

# Code of Practice for Inspection of Child Minding, Day Care and Open Access Play Services

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

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# 1. Introduction

## About us

1.1. Care Inspectorate Wales (CIW) is the independent regulator of social care and childcare. We register, inspect and take action to improve the quality and safety of services for the well-being of the people of Wales.

1.2. We aim to:

- provide independent assurance about the quality and availability of social care in Wales
- safeguard adults and children, making sure that their rights are protected
- improve care by encouraging and promoting improvements in the safety and quality of social care services and
- inform policy, standards and provide independent professional advice to the people developing policy, the public and social care sector.

1.3. We achieve this by:

- carrying out functions on behalf of Welsh Ministers
- deciding who can provide services
- inspecting and driving improvement of regulated services and local authority social services
- undertaking thematic reviews of social care services
- taking action to ensure services meet legislative and regulatory requirements; and
- following up on concerns raised about regulated services.

1.4. We carry out our functions on behalf of Welsh Ministers under the following legislation:

- The Health and Social Care (Community Health and Standards) Act 2003 (the 2003 Act)<sup>1</sup> which gives powers to review the way in which local authorities discharge their social services functions; the Regulation and Inspection of Social Care (Wales) Act 2016<sup>2</sup>, The Care Standards Act 2000 (the 2000 Act)<sup>3</sup>, The Children Act 1989 (as amended)<sup>4</sup>, Adoption and Children Act 2002<sup>5</sup> and

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<sup>1</sup> <http://www.legislation.gov.uk/ukpga/2003/43/contents>

<sup>2</sup> <http://www.legislation.gov.uk/anaw/2016/2/contents/enacted>

<sup>3</sup> <http://www.legislation.gov.uk/ukpga/2000/14/contents>

<sup>4</sup> [www.opsi.gov.uk/acts/acts1989/Ukpga19890041en1.htm](http://www.opsi.gov.uk/acts/acts1989/Ukpga19890041en1.htm)

<sup>5</sup> [www.opsi.gov.uk/legislation/wales/wsi2003/20030181e.htm](http://www.opsi.gov.uk/legislation/wales/wsi2003/20030181e.htm)

the Children and Families (Wales) Measure 2010 (the 2010 Measure)<sup>6</sup> which give powers to register and inspect providers of social care services in Wales.

1.5. We specifically regulate and inspect childcare and play services under the following legislation:

- Children and Families (Wales) Measure 2010
- The Regulation of Child Minding and Day Care (Wales) Order 2016
- The Child Minding and Day Care (Wales) Regulations 2010
- The Child Minding and Day Care (Wales) (Amendment) Regulations 2016
- The Child Minding and Day Care (Inspection and Information for Local Authorities) (Wales) Regulations 2010
- The Child Minding and Day Care Exceptions (Wales) Order 2010
- The Child Minding and Day Care Exceptions (Wales) (Amendment) Order 2016
- The Children and Families (Wales) Measure 2010 (Commencement No.2, Saving and Transitional Provisions) (Amendment) and (Consequential Amendment) Order 2011
- The Child Minding and Day Care (Disqualification) (Wales) Regulations 2010

1.6. We expect all childcare and play services to comply with the regulations and meet the relevant national minimum standards<sup>7</sup>.

1.7. We also take into account guidance<sup>8</sup> for specified authorities in England and Wales on the duty of schools and other providers, under the Counter-Terrorism and Security Act 2015, to have due regard to the need to prevent people from being drawn into terrorism.

## How we regulate

1.8. Our primary concern is to ensure that children using services are supported to achieve the best possible outcomes, and that they are not placed at risk and do not experience harm. In order to achieve this we:

- have a robust registration process, so that we only register providers who have assured us that they will comply with regulations;
- undertake both routine and responsive inspections; and
- have a clear, progressive and proportionate enforcement pathway.

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<sup>6</sup> [www.legislation.gov.uk/mwa/2010/1/contents](http://www.legislation.gov.uk/mwa/2010/1/contents)

<sup>7</sup> <https://careinspectorate.wales/sites/default/files/2018-01/160411regchildcareen.pdf>

<sup>8</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/445977/3799\\_Revised\\_Prevent\\_Duty\\_Guidance\\_England\\_Wales\\_V2-Interactive.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/445977/3799_Revised_Prevent_Duty_Guidance_England_Wales_V2-Interactive.pdf)

## **2. The Code of Practice**

### **The purpose of the Code of Practice**

2.1. This Code of Practice (CoP) describes our approach to inspecting those services regulated under the 2010 Measure, including the frequency in which these services will be inspected. It also sets out the principles guiding our inspection work. Inspectors are required to have regard to the guidance in the CoP and be able to explain how they have taken it into account when undertaking an inspection.

