

Regulation and Inspection Social Care 2016 Act

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Q. 1. What type of legal entities can register under the 2016 Act?

A legal entity means an individual, company or organisation that has legal rights and obligations. In the context of registration, this means the entity that is registered to provide a regulated service.

Under the Act the following types of providers can submit an application to be registered to provide regulated services;

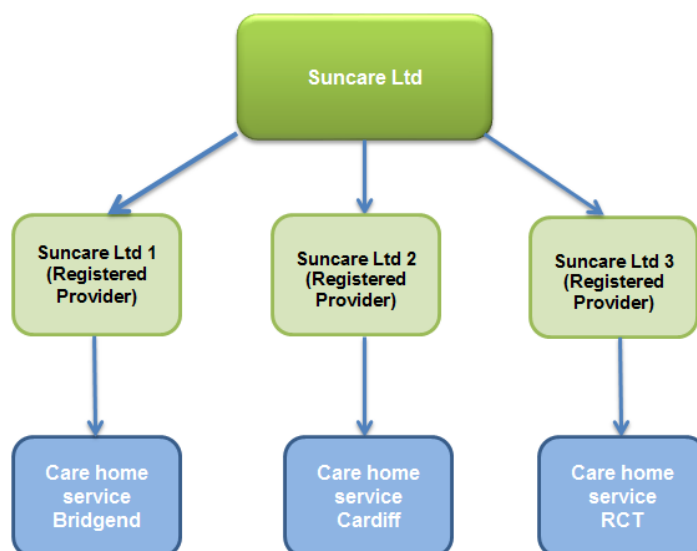
- Individuals;
- partnerships;
- corporate bodies, such as limited companies, incorporated charities and local authorities; and
- unincorporated bodies, such as unincorporated charities or committees.

Q. 2. Can I register a different type of legal entity to provide my service under the 2016 Act?

Yes, you can use the re-registration process to register a different legal entity as the provider of your service. For example, if you are currently registered as an individual provider you could form a limited company and register the company as the service provider.

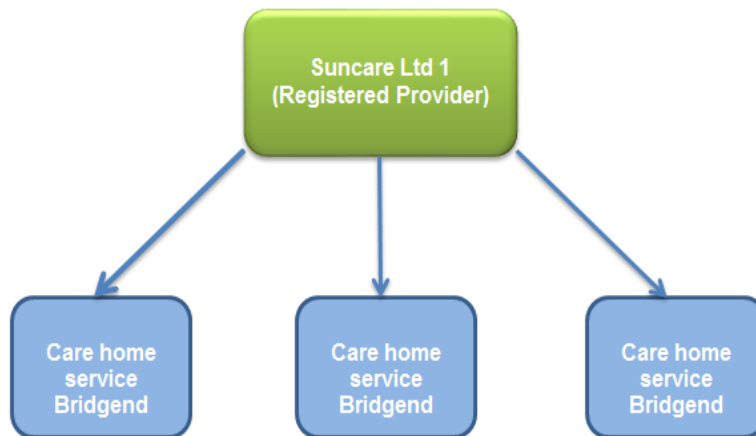
Q. 3. How should I apply if I currently have more than one company registered with CIW?

Some providers may have a number of legal entities each separately registered to provide a different service, as shown in the diagram below.



The Act gives you the opportunity to re-structure the way you are registered to provide services.

You may choose to use re-registration under the Act as an opportunity to re-structure your organisation and register all of your services with us under a single legal entity. The diagram below shows how this registration would work.



If you do re-structure your organisation in a similar way to the example given, we will need to be satisfied that the legal entity you are proposing to register is the one directly responsible for providing the service. Relevant considerations will be which legal entity is entering into contracts and employing staff.

Q. 4. I am the provider of a single care home service that was newly registered in 2017. Do I have to re-register in 2018?

Yes. If you intend to continue providing the service, you will need to re-register. Any care homes that are registered under the Care Standards Act 2000 will need to re-register.

Q. 5. I am not currently registered and I want to submit an application to register my first care home service in early 2018. Should I delay my application until the 2016 Act comes into force in April 2018 or submit my application now?

It currently takes an average of 14 weeks to register a care home. Therefore any application submitted after November 2017 may not be determined prior to the new law coming into effect in April 2018. We strongly advise providers to take this into consideration before submitting an application.

If you do not intend to operate until after April 2018 you may wish to wait until the online portal opens in February 2018. Please remember that if you are registered prior to April 2018 you will still need to re-register your service.

