

# Information sharing protocol between CIW and local authorities of Wales

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## Revision history and approval

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0.8	Updated GDPR legislation references to UK GDPR	Jan 2022

# 1 Introduction

- 1.1 This Information Sharing Protocol (ISP) sets out the basis and arrangements for controlling the exchange of information between ourselves, Care Inspectorate Wales (CIW) and Local Authorities of Wales (LAW). [Note: It is not an alternative mechanism for Freedom of Information or Subject Access Requests which both have their own separate processes.]
- 1.2 The aims of this ISP are to:
  - a) set out the principles upon which we will share information;
  - b) create a generic template for sharing information between ourselves and other organisations; and
  - c) ensure compliance with Public Records and Data Protection regulations.
- 1.3 The main body of the ISP sets out the broad principles for the way in which we and LAW will work together. There are a number of appendices that provide further details where required. These are:
  - a) Appendix A: Partners**

This provides details of ourselves and LAW, our main contacts for this ISP and any additional guidance regarding the way in which we agree to collaborate.
  - b) Appendix B: Information**

This shows the main categories of regulatory and business information we share with LAW, and provides a summary of the rationale for the sharing of that information.
  - c) Appendix C: Legal basis**

This summarises the legal basis for the sharing of the information.
  - d) Appendix D: Fixed schedule information sharing**

This outlines the information we and LAW share to fixed schedules.
- 1.4 While not a legally binding document, this ISP demonstrates the intent of ourselves and LAW to satisfy our regulatory duties through due diligence and maximising efficiencies in the secure sharing of information to protect the well-being of the citizens we serve.

## 2 Governance

- 2.1 CIW will keep a Master ISP (MISP) based on this ISP template. The MISP will collate the particulars from all the ISPs CIW has with other organisations. The MISP will be reviewed annually and distributed to all organisations who have an ISP with us.
- 2.2 When there are changes that will impact the arrangements under this ISP, those involved must inform each other without delay. If there is disagreement, the contacts listed in Appendix A should be used initially to liaise over an appropriate resolution. If there is a requirement to terminate the agreement, those involved should endeavour to give at least one month's warning of the intended termination date.

## 3 Principles

- 3.1 There are a number of principles that will govern the way in which we and LAW will share information.
  - a) Information will be shared **proactively** in support of our relevant functions.
  - b) Where there is a common interest between us (e.g. joint inspections, public reports, media announcements), we will work **collaboratively** in regard to information sharing. This is aimed at reducing the burden on all concerned and ensuring consistency of products.
  - c) Information sharing must be **relevant** to our functions, **proportionate** to the tasks required, **necessary** to achieve the required purposes and **legally justified**.
  - d) Information shared will be **limited** to those staff whose roles are needed to process that information.
- 3.2 Other areas of information control (eg security, transmission, legal basis, rights, etc) are described below.

## 4 Information

- 4.1 We hold a variety of hard copy and digital information to support our functions. The broad categories of these functions are shown here:
  - a) the registration and regulation of care services and providers;
  - b) the inspection of care services and providers;
  - c) the enforcement of standards across care services and providers;and

d) the inspection and performance evaluation of local authority social services.

- 4.2 However, information can readily move between these functional areas. For example, an *inspection* can reveal a concern in the *registration* status of a *care service*. The care service may come under a Local Authority *care provider* and further investigation of the concern leads to *enforcement* actions. This complex inter-relationship of information needs to be understood as it reflects the way in which information may be shared. The information cannot always be categorised under one particular function, so the emphasis when sharing rests on ensuring the information is relevant, necessary and proportionate to the intended aim of that sharing.
- 4.3 There are important reasons why information is shared. These are summarised, against various categories of information in the table in Appendix B.
- 4.4 How we and LAW handle the personal information we receive is presented in our own privacy notices<sup>1</sup>. For example, if a concern is received from another organisation, it will be handled as if it were one of its own concerns from the time of receipt. Privacy notices also include reference to retention schedules. These are important in regard to the availability of information over time, which can be a critical factor in the consideration of business processes such as enforcement activities. Privacy notices also include reference to those organisations we share information with.

## 5 Legal basis

- 5.1 There has to be adequate legal basis for the sharing of information between ourselves. These legal bases are summarised in Appendix C. The legal basis may be pertinent to a particular type of information that needs to be shared (e.g. concerns about the safety of citizens) or to the particular functions of an organisation (e.g. registration checks between organisations with related regulatory functions). In addition, the legal basis needs to be aligned to the sensitivity of the information. The sensitivity can be split into three broad categories.
- a) Non-personal  
Typically anonymised information used in statistical analysis.
  - b) Personal  
Information by which an individual can be identified, either

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<sup>1</sup> The CIW Privacy Notice can be found at: <https://careinspectorate.wales/how-we-use-your-information>.

directly (by a name) or indirectly (by deduction from contextual information supplied).