2.2. The CoP informs everyone about how childcare and play services are inspected in Wales. This includes children using services, their families, friends and carers, as well as providers of childcare and play services and members of the public.

### **How we regulate**

2.3. The CoP only applies to those services that are regulated under the 2010 Measure. These are:

- child minding
- day care:
  - full day care, such as day nurseries, children's centres, before- and after-school provision
  - sessional day care, such as playgroups, Cylchoedd Meithrin, wraparound care
  - out-of-school childcare including care provided before school, after school and during school holidays
  - crèches
  - open access play

### 3. Rights-based approach to inspection

3.1. We put the rights of children at the heart of our work. This means that we ensure that demonstrating respect, welcoming diversity, promoting equality and upholding children's rights are reflected in all that we do. The Human Rights Act 1998<sup>9</sup>, The Equality Act 2010<sup>10</sup>, the United Nations Convention on the Rights of the Child (UNCRC)<sup>11</sup>, the Welsh Government's 'Children Rights Scheme' which is enshrined in the Rights of Children and Young Persons (Wales) Measure 2010, and the United Nations Convention on the Rights of Persons with Disabilities<sup>12</sup> are reflected in our frameworks for inspection. We consider how providers promote children's rights by finding out how they ensure that children:

- have a voice;
- are safe;
- are nurtured
- are treated with respect; and
- are helped to develop their full potential.

3.2. Further information on our commitment to promoting and upholding the rights of children who use childcare and play services is set out in our <sup>13</sup>Human Rights guidance document.

3.3. We take account of all relevant statutory frameworks and safeguarding policies and procedures when considering whether children using the service are safe. If during the inspection process we find care practice which leaves children unsafe or at risk of harm, then we will take enforcement action as well as make a safeguarding referral to the local authority. We will ensure that measures are put in place to safeguard children using the service.

3.4. Where children lack capacity, we will explore the extent to which providers adhere to the principles of the Mental Capacity Act 2005<sup>14</sup> and The Deprivation of Liberty Safeguards (DoLS)<sup>15</sup>.

3.5. The Welsh Language Standards<sup>16</sup> further support us in implementing a rights-based approach. We use the principles of the Standards during our inspections, which help us ensure that children have a right to access a service in Welsh, if they so wish. The Standards support children who are Welsh-speaking to have

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<sup>9</sup> [www.equalityhumanrights.com/en/human-rights/human-rights-act](http://www.equalityhumanrights.com/en/human-rights/human-rights-act)

<sup>10</sup> [www.gov.uk/guidance/equality-act-2010-guidance](http://www.gov.uk/guidance/equality-act-2010-guidance)

<sup>11</sup> [www.gov.uk/government/publications/united-nations-convention-on-the-rights-of-the-child-uncrc-how-legislation-underpins-implementation-in-england](http://www.gov.uk/government/publications/united-nations-convention-on-the-rights-of-the-child-uncrc-how-legislation-underpins-implementation-in-england)

<sup>12</sup> <https://www.equalityhumanrights.com/en/our-human-rights-work/monitoring-and-promoting-un-treaties/un-convention-rights-persons-disabilities>

<sup>13</sup> <http://careinspectorate.wales/docs/cssiw/general/170309humanrightsen.pdf>

<sup>14</sup> [www.legislation.gov.uk/ukpga/2005/9/contents](http://www.legislation.gov.uk/ukpga/2005/9/contents)

<sup>15</sup> [www.gov.uk/government/publications/deprivation-of-liberty-safeguards-forms-and-guidance](http://www.gov.uk/government/publications/deprivation-of-liberty-safeguards-forms-and-guidance)

<sup>16</sup> [www.legislation.gov.uk/wsi/2015/996/schedule/1/made](http://www.legislation.gov.uk/wsi/2015/996/schedule/1/made)

services provided in Welsh, when they need it, without them or their parents having to ask for it.

Some examples might include:

- Welsh-speaking staff supporting children who speak Welsh;
- Welsh language signage to help orientate Welsh speakers; or
- information about the service provided in Welsh for those who want it.

Alongside reviewing how providers implement the Welsh Language Standards we have an active offer, which includes providing Welsh-speaking inspectors for providers where Welsh is the main language of choice.



## 4. The inspection process

### Why do we inspect

4.1. Inspection is a core activity of CIW and helps ensure that children accessing childcare and play services are safe, their well-being is promoted and their rights are upheld. It is how we drive continual improvement in the social care sector and check that providers are meeting their statutory duties.

