes, the STL will send reports to the Director of Social Services for other authorities with children placed there at the time of the announced inspection.
2. The relevant Senior Inspector will notify the Director of Social Services (where the service is situated) of
 - the serving of any formal enforcement notice,
 - any notice of proposal to cancel,
 - any decision on cancellation through the ordinary procedure,
 - the instigation of urgent cancellation procedures,
 - the outcome of that procedure,
 - the instigation of criminal proceedings,
 - the outcome of any criminal proceedings, and
 - the issuing of a formal caution.
3. The relevant Senior Inspector will notify the Director of Social Services where the service is situated of where there are significant concerns on the financial viability of the service and where service users may need to access an alternative service.
4. The relevant Senior Inspector will inform the child protection co-ordinator or adult protection lead officer in the area where the service is situated of any concerns that may need to be investigated under these procedures.
5. The Director of Social services will inform the relevant Senior Inspector of possible non-compliance with the Act or regulations identified through contract management activities.
6. The Director of Social Services will inform the relevant Senior Inspector of possible non-compliance with the Act or regulations identified through care management activities.
7. The Designated Complaints Officer of the social services authority will advise the CSIW of the outcome of any complaints investigations undertaken by the social services authority into any regulated service.
8. The child protection co-ordinator or adult protection lead officer will inform the relevant Senior Inspector of any investigations in regulated services.