- c) Special category  
Sensitive information relating to such areas as health, sexuality, religion etc

5.2 However, there will always be exceptional circumstances where information must be shared for the well-being of citizens but which aren't covered under this ISP. In those circumstances the well-being of citizens is paramount and the information must be shared. The legal basis for this should be established as a priority. As soon as possible after such an event, we should inform each other of these exceptions using the contacts provided in Appendix A. This can then be used to update this ISP so that such occurrences are covered in the future

## **6 Ownership**

- 6.1 The data controller determines the purposes for which, and the means by which personal data is processed. This places on an organisation certain responsibilities under the UK's data protection legislation. The UK's data protection legislation is contained within the UK General Data Protection Regulations (UK GDPR) and the UK Data Protection Act (DPA) 2018.
- 6.2 When information is shared with another organisation, the relationship in regard to the control of data needs further definition. The default designation for both the sending and receiving organisations between ourself and LAW is Independent Data Controller. This indicates that the information passes completely from the control of the sending organisation to the receiving organisation. The receiving organisation can then use that information in line with its own functions.
- 6.3 In the rare case that information is exchanged solely for the purpose of processing it on behalf of the other organisation and not in direct support of a legal basis, then the receiving organisation is designated a Data Processor. This requires the sending organisation to put in place the necessary controls to ensure the receiving organisation uses the information as directed. These controls could form part of this agreement as annexes under relevant entries in Appendix A.

## **7 Rights**

- 7.1 We and LAW agree to uphold Data Subject rights in relation to any personal information shared between us. (Please note that a "Data subject" means the identified or identifiable living individual to whom personal data relates). This, for example, could refer to the updating of shared information that has been found to be incorrect. We and LAW must remain aware of the statutory Data Subject rights and support each

other in meeting these as necessary. In all such occurrences, formal requests should be presented detailing the work required and confirmations provided for when the remedial work is completed.

- 7.2 In the event of a data breach those involved in the sharing of that information must be notified as soon as possible. After a breach is reported, a review will be conducted to understand the circumstances of the breach, to define a remedial action-plan and to assess the future viability of the ISP for those involved.
- 7.3 Where shared information is to be disclosed to third parties, the impact on the originating organisation of that information should be taken into consideration. This is particularly important when it could adversely affect that organisation. It is understood that the originating organisation for the information may not always be readily identifiable, but where it is, this behaviour should be observed. This includes responding to Freedom of Information (FOI) requests and similar interactions with third parties
- 7.4 Consideration should be made in regard to informing data subjects or their lawful representatives about the need for sharing their information at the earliest appropriate opportunity. This will have to take into account the practicability of making contact with them, the risk of harm to others and of hindering any related investigations or legal proceedings. If contact is made, it would be to inform them what personal information is to be shared, with whom and for what purposes.

## **8 Exchanges**

- 8.1 The quality of the information shared is the responsibility of the original sender of the information. It is important this quality is defined so no wrong assumptions are made in respect to the information. This could, for example, include the time/schedule and means by which the information was originally collected or a statement that the information is understood to be correct at the time of sending.
- 8.2 Ad hoc requests for information will be processed as soon as possible. Due to the wide variety and complexity of requests it is impossible to provide a definitive service level agreement (SLA) for response times. To mitigate this, an initial response within 10 working days of the receipt of a request should provide an estimate of the time required to completely fulfil the request.
- 8.3 Where fixed schedules for information sharing have been agreed between ourself and LAW, these are listed in Appendix D.
- 8.4 Whenever information is shared it must be done securely. A broad outline of the ways in which this can be done is shown here. As the methods can be subject to regular change, we should consult with our



own information security leads to ensure we are compliant and up to date.

**a) Publicly available information**

This requires no special protective measures.

**b) Sensitive information (hard copy)**

Typically this involves secure packaging (eg Welsh Government requires double-wrapping) and a way of monitoring the transportation (eg Welsh Government requires tracking of packages or a courier service).

**c) Sensitive information (digital)**

1. Trusted networks

There are secure networks that can be used without the addition of further protective measures (eg Welsh Government keeps a list of these on its intranet)

2. Secure service (online).

These are typically procured services which provide secure means of sending digital content between different organisations (eg Welsh Government uses Egress Switch, email encryption and i-Share Connect for this).