### The principles of inspection

4.2. The work of inspection is guided by the following principles.

- **Being child-focused** – inspectors put children who use regulated services at the centre of their work, and assess services in terms of outcomes for children’s safety, well-being and rights.
- **Supporting improvement** – inspectors make judgements about services. We commend good practice, identify poor practice and promote improvement in childcare and play services.
- **Being transparent** – inspectors are open about the information they have used to inform their inspections, reports are clear and inform people about what we can expect from services.
- **Being fair and impartial** – inspectors base their inspections on evidence; this includes observations, speaking to people and information we read. We provide prompt feedback to the provider about what we have found including areas of strength and where improvements are required. We give them the opportunity to address any concerns, provide further information and question any matters that are not correct.
- **Being robust** – inspectors take firm and timely action when services provide poor care or place children at risk.
- **Being proportionate** – inspectors focus on matters that directly affect children’s safety, well-being and rights. We apply our enforcement powers when we see that childcare and play services are failing in these areas.
- **Being consistent** – inspectors apply the same principles and undertake the same approach to all providers that we inspect.

## How we inspect

4.3. Inspections consist of four key stages including:

- inspection planning/preparation;
- the inspection visit;
- feedback; and
- reporting.

4.4. We hold a considerable amount of information on providers through our registration and inspection processes as well as obtaining information from other intelligence sources. This helps us to determine the type and frequency of inspection required for a particular provider. We use this information to plan and inform what we want to focus on when we visit the provider and any specific measures we need to consider for engaging with the children or staff using the service or staff. For example, where children have communication needs, the inspector can consider and plan for how they will engage with these children in line with our principles of inspection.

4.5. During an inspection visit, inspectors will seek three broad types of evidence.

- What is said – inspectors engage with and listen to children using services, along with their parents / carers and friends, and talk to them about their experience of care. We also talk to the provider, relevant professionals and staff working at the service. Where children are unable to communicate directly with us, we may use a specialist inspection tool (SOFI)<sup>17</sup>, where it is appropriate to do so, to observe and draw conclusions about how children are supported.
- What is seen – inspectors observe interactions that take place between people giving and receiving care during the course of the visit. We also observe the physical environment in which childcare and play is provided, and assess the degree to which it is safe and suitable for the purpose intended.
- What is read – inspectors consult written records, policy documents and other material in the course of the visit, seeking to confirm that they are comprehensive and up-to-date, and that they demonstrate how suitable processes are put into practice.

4.6. Inspectors make notes during the inspection, which inform our inspection reports. They may also ask for copies of documents, request that information be sent to them and remove records where required. When we remove original copies of individual care records and the information is still required to inform

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<sup>17</sup> A short observational framework for inspection (SOFI) used by inspectors to capture the experiences of people who use services who may not be able to express this for themselves.

staff how to support children, copies of the information will be provided to the provider to ensure continuity and safety.

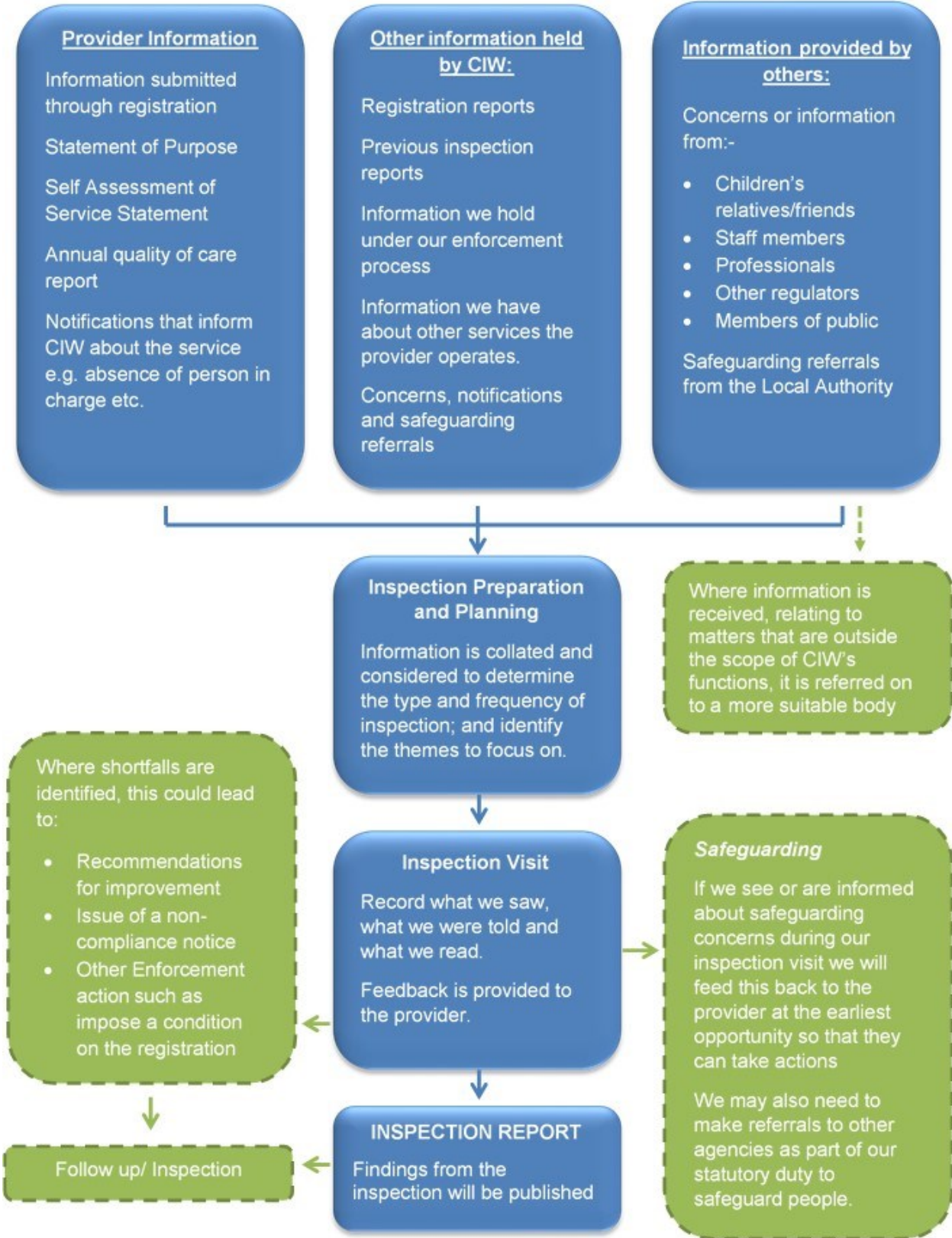
- 4.7. If the inspection visit is as a result of taking enforcement action and the inspector needs to seize information under The Police and Criminal Evidence Act 1984 (PACE)<sup>18</sup> we will inform the provider of this and what it means.
- 4.8. After the inspection visit the provider will be given feedback which will allow them the opportunity to challenge our findings and provide additional evidence in support of that challenge.
- 4.9. Subsequently the inspector's findings, supporting evidence and conclusions will be developed into an inspection report. Our inspectors use our inspection frameworks to make judgements about their findings and capture these in the narrative of their report under each theme, using qualitative language. The inspector will also award a rating against each theme. The report will be made publicly available once the provider has had opportunity to comment.