Q. 6. We are a family business, with each person registered individually – how should we register under the 2016 Act?

Only one individual can be the service provider, but there are a number of different types of legal entities that can register to provide regulated services. See the answer to [What type of legal entities can register under the 2016 Act?](#)

Q. 7. What factors will CIW consider when determining an applicant's fitness under the 2016 Act?

Section 9 of the Act sets out the fit and proper person test. Subsections (4) – (8) set out evidence that we **must** consider, although we **may** have regard to all matters that we think appropriate. Issues likely to have an impact on our decision are factors such as: the commission of offences, an association with a person who has committed offences, previous involvement in the misconduct or mismanagement of a regulated service and issues of non-compliance with the regulations made under the Act.

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

All other providers will be required to make a declaration that the individuals involved with their organisation all meet the fit and proper person criteria set out in section 9(4)(a)(i)-(iii) and (b) of the Act, set out below:

(4) Evidence falls within this subsection if it shows that the person has—

(a) committed—

(i) any offence involving fraud or other dishonesty, violence, firearms or drugs or any offence listed in Schedule 3 to the Sexual Offences Act 2003 (c.42) (offences attracting notification requirements),

(ii) an offence under this Act or regulations made under it,

(iii) an offence under Part 2 of the Care Standards Act 2000 (c.14) or regulations made under it, or...

... (b) practised unlawful discrimination or harassment on the grounds of any characteristic which is a protected characteristic under section 4 of the Equality Act 2010 (c.15), or victimised another person contrary to that Act, in or in connection with the carrying on of any business.

Q. 8. What will happen if I don't submit an application to re-register?

Failure to submit an application by the required dates may mean that a service will be operating illegally, without registration. Where you fail to make any application to register under the Act and continue to provide a regulated service we will have no option but to commence criminal enforcement action against you.

Q. 9. Will I get a certificate of registration?

We will no longer be issuing certificates of registration. Instead we will have an online register that the public can access. Our [re-registration guidance](#) sets out the type of information that will be contained in the register.

Q. 10. What will make my application type 'complex'?

Anyone of the following circumstances will mean that we will need to take a more in-depth assessment and your application will become 'complex':

- You are applying to register more than one service under a single application e.g. two care home services or a care home service and a domiciliary support agency.
- Issues are identified with the fitness of the provider and or RI, including;
 - a) A service which is currently or has been a service of concern within the last 12 months;
 - b) a service with current non-compliance notice(s) issued against it;
 - c) is in administration;
 - d) they are suspended; or
 - e) they are under investigation by other agencies.
- The responsible individual has indicated that they are the RI/nominated individual for a number of regulated services in the UK.
- A fact finding or criminal investigation is being undertaken in relation to the service or provider.
- The service does not have an appointed manager registered with Social Care Wales.
- You intend to change the nature of the service that is currently being provided, for example a residential care home service intends to offer nursing care.
- The service has not been in operation for over 12 months.
- We have imposed restrictive conditions on your registration.
- You intend to appoint the same manager in respect of more than one service.

Responsible Individuals (RIs)

Q. 11. Who is eligible to act as responsible individual?

For individual providers, the individual must be the RI.

For partnerships, one of the partners must be the RI.

For organisations, other than local authorities, the designated RI must be an individual with an appropriate level of seniority. In considering the eligibility of a RI we will need to be satisfied that the individual has;

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

For Local Authorities our expectation is that the person designated by the Director of Social Services must hold a position of sufficient seniority within the organisation.

You may be asked to provide additional documents to demonstrate that the individual you have designated does hold this level of seniority.

Q. 12. How many services can my responsible individual oversee?

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

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

Q. 13. Can I be a responsible individual for more than one organisation?

Yes, providing they meet the eligibility and suitability requirements for each organisation and each service.

Q. 14. Does it matter where my responsible individual lives?

No, it does not matter where the responsible individual lives. However, we will need to be satisfied that this will not impact upon their ability to perform their duties in relation to their service.

Q. 15. What factors will CIW consider when determining a responsible individual's suitability under the 2016 Act?

We will need to be satisfied that the designated individual is;

- Eligible (see paragraph 2.7 of our [re-registration guidance](#));
- meets the fit and proper person test (see paragraph 8.3 of our re-registration guidance); and
- that they will comply with the RI duties set out in the regulations made under the Act.

Q. 16. Does my responsible individual need a new Disclosure and Barring Service (DBS) check?

RIs will be required to undergo a Disclosure and Barring Service (DBS) check as part of the re-registration process. This requirement does not apply if the person is registered with the DBS update service and they consent to us viewing their certificate or they have a current DBS in place. We will accept a DBS which is less than three months old, at the time of submitting an application, as a current DBS.

Q. 17. What happens if I don't have a responsible individual at the time of submitting my application?

You will not be able to submit your application form without designating a RI. You should therefore take every step to ensure that you are in a position to designate a RI when you come to submit your application to re-register.

