

Interim policy for responding to safeguarding events

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

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Introduction

This document sets out Care Inspectorate Wales's (CIW) policy in relation to safeguarding practice. At the time of writing (May 2017), Welsh Government are consulting on codes of practice which include undertaking of safeguarding investigations and have commissioned the development of all-Wales practice guidance for safeguarding children, young people and adults at risk, which is likely to be ready in 2019. This policy is therefore an interim measure, and in time will be revised in the light of the codes of practice and the all-Wales practice guidance.

1. Principles and approach

- 1.1 **Keeping people safe.** Ensuring people's safety, well-being and rights are at the heart of how we regulate care and support services. We always aim to ascertain that those who use such services are properly looked after and protected.
- 1.2 **Listening to people.** We take care to listen to people who received care and support their families, to understand their concerns and their wishes.
- 1.3 **Being vigilant and proactive.** We are vigilant and proactive in our approach to safeguarding, and we recognise and take action in response to signs that people are suffering, or are at risk of suffering, significant harm. We are always alert to the need to protect children, young people and adults at risk from neglect, abuse and exploitation.
- 1.4 **Responding in a proportionate way.** We respond to potential safeguarding concerns in a manner which is proportionate to the risk of harm and the seriousness of that risk. We take into account the source and the quality of the information leading to the concern.
- 1.5 **Working closely with partners.** We work closely with local authorities, health boards, the police and other agencies sharing statutory responsibility for people's safety. We also work with providers to ensure they fulfil their statutory duties to protect people at risk of all ages from harm.
- 1.6 **Observing data protection requirements.** We understand and have regard for the principles of data protection. When we share safeguarding-related information, we do so in a way that meets statutory requirements and conforms with information-sharing protocols between CIW and its partner agencies.

2. CIW's role

- 2.1 CIW's primary role, as regulator of care and support services, is to ensure that regulated services are fit to operate, comply with regulations, and

provide safe, good quality care which does not expose people to the risk of neglect, abuse or exploitation.

- 2.2 We register, inspect and take action to improve the quality and safety of services for the well-being of the people who use them. We check that regulated services maintain and implement effective policies and procedures for providing safe, good quality care, and for protecting those in their care from harm.
- 2.3 When, in the course of our regulatory work, we identify a concern, are told or formally notified of a concern and we have reasonable cause to suspect that a child, young person or adult is suffering or is at risk of suffering neglect, abuse or exploitation we refer the concern to the local authority immediately or within 24 hours.
- 2.4 We liaise closely with the local authority in the initial stages of any investigation, to understand any regulatory implications for the service under consideration. For example, the concern may raise wider issues about the running of that service or indicate a failure of care provision. Liaison includes taking part in strategy discussions, typically by phone, to determine the need for CIW to attend strategy meetings.
- 2.5 Where justified because of regulatory implications, we aim to attend initial strategy meetings. Our presence and contribution is valued. If we cannot attend then we must make available relevant information, explain our intentions, ensure we are fully debriefed after, and where necessary revise our intended action.
- 2.6 We are prepared to carry out an inspection as part of a wider investigation, where we have reasonable cause to suspect there has been a failure in care, the service is unsafe and regulations have been breached. We provide early feedback to the local authority on our findings.
- 2.7 We make sure we are kept informed about the outcome of other agencies' investigations and we consider any regulatory implications arising. In complex situations, it is appropriate for us to attend further strategy meetings. We attend case conferences where there are outstanding concerns about a provider.

3. Information sharing

- 3.1 We handle personal and sensitive information, in relation to safeguarding, in line with CIW and Welsh Government policies and procedures. These are designed to ensure the security of such information. This includes appropriate management of records and appropriate methods for information handling.