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<sup>18</sup> [www.legislation.gov.uk/ukpga/1984/60/contents](http://www.legislation.gov.uk/ukpga/1984/60/contents)

**How information is considered throughout the inspection process**

4.10. The following diagram demonstrates what information is used throughout the inspection process and what we do with it:



## When will services be inspected?

- 4.11. The 2010 Measure allows us to inspect regulated services at any time and on any day. The frequency of inspection for different service types is set out in section 6.
- 4.12. With the exception of scheduled joint inspections with Estyn (see paragraph 5.8), all our inspections are unannounced. However, for some providers we may give a short period of notice where it is appropriate to do so, for example, for child minding and open access play services, we will usually contact the provider the week before we intend to inspect to check the operating times and the child minder's availability

## Focus of inspection

- 4.13. To understand children's experiences of care, the focus of our inspections is on the quality and safety of services and the outcomes for the children using services. Therefore we consider the following themes during inspections:-

<b>Assessment theme</b>	<b>What inspectors evaluate</b>
<b>Well-being:</b> the well-being of children receiving care.	Inspectors evaluate the extent to which outcomes are being achieved.
<b>Care and development:</b> the quality of childcare and play staff provide.	Inspectors evaluate the degree to which children receive a high-quality service which reflects best practice, is provided by staff who have the appropriate knowledge and skills and supports children to achieve the best possible outcomes.
<b>Environment:</b> the physical setting in which childcare and play is provided.	Inspectors evaluate the degree to which outcomes for children are supported by surroundings that are safe, clean, accessible, comfortable, welcoming, well-maintained, stimulating, and suitably equipped and furnished.
<b>Leadership and management:</b> organisational arrangements for the provision of childcare and play.	Inspectors evaluate the degree to which organisational arrangements provide assurance for the delivery of high quality services, by motivated staff in a well led and managed service.

- 4.14. The number of themes considered will be dependent upon the type of inspection undertaken, as described in section 5. To support a consistent approach to the inspection process, we have developed inspection frameworks for each regulated service that focus on outcomes and what good looks like.
- 4.15. Our inspection frameworks are accessible on the 'providing a care service' area of our website<sup>19</sup>.

### **Food standards**

- 4.16. All our scheduled full inspections will consider, where relevant, the food hygiene rating awarded to the provider by the Food Standards Agency<sup>20</sup>. In addition, inspectors will consider if a provider is following the Food and Nutrition for Childcare Settings standards and guidance<sup>21</sup>.