3. Secure service (offline)

These are typically encrypted password-protected digital storage devices such as disks or memory sticks. These are often more suitable for the transfer of larger quantities of digital information (eg Welsh Government provides a list of approved devices on its intranet).

8.5 We and LAW must ensure both business processes and digital and physical infrastructure protect all shared information, whether hard copy or digital. This should be in line with industry best practise such as ISO27001<sup>2</sup> or Cyber Essentials<sup>3</sup>, and for public bodies, the standards laid down for them such as HMG Security Policy Framework<sup>4</sup>. These measures include enforcing correct levels of access to information (eg using secure hosting, secure login), ensuring information continuity (eg conducting regular offsite backups), protecting information from

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<sup>2</sup> <https://www.iso.org/obp/ui/#iso:std:iso-iec:27001:ed-2:v1:en>

<sup>3</sup> <https://www.gov.uk/government/publications/cyber-essentials-scheme-overview>

<sup>4</sup> <http://www.cabinetoffice.gov.uk/spf>

malicious attack (eg using virus protection, firewalls), ensuring any 3rd party processing adheres to the regulations governing the handling of personal information (eg through contractual arrangements).

## **9 Business processes**

- 9.1 This ISP is tailored for the sharing of information between ourself and LAW in support of our official functions. However, there can be a need to co-ordinate respective business processes whether directly or indirectly related to the sharing of information. This ISP can work in conjunction with other agreements that govern those processes or accommodate them as part of this ISP (by using annexes containing the business processes under the relevant entries in Appendix A: Partners).
- 9.2 The co-ordination of business processes requires active participation to be successful. While this ISP can help to establish the principles of collaborative working, it cannot keep pace with the often regular and rapid changes of operational environments. This collaboration is best facilitated by those operational areas meeting to manage the support processes and strengthen working relationships.
- 9.3 While this ISP defines the controls for information sharing, the business processes should focus on the supporting day-to-day work required in operational environments. This could include:
  - a) Identifying changes required to this ISP;
  - b) Confirming contact details, including senders and receivers of information;
  - c) Providing proforma to expedite the sharing of information;
  - d) Ensuring processing of information remains in line with this ISP;
  - e) Agreeing the appropriate mechanism for the secure transfer of information;
  - f) Agreeing the scheduling of information sharing;
  - g) Arranging training, awareness raising sessions etc associated with the sharing of information and related business processes;
  - h) Dealing with issues and risks arising from the process of information sharing;
  - i) Planning for joint operations which require the sharing of information.

## Appendix A: Partners

This appendix lists ourself and yourself as the organisations sharing information with each other.. The 'ISP Contacts' entries provide the main conduit for any communications in relation to this ISP. The 'Business Processes' entries reference any annexes that describe ways in which we and LAW have agreed to collaborate.

Partners	Main Aims	ISP Contact	Business Processes
Care Inspectorate Wales	Care Inspectorate Wales (CIW) is the independent regulator of social care and childcare in Wales. CIW registers, inspects and takes action to improve the quality and safety of services for the well-being of the people of Wales.	Kirsty Manton Knowledge Information Manager e: CIWInformation@gov.wales	
Local Authorities of Wales (Social Services, Adoption and Fostering Agencies)	<p>The Local Authorities of Wales (LAW) through their Social Services are responsible for the procurement, assessment and quality assurance of their care services.</p> <p>Their Adoption Agencies secure permanent families for looked after children in Wales. They recruit and assess adopters, offer counselling to birth parents and advice and, optionally, support services to adopted adults.</p> <p>Their Fostering Agencies recruit, train and support foster parents and work in a multi-agency way to help implement children's care plans.</p>		

## Signatories

The Signatories can be used for authorisation when preferred instead of confirmation by email.

<b>Partner</b>	<b>Care Inspectorate Wales</b>	<b>Local Authorities of Wales</b>
Name		
Role		
Signature		
Date		