- 3.2 When we transfer sensitive information to a partner agency, in relation to a safeguarding matter, we follow processes to ensure that the information falls within the scope of the relevant information-sharing agreement, that it is labelled with appropriate security markings, and it remains secure throughout the transfer process.
- 3.3 Sharing confidential information without consent is normally justified in the public interest when there is reasonable cause to believe that an individual is suffering, or is at risk of suffering, significant harm, or when sharing the information would help prevent significant harm being done to an individual.
- 3.4 We will share early findings from inspections which are directly relevant to safeguarding concerns. We may do this prior to a draft report being issued. We will have provided feedback at the inspection and we should reference any disagreement or relevant comments made by those running the service.

4. Referring a concern to the local authority

- 4.1 The local authority is the lead agency responsible for investigating safeguarding concerns, and coordinates any involvement by CIW and other agencies. The local authority's objective is to protect people from immediate harm, and to reduce the risk of future harm. Where a serious crime is suspected, the police often become the lead agency.
- 4.2 We refer a concern to the local authority wherever we assess that there is reasonable cause to suspect abuse or neglect has occurred or there is a risk of abuse or neglect occurring. "Reasonable cause" means that there are legitimate grounds for believing something.
- 4.3 We explore and test reasonable cause through our approved processes for carrying out inspections and responding to concerns. Throughout these processes we gather and assess evidence in a systematic way. The resulting decisions and actions are robust and recorded.
- 4.4 We assess reasonable cause in a responsible, proportionate way, and we apply discretion to avoid overwhelming local authorities with unnecessary concerns. Poor care does not necessarily equate to abuse or neglect and does not meet the need for referral unless significant harm (children at risk) or serious harm (adults at risk) is suspected or likely. Where it helps, we may discuss a concern with the local authority before making a formal referral. If in doubt, we always make a formal referral.
- 4.5 Factors which contribute to our assessment of reasonable cause include: the vulnerability of those at risk; the impact on their health, well-being and human rights; and the strength of the evidence. We consider whether the concern is based on a first-hand account, whether it is a repeated or generalised concern, and whether it involves a specific allegation.

- 4.6 The need for making a formal referral is determined case by case in line with legislation, principles and guidance, and according to the individual circumstances. A concern may not reach the need for referral at face value, but it may later cross the need for referral in the light of information obtained through further enquiries or an inspection.
- 4.7 We continually review how well we understand and are applying the test of reasonable cause, and we share that learning around the organisation by means of regular training and written guidance, to encourage consistent practice. Our staff guidance, which is periodically updated, offers definitions based on law for “adult at risk” and “child at risk”, describes categories of abuse and neglect, and provides practical examples of situations which require referral.

5. Referring multiple concerns related to one setting

- 5.1 Adult safeguarding procedures currently revolve around concerns for individual people. For CIW however, our most serious concerns often arise because of widespread neglect within failing care homes, where multiple people are at risk. In these circumstances, rather than making a number of separate adult at risk referrals, we may make a single, setting-based referral.
- 5.2 Where there is systemic failing at an adult care setting that puts three or more individuals at risk, we make a single, setting-based referral. Where we believe that the number of people at risk is fewer than three, then we make individual referrals.
- 5.3 Since the individual referral forms (e.g. VA1) are not suitable for setting-based referrals, we use a simple proforma instead in which we: outline the reason for the concern; identify any individuals at particular risk; and itemise the elements of risk affecting each of those individuals.
- 5.4 The local authority can then determine how it will handle the referral, be it through an individual route or a settings-based route.
- 5.5 Children’s safeguarding has a defined system for responding to professional abuse allegations, and the relevant procedures should be applied. However the approach outlined above can also be applied where children’s services have systemic failings and are placing multiple or children serially at risk of abuse, and the same proforma used.

6. Responding to incoming enquiries from a local authority

- 6.1 When we receive incoming enquiries we log and treat them as “concerns”. We then gather information and carry out analysis in line with our policy and

procedures for responding to concerns. We consider the urgency and risk, and decide what action to take.