### **Ratings**

- 4.17. We introduced ratings for registered childcare and play services in 2016. We do not award an overall rating for the provider but we do award ratings against each of the four inspection themes using a four-point rating scale.

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<sup>19</sup> <https://careinspectorate.wales/providing-a-care-service/our-inspections>

<sup>20</sup> <https://www.scoresonthedoors.org.uk/>

<sup>21</sup> <https://gov.wales/childcarefood>

<b>Rating Scale</b>	<b>What this means</b>
<b>Excellent</b>	These are services which are committed to ongoing improvement with many strengths, including significant examples of sector-leading practice and innovation. These services deliver high quality care and support and are able to demonstrate that they make a strong contribution to improving children's well-being.
<b>Good</b>	These are services with strengths and no important areas requiring significant improvement. They consistently exceed basic requirements, delivering positive outcomes for children and actively promoting their well-being.
<b>Adequate</b>	These are services where strengths outweigh areas for improvement. They are safe and meet basic requirements but improvements are required to promote well-being and improve outcomes for children.
<b>Poor</b>	These are services where important areas for improvement outweigh strengths and there are significant examples of non-compliance that impact negatively on children's well-being. Where services are poor we will take enforcement action and issue a non-compliance notice.

## **5. Types of inspection**

5.1. All providers must register any service(s) they deliver in Wales that is regulated under the 2010 Measure. As a result we can undertake inspections of the service pertaining to that registration. The following sets out the different types of inspections.

### **Full inspection**

5.2. Full inspections involve in-depth consideration of all four themes.

5.3. The first full inspection takes place approximately six months after a provider registers or begins providing the service.

5.4. Full inspection is an opportunity for inspectors to check that providers are adhering to legislative and regulatory requirements, and are meeting the conditions of their registration. After the first full inspection, the service will receive further full inspections in line with the frequency set out in section 6.

### **Focused inspection**

5.5. Focused inspections are usually carried out in response to a specific concern, or to follow up on regulatory breaches or other issues identified at a previous inspection. Focused inspections are generally shorter than full inspections, and will not necessarily cover all four themes. However, a focused inspection will always cover the theme of 'well-being'.

5.6. Where the follow-up inspection is in regards to a previously identified regulatory breach, the follow-up inspection will usually take place within 6 months of that previous inspection. However, the timing of that inspection will be based on the judgement of the inspector in considering the severity of the regulatory breach and the time required by the provider to address the issue(s).

### **Thematic inspections**

5.7. Thematic inspections focus on certain areas of practice across the childcare and play sector. For example, this could include reviewing provision for children with additional needs, or the quality of play. This enables us to have an understanding of, report on and make recommendations in relations to specific childcare and play practices across Wales.

### **Joint inspections with Estyn**

5.8. We also undertake joint inspections with Estyn, the inspectorate for education and training in Wales. These inspections will consider the care and education provided in regulated non-school settings eligible for funding for part-time education. Joint inspections will include inspection of the care provided for all



children up to the age of twelve and the education of three- and four-year-old children that do not receive education in a maintained setting.

5.9. A separate handbook<sup>22</sup> has been developed setting out the way in which these settings will be jointly inspected.

### **Length of inspections**

5.10. The type and size of the provision and the age range of the children looked after will determine how long the inspection should be and the number of inspectors present. One inspector, especially for child minders, will usually carry out inspections.

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<sup>22</sup> <https://careinspectorate.wales/sites/default/files/2019-01/190103-guidance-handbook-en.pdf>

## 6. Scheduling of inspections

6.1. When a provider has registered with us, we will ensure the registration is monitored through a rolling programme of scheduled inspections. Information received between scheduled inspections will also be monitored. The information gathered through this monitoring process informs us how the service is performing and when a subsequent inspection should be scheduled.

6.2. Our approach to deciding when an inspection should be scheduled is based on:

- our consideration of the risks associated with that type of service and
- knowledge of how that specific service is operating.

6.3. We use an evidence-based approach to prioritise risks and make decisions about how we regulate services. There are a range of factors that will be considered to inform our scheduling of inspections, which include but are not limited to:

- incoming concerns and safeguarding referrals – these can be predictive of risk to children using the service;
- if the service is a newly registered service – some newly established services can be of greater risk during the initial set up period;
- if the service has been issued with a non-compliance notice or where there is a history of non-compliance with legal requirements;
- if the person in charge, registered person, or responsible individual is absent for more than three months – this may impact on the safe operation of the service; and
- if the provider is deemed to be a ‘service of concern’ within our enforcement pathway.

6.4. In order to determine the frequency of inspection we have developed a scheduling model that captures and weighs the factors listed above. Our scheduling model will use the available information to identify whether a service requires a **routine**, **early** or **priority** inspection. However, the scheduling model is only a tool used for the specific purpose of scheduling an inspection. The quality of the service is determined at inspection.