Q. 18. What duties can I delegate as a responsible individual?

The Regulated Services (Service Providers and Responsible Individuals) (Wales) Regulations 2017 set out the various duties imposed on RIs. While the overall responsibility for all of these duties rests with you as the RI, the Regulations do not require you to personally undertake all of these.

You **must** personally visit the service in line with the requirements in the Regulations.

Q. 19. Can I be responsible individual and manager for a service?

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

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

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

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

Regulated Services

Q. 20. What services are regulated under the 2016 Act?

The table below sets out the services regulated under the 2016 Act and when the law for each of those services will come into force.

Regulated Service:	Law coming into force:
Care home services (to include children's homes.)	April 2018
Domiciliary support services	April 2018
Residential family centre services	April 2018
Secure accommodation services	April 2018
Adoption services	April 2019
Fostering services	April 2019
Advocacy services	April 2019
Adult Placement services	April 2019

Q. 21. How should I apply if I provide more than one regulated service across Wales?

If you intend to provide all of your services under the same legal entity, you can apply to register all of these under a single application. You will then have one registration for all of your services.

If you have multiple legal entities registered in relation to multiple services, please see [Q. 3](#) for more information on how you may choose to apply to register these services.

Q. 22. What conditions of registration will there be for my service?

Your conditions of registration will include:

For accommodation based services

- Name and address of the service
- Responsible Individual
- Maximum number of individuals that can be accommodated
- Any other imposed conditions, as required

For domiciliary support services

- Name and geographical area of the service
- Responsible Individual
- Any other imposed conditions, as required

Q. 23. Do I need to have a Statement of Purpose (SoP) for each service?

Yes, a SoP will be required for each service.

Q. 24. What happens if my SoP is not up to CIW's standards?

If we identify that your Statement of Purpose needs to be improved or revised we will return it to you. We will expect you to amend the content and return it to us within a prescribed timeframe.

Q. 25. I have non-compliance notices issued against my service. How will this affect my application under the 2016 Act?

If there are non-compliance notices issued against your service in the last 12 months we will need to assess how they affect your fitness as a provider. Your application will be made 'complex' and we will undertake a more detailed assessment. This may include us undertaking an inspection of your service.

Q. 26. How do I add additional services to my registration, once I am registered?

You will be able to apply to vary your conditions of registration to include an additional service. You will need to designate an RI for this service at the point of making your application.

Q. 27 I provide a care home service where children are accommodated. What percentage of my staff need to have the relevant QCF level 3 qualification?

A. The Regulated Services (Service Providers and Responsible Individuals) (Wales) Regulations 2017 do not contain any specific requirements in relation to the qualifications required by staff. However, Regulation 35 requires that all staff working providing care and support in a care home service which is provided wholly or mainly for children must be registered with Social Care Wales as a social care worker. This registration must be no later than 6 months after the member of staff started working at the service. In exceptional circumstances we may agree a later date. We would advise staff and providers to make contact with Social Care Wales in relation to the relevant qualification and registration requirements.

Domiciliary Support Services

Q. 28. How will domiciliary support services be registered under the 2016 Act?

If you provide a Domiciliary Support service the way we register your service will change. On the application form you will be asked to identify the regional partnership area(s) in which the service is provided and to designate a responsible individual for each partnership area. These areas are:

- Gwent
- North Wales
- Cardiff and Vale
- Western Bay
- Cwm Taf
- West Wales
- Powys

Annex 3 of our [guidance](#) sets out the Health Boards and Councils that fall into these areas.

Q. 29. Do I need to apply to register each branch under the 2016 Act?

You will not need to register each branch of your agency, but will need to register the geographical area in which you are providing the service – see Q. 28.

If you currently have a number of branches within one geographical area, you will need to provide us with the details of your main operating office in your application form. Your Statement of Purpose must contain information about all of the offices used in the delivery of your service.

Q.30. Does a domiciliary support service have to have an office in Wales?

There is no legal requirement for domiciliary support agencies to have a premises in Wales. However regulation 47 of the Regulated Services (Service Providers and Responsible Individuals) Regulations (Wales) 2017 states that

47. The service provider must ensure that the premises used for the operation of the service have adequate facilities for—

- (a) the supervision of staff;
- (b) the secure storage of records.

Therefore we would have to be satisfied a domiciliary support services has the appropriate premises/arrangements in place to undertake these tasks. In addition, CIW have powers to inspect such premises.

Nurses agencies

Q. 31. What should I do if I am also currently registered as a domiciliary care agency?

You must submit an application to register as a domiciliary support service provider.