- 6.2 If the concern in question indicates matters which are relevant to regulation, i.e. problems with the running of the service, then there is likely to be a role for us in the assisting the local authority with its enquiries. Where the concern does not directly relate to the running of a service, then we may not become involved.
- 6.3 Where any concern indicates serious, repeated or systemic concerns about the running of the service we are likely to decide to undertake an early inspection and to take part in safeguarding meetings and contribute to the plan of action.
- 6.4 Where any concern indicates immediate and high risks to people using the service, we respond with urgency, normally undertaking an immediate inspection to assess whether the need is met for CIW to take urgent, legal action. We also advise and consult with the local authority (and if relevant the police) about our intentions.

7. Decision to attend a strategy meeting

- 7.1 Before deciding whether or not to attend a strategy meeting, we talk with the local authority in order to gain a preliminary understanding of the issues, and to form a view about what action to take.
- 7.2 Our objectives for attending a strategy meeting include:
 - insight into exactly what is alleged and how people have responded
 - intelligence about how people are responding, especially the provider/manager
 - ability to negotiate and integrate any action we are proposing to take with other agencies
 - the opportunity to provide relevant information that we hold to the local authority
 - the ability to support other agencies' decision-making by providing intelligence and understanding of the role CIW plays.

If we can achieve (or have already achieved) these objectives without being present in person, then attendance becomes less of a priority.

- 7.3 In general, we attend if one or more of the following apply:
 - the concerns are serious and indicate there have been serious or systematic failings in care or the running of the service
 - the information available is complex and unclear

- there will need to be a coordinated, multilayered investigation
- there is uncertainty among agencies in relation to the information available and the action to be taken

7.4 In general, we do not attend if one or more of the following apply:

- we have established that the concerns are not serious or systemic
- there is already an effective plan in place to manage risks
- we are confident in the ability of the service to remedy any shortfalls.

If these outcomes can be realised without CIW being present in person, then attendance becomes less of a priority.

7.5 We recognise that it is important to share information and keep up to date with the progress of a safeguarding investigation. If later information suggests that concerns about a service are more substantial than when first presented, then we may change our position about attending meetings.

8. Attending safeguarding meetings/conferences

8.1 A meeting is normally held to conclude an investigation (typically a reconvened strategy meeting for adults and case conference for children) and agree a long term plan to protect people if this is required. Information arising from an investigation, and presented at the meeting, can be invaluable for our understanding of how a service is performing. We may therefore want to attend to ask questions in person, or we may present our own findings to assist the conference.

8.2 In general, we aim to attend safeguarding meetings in the following circumstances:

- where there has been an investigation into a serious failure of care
- where we wish to understand or question the findings of an investigation
- where the failure has been systemic
- where a regulation is likely to have been breached
- when we are taking or considering enforcement action.

8.3 In general we do not attend where risks have not been substantiated or where we are content that positive action has been taken by the provider.

8.4 When attending meetings we will be active contributors, prepared to contribute both as professionals and as a regulator and willing to question findings or proposals if we believe they are not correct.

8.5 We follow up recommendations made to providers at our inspections.

9. Working alongside the police, HSE and other enforcement bodies in complex investigations

- 9.1 In complex investigations where criminal proceedings are being pursued, the law enforcement processes will be managed separately to the safeguarding processes. A link must be maintained between the two sets of processes, however, as it is still necessary to manage the ongoing risks to people's safety, well-being and human rights.
- 9.2 The CIW and the police are signatories to the HSE's Work Related Death Protocol. The protocol sets out in broad terms the principles and processes for the conduct of such investigations, and includes the concept of "primacy", under which one agency (normally the agency with the greatest interest/enforcement powers) takes the lead in managing, coordinating, and regularly reviewing the investigation. Victim and relative support, liaison with CPS and media handling form part of the planning considerations.
- 9.3 CIW should always consider the opportunity to work in partnership with other law enforcement agencies during fact finding and investigation stages, for example joint evidence gathering and interviewing of witnesses.