## Appendix B: Information

Category	Description	Reason for sharing
<b>Enforcement</b>	<u>Requests for Information</u> Information supplied in support of an enforcement action. The nature of the information depends on the request received in each case. Typically this might require inspection reports and/or inspectors' witness statements.	To ensure that enforcement actions reliant on the sharing of information are not impeded and support is given in relation to the judicial process as it seeks to protect citizens
	<u>Enforcement actions</u> Proposed and actual enforcement actions and their outcomes. This may include Services of Concern and Civil and Criminal court cases.	To raise awareness of possible and actual risks to citizens in circumstances related to the enforcement actions and allow appropriate protective measures to be put in place.
<b>Concerns</b>	Concerns cover any situation of potential risk to the safety, well-being and rights of care providers, users and any related third parties.	To raise awareness of possible and actual risks to the well-being of citizens, allowing for appropriate protective measures to be implemented and earlier resolution to the concerns.
<b>Inspections</b>	Inspection reports and supporting documentation.	To ensure the integrity and full breadth of information prior to publication. This supports joint inspections and any context where multiple agencies have an involvement and regulatory interest.
<b>Registrations</b>	Applications, registrations, pending de-registrations and de-registrations.	To allow cross-checking in regard to registrations which can: <ul style="list-style-type: none"> <li>- protect citizens from malpractice</li> <li>- prevent registrants avoiding enforcement actions or regulatory duties</li> <li>- allow the provision of benefits dependent on registration</li> <li>- facilitate the processing of dependent registrations</li> </ul>
<b>Strategy</b>	<u>General</u> Business processes, analytical anonymised information and strategic and operational planning.	To share best practise, align strategic development, inform policy development and support collaborative operational working.
	<u>Media</u> Collated information prepared for media presentation	To provide a joined-up narrative in dealings with external media

## Appendix C: Legal basis

For all information shared between ourself and LAW there needs to be a legal basis.

Part A covers the overarching legal basis for information sharing between ourself and LAW. Part B covers any legal obligations specific to LAW which we will rely upon if we consider the sharing of information is necessary for us either to comply with our legal obligations or in the exercise of our functions. Where entries against organisations are left blank, this indicates the legal basis in Part A is being relied on for the sharing of information.

At least one legal basis under Article 6 of the UK GDPR needs to be met when sharing personal data. However, two legal bases, one under Article 6 and one under Article 9 of the UK GDPR are required to be met if special category data is to be shared with other organisations. The DPA 2018 also provides for further conditions which can be relied upon.

The legal basis for sharing information should always be recorded for audit purposes.

The tables used in Parts A and B broadly indicate the types of information shared (Key: R: Registrations; I: Inspections; C: Concerns; E: Enforcements; S: Strategy), the scope of that information and the legal basis for sharing the information. Much of the information sharing is aimed at protecting citizens' well-being and improving joined-up working across public bodies. An outline of how shared information is used is shown in Appendix B.

**Part A: Legal bases for our sharing of information with LAW.**

Partners	R	I	C	E	S	Scope	Legal basis
<b>Care Inspectorate Wales</b>	x	x	x	x		Information relevant to the regulation and inspection of social care and childcare for the citizens of Wales.	<p><u>Personal data sharing:</u></p> <p>Article 6(1)(c) UK General Data Protection Regulation (“UK GDPR”)</p> <p>Permission to share information when it is necessary for compliance with a legal obligation; or</p> <p>Article 6(1)(e) UK GDPR</p> <p>Permission to share information to undertake a task carried out in the public interest or in the exercise of official authority.</p> <p>Schedule 2/3: Data Protection Act (“DPA”) 2018 Disclosure permitted without consent where necessary. This can include compliance with a legal obligation (as set out below), protection of vital interests of the data subject, administration of justice, and exercise of any other functions of a public nature exercised in the public interest by any person.</p> <p>Schedule 8 DPA Processing data is permitted for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties.</p> <p><u>Special Category data sharing:</u></p> <p>Article 9(2)(b) UK GDPR Permission is given to share information where it is necessary to carry out the obligations and exercising rights of the controller or data subject in the field of social protection law; or</p>

Partners	R	I	C	E	S	Scope	Legal basis
							<p>Article 9(2)(c) UK GDPR Permission is given to share information where it is necessary to protect te vital interests of the data subject.</p> <p>Schedule 1, Part 2 of the DPA Processing is permitted for the purposes of substantial public interest;</p> <p>Paragraph 6 when it is necessary to exercise a function conferred by an enactment of rule of law;</p> <p>Paragraph 10 when it is necessary for the purposes of discharging certain protective functions which are designed to protect members of the public from certain conduct which may not constitute an unlawful act, such as dishonesty, incompetence or mismanagement. Additional requirements are that seeking the consent of the data subject would prejudice those purposes and the processing is necessary for reasons of substantial public interest</p> <p>Paragraph 18 when it is necessary for the safeguarding of children and individuals at risk.</p> <p><u>Personal and Special Category data sharing:</u> Legal obligations which may be relied upon for both personal and special category data:</p> <p>Section 182: Regulation and Inspection of Social Care(Wales) 2016 (“RISCA”), imposes a duty on a regulatory body to disclose information it has obtained in the exercise of its relevant functions to any other person if it thinks that such disclosure is necessary or expedient to protect the well-being of an individual in Wales.</p> <p>Part 9: RISCA (Wales) Act 2016 provides for the co-operation and joint working by regulatory bodies in the registration and regulation of persons providing care home services.</p>



