

## CHILDREN'S RIGHTS IMPACT ASSESSMENT

<b>Title of proposal:</b>	<b>Amendments to the Regulation and Inspection of Social Care (Wales) Act 2016 about service regulation and inspection</b>
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### 1. Policy objectives

- *What decision are you impact assessing?*

This impact assessment relates to proposed amendments to the Regulation and Inspection of Social Care (Wales) Act 2016 ("the 2016 Act") which are being made via the Health and Social Care (Wales) Bill.

The 2016 Act established a comprehensive regulatory framework for care and support services in Wales and reformed the regulation of the social care workforce, replacing the provisions contained in the Care Standards Act 2000. The 2016 Act harmonised service regulation with the ethos of the Social Services and Well-being (Wales) Act 2014, emphasising individuals' well-being and personal outcomes. It established a service-based regulatory system focussed on continuous improvement and provider accountability. Furthermore, it aimed to enhance transparency and comparability across services in Wales.

There are 9 regulated services in Wales:

- Care home services (adults and children)
- Domiciliary support services
- Adult placement services
- Secure accommodation services
- Fostering services
- Adoption services
- Residential family centre services
- Advocacy services
- Special School Residential Services\*

\*Special School Residential Services became a regulated service under the 2016 Act in December 2023. These services will be brought into regulation from April 2024 onwards, once CIW has determined their applications for registration.

As the regulatory framework under the 2016 Act has become established, the Welsh Government – in collaboration with CIW - has identified several areas for improvement to enable it to operate more effectively. The proposed changes serve to resolve anomalies, achieve the original policy intent, and assist CIW in carrying out its regulatory processes and activities. Where the legislation places requirements on Welsh Ministers, in practice this is undertaken by CIW.

The proposed amendments have been grouped into 3 categories:

1. Identifying services operating without registration
2. Publication of annual returns
3. Cancellation of registration

Full details of the changes are set out in the full Integrated Impact Assessment and in the consultation document, which can be found at: <https://www.gov.wales/proposed-changes-legislation-social-care-and-continuing-health-care>

## 2. Gathering evidence and engaging with children and young People

The proposal which has the potential to most significantly impact children relates to the power to require information from services operating without registration.

### *Identifying services operating without registration*

The below table sets out the number of investigations that CIW has undertaken of services operating without registration between 2018 and May 2023 by service type.

<b>Type of service</b>	<b>Number of operating-without-registration investigations by CIW from 2018 to date</b>
Adult Placement Service	17
Advocacy Service	6
Care Home Service - Adults	88
Care Home Service - Adults and Children	10
Care Home Service - Childrens Home	382
Domiciliary Support Service	222
Fostering Service	5
Residential Family Centre	2
Secure Accommodation Service	8
<b>Total</b>	<b>740</b>

The table shows that, out of 740 investigations of services operating without registration, 408 related to services specifically for children looked after. This equates to over 50% of the investigations.

With regards to the high number of care home services for children operating without registration, we understand that situations will arise where a local authority needs to place a child in an unregistered setting in emergency situations.

This is reflected in the Chief Inspector's Annual Report for 2022-23, which states:

*Local authorities are aware of their responsibilities for meeting the needs of care experienced children. However, there is a lack of appropriate registered residential and secure accommodation for some care experienced children with complex needs. This has led to many local authorities putting together improvised care and support arrangements,*

*sometimes at very short notice, to meet the needs of some children. These services are often operating without being registered.*

CIW reported that they have encountered some providers operating without registration who were obstructive and did not provide CIW with full information, but that this is rare. In those cases, CIW seeks the information from other sources.

Therefore, whilst CIW is already fulfilling this function in practice, this amendment will restore the previous position under the Care Standards Act 2000 and provide clarity on the Welsh Ministers' (CIW's) legal powers to establish whether individuals are operating a service without registration. This will support the aim of safeguarding children looked after.

### Engagement with children and young people

A public consultation was held between 17 August and 7 November 2022 to invite views on the proposed changes as set out in Chapter 4 of the consultation document:

<https://gov.wales/proposed-changes-legislation-social-care-and-continuing-health-care>

As part of the consultation, the Welsh Government engaged with organisations representing those most likely to be affected by the overall changes being proposed via the Bill, including children. These included:

- Heads of Children's Services
- Directors of Education
- Children's Commissioner for Wales
- Children in Wales
- Voices from Care,
- The Fostering Network,
- Action for Children,
- The Children's Homes Association,
- Nationwide Association of Fostering Providers,
- TGP Cymru.

Information was made available in accessible formats such as a one-page summary, an animated explainer video in Welsh, English and British Sign Language (BSL), as well as an Easy Read summary and consultation response form. The Welsh Government received 200 responses to the consultation.

### **Analysing the evidence and assessing the impact**

- *Using the evidence you have gathered, what impact is your policy likely to have on children and young people? What steps will you take to mitigate and/or reduce any negative effects?*

### *Identifying services operating without registration*

With regards to identifying services that may be operating without registration, CIW is already fulfilling this function in practice and have not been challenged thus far. As such, the proposed amendment will not make a significant difference in how children experience

these changes to the law. However, without the amendment there is a risk that CIW may be at risk of legal challenge and/or maybe hindered in fulfilling its duties under the 2016 Act which may result in harm to children who are placed in a service operating without registration. We do not consider there to be any negative impacts on children as a result of these proposals.

- How does your proposal enhance or challenge children’s rights, as stipulated by the UNCRC articles and its Optional Protocols? Please refer to the [articles](#) to see which ones apply to your own policy.

UNCRC Articles or Optional Protocol	Enhances (X)	Challenges (X)	Explanation
<p>Article 19: Governments should ensure that children are properly cared for, and protect them from violence, abuse and neglect by their parents or anyone else who looks after them.</p>	<p>YES</p>		<p>Ensuring CIW has the legal powers to investigate services operating without registration will support the aim of ensuring children looked after are properly cared for in an appropriate setting with adequate safeguards.</p>
<p>Article 27: Children have a right to a standard of living that is good enough to meet their physical and mental needs. The Government should help families who cannot afford to provide this.</p>	<p>YES</p>		<p>Ensuring CIW has the legal powers to investigate services operating without registration will support the aim of ensuring children looked after are in suitable accommodation which supports their needs.</p>

### **3. Ministerial advice and decision**

#### *Identifying services operating without registration*

Section 32 of the 2016 Act presents a risk of legal challenge, when CIW requires information from a person who is providing a regulated service without registration. Should CIW be challenged, there is a risk that this could hinder CIW's investigation of services operating without registration which could put children using these services at risk. Advice to Ministers will continue to recommend that an amendment to the 2016 Act is made to provide CIW with the power to require information from a person providing a regulated service without registration.

### **4. Communicating with Children and Young People**

We will keep all stakeholders informed, including key groups that work with children and young people.

### **5. Monitoring and Review**

- *Please outline what monitoring and review mechanism you will put in place to review this CRIA.*

This CRIA will be reviewed regularly as the Health and Social Care (Wales) Bill work progresses and will be updated as necessary.

- *Following this review, are there any revisions required to the policy or its implementation?*

None at this stage