6.5. Table 1 sets out the routine scheduling of inspections for different types of childcare and play services.

**Table 1: Inspection intervals**

<b>Type of regulated service</b>	<b>Routine</b>
Child minding	36 months
Full day care setting	24 months
Sessional day care	36 months
Out-of-school childcare	36 months
Crèches	36 months
Open access play	36 months

6.6. It is important to note that we may undertake a focused inspection at any time in response to incoming concerns, notifications and safeguarding referrals.

## 7. Conduct during inspection

### Inspectors

7.1. Inspectors employed by CIW have come from a variety of professional backgrounds within health and social care; many have previously worked as nurses, social workers, teachers or as registered managers of care services. However all inspectors are civil servants and must meet the professional standards set out in the Civil Service Code<sup>23</sup>. As with social care workers, inspectors also act in accordance with the Code of Professional Practice for Social Care<sup>24</sup>. This brings the expectation that inspectors will:

- carry out their work with care, integrity, courtesy, sensitivity and professionalism;
- evaluate the provision of services objectively ensuring evidence is both triangulated and weighted appropriately;
- report on the inspection honestly, fairly and impartially;
- communicate clearly and openly to promote the health, safety and well-being of children who use childcare and play services;
- act in the best interests of children using services;
- respect confidentiality of information;
- be accountable and take responsibility for the quality of their work; and
- promote, uphold and respect the privacy, dignity, rights, health and well-being of people who both use or are employed by childcare and play services.

### How providers and staff can support the inspection process

7.2. We will always seek to minimise the impact that an inspection visit can have on the service, its staff and the children using the service. To help inspectors achieve that aim, providers and their staff can assist the inspection in the following ways:

- talk to the inspector;
- tell the inspector about any possible risks;
- tell the inspector if their presence will upset children;
- do what you would normally do (we want to see what it is normally like for children);

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<sup>23</sup> [www.gov.uk/government/publications/civil-service-code/the-civil-service-code#standards-of-behaviour](http://www.gov.uk/government/publications/civil-service-code/the-civil-service-code#standards-of-behaviour)

<sup>24</sup> <https://socialcare.wales/cmsassets/file-uploads/Code-of-Professional-Practice-for-Social-Care.pdf>

- allow the inspector to walk around communal areas, as long as it is safe to do so;
- allow inspectors a private area to talk to staff and where necessary also to people using the service;
- if during feedback you disagree with anything the inspector tells you, please tell them and be clear about the reasons why; and
- if you have any concerns about how the inspection is being conducted raise this immediately with the inspector or their manager.

7.3. We will be polite and courteous in our dealings with you and therefore expect you to be polite and courteous in your dealings with us. However, we will not tolerate unreasonable, aggressive or abusive behaviour, unreasonable demands or unreasonable persistence. We regard any incident of this nature as serious and we will take action in accordance with Welsh Government policy to protect our staff where necessary.

## **8. Feedback at and reporting of inspection**

### **Feedback**

- 8.1. We strive to ensure our inspection reports are fair and that our findings are properly based on the triangulation of evidence we gather. Therefore, in the interests of fairness and transparency, we accept the right of providers to respond to our reports and comment on our findings where they believe them to be inaccurate or unfair. This gives us the opportunity to correct any errors and consider additional information before an inspection report becomes publicly available.
- 8.2. The inspector will provide feedback to the registered person following an inspection visit. This will be an overview of findings at the end of the inspection visit as further analysis may be required before firm conclusions can be drawn. Feedback will be structured around the assessment themes and should focus on areas of compliance and non-compliance. Where it is not possible to provide feedback to the registered person at the end of the inspection visit, the inspector will provide feedback to those in charge of the service on the day. At the earliest opportunity we will contact and provide feedback to the registered person. The inspector may also provide feedback during the course of the inspection visit if immediate action is required.
- 8.3. This feedback will give the provider the opportunity to challenge any inaccurate information and provide the inspector with any further evidence which may inform the report.
- 8.4. Where an inspector considers that a service has not met the requirements of the regulations and is thinking of or intending to issue a non-compliance notice or take other enforcement action, the inspector will clearly inform the provider accordingly.

### **Inspection report**

- 8.5. Children's experiences of services are at the heart of our reports including the impact of those services on their well-being. Whilst providers and professionals read our reports, they are written for the general public. This enables those who use and choose services to understand the quality of childcare and play provided.
- 8.6. Inspectors base their reports on the evidence they gather prior to, during and following the inspection visit. The inspector considers a variety of evidence to support their findings in their report. This will be a consideration of what is said, what is seen and what is read to inform our findings, our overall judgements and the ratings to award.