Q. 32. I am currently registered to provide a nurses agency under the Care Standards Act 2000. Will I need to re-register this service under the 2016 Act?

No, nurses agencies are not a regulated service under the 2016 Act and therefore you will not need to submit an application to re-register.

However, you must satisfy yourself that you are not providing a service that meets the definition of a domiciliary support service. For example, if you are employing nurses to deliver care and support to individuals in their own homes and retain some ongoing direction and control over the care and support being provided you may need to register as a domiciliary support service. If you are unsure of whether you will need to register under the 2016 Act, please contact us via ciwregistraton@gov.wales or log on to <http://careinspectorate.wales/reregistration> to book an appointment at one of our advice surgeries.

Managers

Q. 33. I don't have a registered manager in place at the time of submitting my application to register. Will this affect my ability to re-register?

It may do. If your service does not have a manager, registered as a social care manager with Social Care Wales, at the time of submitting your application to register this is likely to make your application "complex". As a result we may need to meet with you and/or the responsible individual for your service to establish what steps you are taking to recruit a suitable manager.

If we do grant your application to register without a manager for the service in place, this does not remove the duty placed on the responsible individual to appoint a manager.

Q. 34. My registered manager is on long term leave from the service. Will this affect my ability to re-register?

If your manager has been absent from the service for over 28 days, the law currently requires you to notify us of this and provide details of the arrangements in place for managing the service during their absence. Providing the person you have appointed to manage the service in the interim period is registered as a social care manager with Social Care Wales, then this should not be an issue during re-registration of your service. If this person is not registered as a social care manager with Social Care Wales, then see the answer to [Q. 33](#) as to how this may affect your application to re-register.

Environment

Q. 35. How many shared rooms are permitted?

The regulations require that everyone must be accommodated in a single room. Rooms can be shared if:

- the individuals concerned agree to it;
- it is consistent with their well-being;
- their personal plans have been reviewed and reflect this and

- no more than 15% of the total number of people accommodated are in a shared room.

At the point of reregistration the number of people in shared rooms may exceed 15% of the total number of adults if they were accommodated there whilst the service was registered under the Care Standards Act 2000. See regulation 45 (1) (3) (a)(b)(c)

If the number of people in shared rooms is over 15% on the day your registration takes effect under RISCA, the people accommodated in those rooms can remain. However, as people in those shared rooms move on you will not be able to move a new person into those rooms until the overall percentage of people accommodated in shared rooms is no more than 15%.

Q.36. I am refurbishing my registered service, which regulations do I need to be aware of?

If you are refurbishing existing premises which are already registered with us for the purpose of providing a service then you are not required to meet the new standards set out at Regulations 50-54 in respect of the premises. The premises must, however, meet the requirements in Part 12 of the Regulations.

Q. 37. I am converting an existing building to provide accommodation based services, which regulations do I need to be aware of?

If you are applying to register a premises which has not previously been used to provide an accommodation based service (registered with us), then the new standards set out at Regulations 50-54 will apply to this premises. The premises must also comply with the requirements in Part 12 of the Regulations.

Note, Regulations 50-54 do not apply to premises which provides accommodation to four or fewer individuals.

Q. 38. I am building a premises to provide accommodation based services, which regulations do I need to be aware of?

A new premises being used for the provision of accommodation based services must comply with standards set out at Regulations 50-54 will apply to this premises. The premises must also comply with the requirements in Part 12 of the Regulations.

Note, Regulations 50-54 do not apply to premises which provides accommodation to four or fewer individuals.

Q. 39. I am adding an extension to my registered service, which regulations do I need to be aware of?

If you are adding an extension to an existing premises which is already registered with us then the standards set out at Regulations 50-54 will apply to the extension. The entire premises will need to comply with the requirements in Part 12 of the Regulations.

Q. 40. I am purchasing premises which is already registered with CIW as part of another provider's registration, which regulations do I need to be aware of?

If you applying to register a premises which is already registered to another provider and the premises is occupied at the time of submitting your application, then the premises will need to comply with Part 12 of the Regulations. If the premises is unoccupied at the point of you submitting your application, then the premises must meet the standards set out at Regulation 50-54 of the Regulations and Part 12.

Notifications

Q. 41. How will notifications work under the 2016 Act?

Once your service is registered under the 2016 Act the new notification requirements will apply. We are currently developing a system which will enable notifications to be submitted via CIW Online. You will also be able to nominate people within your service to make some notifications via CIW Online.

Q. 42. When should I start submitting notifications under the 2016 Act?

You should start submitting notifications under the 2016 Act as soon as your registration takes effect. However, until that time you should continue to make notifications in the same way as you always have under the existing legislation.