Partners	R	I	C	E	S	Scope	Legal basis
							Social Services and Well-being (Wales) Act 2014 (“SSWBA”) provides that persons exercising functions under the Act should seek to promote the well-being of people who need care and support. The Act makes provision for arrangements to promote co-operation between partner agencies to improve the well-being of children.
				x		Information requests received	Due to the variation in the information requested, the legal bases for these are reviewed case by case and the outcomes recorded by CIW.
					x	Anonymous and public information	<p>Section 87, paragraphs (9A), (9B), and (9C): Children Act 1989;</p> <p>Section 32, (5), (6) and (7): Care Standards Act 2000;</p> <p>Section 40: Children and Families (Wales) Measure 2010;</p> <p>Regulation 2, paragraphs (2), (3) and (4): Child Minding and Day Care (Inspection and Information for Local Authorities) (Wales) Regulations 2010;</p> <p>Section 36 (3) RISCA</p> <p>The above provides for information to be made available to the public. Strategic information that is anonymised (eg business processes, analytics) does not come under the Data Protection regulations and needs only business agreement, not a legal basis.</p> <p>Where sensitive information is shared (eg co-ordination of media activities) it must be covered under the legal basis relating to that type of information.</p>

**Part B: Legal bases specific to LAW for sharing of information with us.**

Partners	R	I	C	E	S	Scope	Legal basis
<b>Social Services</b>		x	x	x	x	Information relevant to the provision of social care by Local Authorities in Wales	<p>Sections 128 and 130: Social Services and Well-being Act (Wales) 2014 (“SSWBA”) provides for social services authorities and their relevant partners to report to the appropriate authority where they suspect that people may be at risk of abuse or neglect.</p> <p>Section 146: SSWBA imposes a duty on relevant partners to co-operate with, and provide information to, the local authorities (LA's) for the purpose of their social care functions</p> <p>Section 2: Local Government Act 2000 Local Authorities are required to promote or improve the social well-being of their area, implying power to share information with other statutory services and the independent sector.</p>
<b>Adoption Agencies</b>			x	x		Information relevant to the registration of applicants for adoptive parenting in Wales.	Schedule 4, Part 1: Adoption Agencies (Wales) Regulations 2005 (made under the Children Act 1989 and the Adoption and Children Act 2002), requires a provider to consider details of any experience the prospective adopter has had of caring for children (including as a parent, step-parent, foster parent, child-minder or prospective adopter) and an assessment of their ability in this respect.

Partners	R	I	C	E	S	Scope	Legal basis
<b>Fostering Agencies</b>			x	x		Information relevant to the registration of applicants for fostering in Wales.	<p>Care Standards Act 2000 CIW is the regulatory authority in Wales responsible for enforcing compliance by all fostering service providers and holds the information about the outcome of applications for registration</p> <p>Section 68: Children Act 1989 provides that a person cannot foster a child privately if disqualified by regulations unless they have disclosed the fact to the appropriate local authority and obtained their written consent.</p> <p>Regulation 27 and Schedule 3: Fostering Services (Wales) Regulations 2003 (made under the Children Act 1989) Checks are required to be made by a provider regarding other applications made prospective foster parents and members of their household and family.</p> <p>Regulation 4: Disqualification from Caring for Children (Wales) Regulations 2004 Prohibits a person from fostering a child privately if that person has at any time been refused registration in respect of the provision of nurseries or day care, or for child minding, been disqualified from registration or had any such registration cancelled under, as the case may be under Part 2 of the Children and Families (Wales) Measure 2010</p>

## Appendix D: Fixed schedule information sharing

CIW and LAW can agree to share information to defined schedules. These might be based on time intervals (eg monthly) or triggers events (eg a joint inspection). This table shows these defined transfers. It does not include ad hoc transfers where there is no defined further action (eg such as the sharing of a concern). Neither does it include transfers which involve publicly available information (usually supplied in digital format for the convenient processing of the recipient).

<b>Partners</b>	<b>Direction of sharing (CIW pov)</b>	<b>Description</b>	<b>Schedule</b>