## When will the inspection report be published?

- 8.7. We aim to draft, finalise and publish inspection reports within **50 working days** following the completion of inspections. However, in a small number of instances, this timescale may be extended due to issues such as the availability of the registered person to respond to the inspection report or where there are provider challenges to the inspection report.
- 8.8. Each inspection report is expected to be written and issued to the relevant person as a draft version within **25 working days** of the last inspection activity. However the 'last inspection activity' could be, for example, the inspection visit itself or follow-up telephone calls to relatives or professionals or reviewing questionnaires.
- 8.9. Our 'responding to inspection reports' process offers the opportunity to question our inspection reports and submit comments about the factual accuracy, completeness of the evidence and/or the findings upon which our judgements are based.
- 8.10. A period of **10 working days** is allowed for the provider to consider and respond to the draft report.
- 8.11. Any challenges should always specify the part(s) of the report that are contested and provide details about why it is being challenged with supporting evidence. This will enable inspectors (and managers) to consider the information fully and provide a clear response. Our response and a copy of the amended report, where appropriate, will be provided to the provider within **5 working days**, following receipt of the challenge.
- 8.12. A further **5 working days** is allowed for the provider to consider the response and the revised inspection report. If we do not hear from the provider within this time then the report will be made available to the public.
- 8.13. We will consider and respond to any second challenge raised by the provider within a further **5 working days**.
- 8.14. Further detail on how we publish inspection reports and how we process responses to those reports, is set out in our policies for publishing and responding to inspection reports.

## Raising a complaint about an inspection

- 8.15. If the provider, the family of a child using the service or a member of the public has a complaint about the conduct, attitude or behaviour of an inspector, or any CIW staff member, we have a complaints policy<sup>25</sup> that should be followed.
- 8.16. The complaints policy is separate to the 'responding to inspection reports' process described in paragraphs 8.7 to 8.13. A complaint made against the

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<sup>25</sup> <https://careinspectorate.wales/contact-us/complaints-about-us>

conduct of an inspector will not normally delay the publication of an inspection report.



## 9. Improving the quality of services

9.1. Inspectors use a proportionate approach which looks at the impact on or risk to children using the service whilst taking into consideration the requirements of the 2010 Measure, regulations and relevant national minimum standards.

9.2. The types of actions we take will be proportionate and will look at the impact on or risk to children using the service. This could include actions described below.

- Where we identify that outcomes for children could be improved, we may make recommendations.
- Where the provider is not meeting the legal requirements but there is minimal impact on or risk to children using the service, we will inform the provider that they are non-compliant and will expect them to take action to address the issues identified. In these cases we will not issue a non-compliance notice; however this will be followed up and reported on at the next scheduled inspection.
- Where the provider is not meeting the legal requirements and there is a significant negative impact on or risk to children using the service, we will issue a non-compliance notice which is the first step in our enforcement process. In these cases, we will undertake a follow-up focused inspection to test whether the provider has made the required improvements.
- In certain circumstances, where we determine that the risk to children is particularly significant, we may take urgent action to place restrictions on or cancel the provider's registration. This could include for example preventing further admissions or closing the service.

9.3. We want to make sure that providers who provide poor care do not continue to do so. We have a range of actions we can take under our enforcement process to make sure children are safe. These include:

- issuing a non-compliance notice;
- requiring the provider to meet with us to discuss what actions have been taken to address poor care.;
- imposing, varying or removing conditions on the provider's registration;
- cancelling the provider's registration;
- prosecuting the provider.

## 10. Information

10.1. The knowledge and information we hold is one of our most important assets. It ensures that the decisions we make and the advice we give is underpinned by a robust evidence base.

10.2. Through our registration and inspection processes we gather and hold a considerable amount of information on providers, as well as information obtained from other intelligence sources. This valuable information helps us to assess whether a registered provider and/or registered person is complying with their legislative and statutory responsibilities.

10.3. On occasion we may receive a request to release information relating to an individual case or provider. Any individual has the right to request recorded information that we hold, and subject to the statutory requirements of legislation around information handling, to be given a copy of this information.

10.4. To ensure that the right information is available at the right time, and that we uphold the statutory requirements that are required of us, we:

- Safeguard the information we hold, in line with Welsh Government procedures, to ensure high standards of information security and data protection.
- Store our information in the correct way, adhering to the Welsh Government's records management<sup>26</sup> principles.
- Respond to requests for information within the established processes and timeframes required by law.<sup>27</sup>
- Share information appropriately and lawfully, to enhance and re-use our knowledge, work collaboratively and reduce duplication.

10.5. Our Privacy Notice<sup>28</sup> summarises how we handle all the types of personal information we collect. This includes the legal basis for collecting the information, how the information is processed, how long it is kept for, who it might be shared with, what your rights are in relation to it and the relevant contacts that you might need.