10. Escalating concerns

- 10.1 The escalating concerns process, by which the local authority and health board work with a provider to improve a care service at risk of failure, involves a series of meetings which often run in tandem with safeguarding procedures. There can be significant overlap between the two processes as they both involve managing inherent risks within failing care services.
- 10.2 The enforcement action and intentions of CIW are relevant to the agencies leading on the escalating concerns process. However, there can be a blurring of roles and objectives when CIW attends escalating concerns meetings. It is not necessary for us to attend such meetings if we are already well-sighted on the actions of the other agencies and their assessment of the care service in question and the local authority is clear about the outcome of our activity and our processes and intentions.
- 10.3 On the other hand, if there are particular benefits to be served, specific contributions to be made, the local authority would particularly value our attendance or there is a need to coordinate activity following a decision to pursue closure or cancellation of a service then we may choose to attend the meetings, or attend in part.
- 10.4 When a care service is failing there can be multiple, overlapping, sequential safeguarding referrals and investigations being generated as well as meetings under escalating concerns. This can be a big drain on all agencies' resources and for CSSIW be at a cost of being on site in the care services

concerned. In such situations it may be better to negotiate with the local authority a periodic (e.g. monthly) review of safeguarding concerns which will include new strategy meetings and provide updates on existing concerns.

11. Handling Safeguarding allegations about CIW staff

- 11.1 All staff have a duty to report any disclosures or concerns they may have about the safety and welfare of children and vulnerable adults.
- 11.2 Allegations of abuse may be made against an individual employee in either their private life or their working capacity, for example, while taking part in an inspection
- 11.3 CIW has designated Lead Officers (adults and children leads) for safeguarding. Safeguarding allegations about a member of staff should always be referred to one of the Lead Officers, as well as the person's line manager.
- 11.4 It is not the role of CIW to investigate or seek out evidence on matters relating to safeguarding concerns and managers must not attempt to do so.
- 11.5 In the event of an allegation of abuse being made against an individual employee in their professional or private life, the designated lead officer will ensure a referral is made to the appropriate local authority social services department.
- 11.6 The designated lead officer will also inform the relevant member of the senior management team (head of) and HR link officer. Consideration must be given to action required to prevent access to children or vulnerable adults in a work capacity pending conclusion of safeguarding enquiries / investigation.

Appendix 1: Discharging our responsibilities

Responsible officers

In order to ensure CIW discharges its responsibilities appropriately, it has:

- A designated Head, with responsibility for the strategic oversight of all aspects of safeguarding within CIW
- Designated Lead Officer (one for adults and one for children), with operational responsibilities for safeguarding, including dealing allegations against staff, the provision of advice and guidance to CIW staff and the oversight of advice and guidance for inspecting safeguarding
- A safeguarding working group within CIW to provide guidance and oversight

The designated Head will

- Ensure that CIW's policies and guidance on managing safeguarding and inspecting safeguarding are reviewed at least annually and kept up to date.
- Ensure all staff are informed about CIW's policy and guidance and are aware of their roles and responsibilities in recognising and acting upon indicators that a child's or vulnerable adult's welfare or safety may be at risk and are familiar with the procedures to follow when they have concerns
- Ensure the provision of effective training on safeguarding
- Work with other agencies to respond to national and local initiatives and to develop strategies that are designed to prevent or reduce the risk of abuse
- Monitor involvement of CIW staff in safeguarding investigations
- Advise CIW's Chief Inspector of any action required to safeguard children and vulnerable adults including any advice that needs to be given to other statutory bodies, for example the Welsh Government
- Maintain an on-going summary and end-of-year evaluation of relevant issues, including the implementation of CIW's safeguarding procedures, an analysis of enquiries, queries and referrals made to Estyn.

Appendix 2: Referral form

CIW proforma

Settings-based adult/children at risk referral form

Strictly confidential: send securely

Name and address of care setting:	
Manager:	Tel number:
Name of inspector:	
Email:	Tel number:
Date of referral:	
Background to service:	
Background and nature of safeguarding concerns:	
Is the provider/ manager aware of this referral: Y/N Comment:	
Action CIW is proposing to take:	
Comments; (including any action you are asking LA to consider, other agencies involved)	

Where individuals are/have been subject to particular abuse or neglect and merit individual investigation please complete details below and **ensure each individual is recorded on separate sheets**. This will assist local authorities in managing personal data.