10.6. In certain cases CIW may participate in or undertake an inspection jointly with other regulatory bodies or agencies, such as the Police or Health and Safety Executive. Sharing information with these regulatory bodies or agencies is crucial in ensuring an effective use of information and resource. In these

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<sup>26</sup> <http://gov.wales/about/foi/policies/recordsmanagement/?lang=en>

<sup>27</sup> There are four laws governing our handling of requests for information, these are the Data Protection Act (DPA) 1998, General Data Protection Regulation (GDPR) 2016, Freedom of Information Act (FOIA) 2000 and Environmental Information Regulations (EIR) 2004.

<sup>28</sup> <https://careinspectorate.wales/how-we-use-your-information>

situations we share information in line with the statutory requirements placed upon us.

## 11. Terminology

**Childcare and play.** Broadly refers to the type of provision regulated under the 2010 Measure.

**Care Inspectorate Wales (CIW).** The independent regulator of social care and childcare. We register, inspect and take action to improve the quality and safety of services for the well-being of the people of Wales.

**Code of Practice for Inspection.** High-level description of the manner in which the inspection of regulated services is to be carried out.

**Concerns.** An issue which has been reported to CIW that relates to the safety, well-being or rights of children using the service.

**Compliance.** Where a provider is meeting their regulatory responsibilities. Providers are deemed 'non-compliant' when they fail to meet those responsibilities.

**Inspection framework.** A structured approach to support how we focus our inspection activity throughout the inspection process.

**Regulator.** Organisation established by government to supervise, by means of rules and regulations, an area of commercial or social activity.

**Safeguarding.** General term for actions taken to promote the welfare of children and protect them from neglect, abuse and exploitation.

**Well-being.** Broadly refers to the state of a child being healthy, happy, safe and comfortable with their life.

**Whistleblower.** Someone who raises an issue of public concern about wrongdoing, risk or malpractice that they are aware of through their work. Whistleblowers are protected by law, from being mistreated or dismissed from their jobs.

## 12. References

Active Offer

<https://socialcare.wales/learning-and-development/more-than-just-words-and-the-active-offer>

Care Inspectorate Wales (CIW)

<https://careinspectorate.wales/>

Children and Families (Wales) Measure 2010 (the 2010 Measure)

[www.legislation.gov.uk/mwa/2010/1/contents](http://www.legislation.gov.uk/mwa/2010/1/contents)

Civil Service Code

[www.gov.uk/government/publications/civil-service-code/the-civil-service-code](http://www.gov.uk/government/publications/civil-service-code/the-civil-service-code)

CIW Responding to Inspection Reports Policy

<https://careinspectorate.wales/sites/default/files/2018-04/180403inspreportspolicyen.pdf>

Code of Professional Practice for Social Care

<https://socialcare.wales/collections/code-of-professional-practice-for-social-care---resources>

Human Rights Act 1998

[www.legislation.gov.uk/ukpga/1998/42](http://www.legislation.gov.uk/ukpga/1998/42)

Mental Capacity Act 2005

[www.legislation.gov.uk/ukpga/2005/9/contents](http://www.legislation.gov.uk/ukpga/2005/9/contents)

National Minimum Standards for Regulated Childcare for Children up to the age of 12 years

<https://careinspectorate.wales/sites/default/files/2018-01/160411regchildcareen.pdf>

Police and Criminal Evidence Act 1984 (PACE)

[www.legislation.gov.uk/ukpga/1984/60/contents](http://www.legislation.gov.uk/ukpga/1984/60/contents)

Policy for Publishing Inspection Reports

<https://careinspectorate.wales/our-reports/regulated-services-inspection-reports>

The Regulation of Child Minding and Day Care (Wales) Order 2016

<http://www.legislation.gov.uk/wsi/2016/98/made>

The Child Minding and Day Care (Wales) Regulations 2010

<http://www.legislation.gov.uk/wsi/2010/2574/contents/made>

The Child Minding and Day Care (Wales) (Amendment) Regulations 2016

<http://www.legislation.gov.uk/wsi/2016/87/contents/made>

The Child Minding and Day Care (Inspection and Information for Local Authorities) (Wales) Regulations 2010

<http://www.legislation.gov.uk/wsi/2010/2575/contents/made>

The Child Minding and Day Care Exceptions (Wales) Order 2010

<http://www.legislation.gov.uk/wsi/2010/2839/contents/made>

The Child Minding and Day Care Exceptions (Wales) (Amendment) Order 2016

<http://www.legislation.gov.uk/wsi/2016/96/contents/made>

The Child Minding and Day Care (Disqualification) (Wales) Regulations 2010

<http://www.legislation.gov.uk/wsi/2010/1703/contents/made>

United Nations Convention on the Rights of the Child (UNCRC)

[www.unicef.org.uk/what-we-do/un-convention-child-rights/](http://www.unicef.org.uk/what-we-do/un-convention-child-rights/)