Foreword

It is widely accepted that regulation and inspection play an important role in the delivery of public services and, in many cases, are an effective tool in promoting improvement in public services.

The regulation and inspection regime is complex. A plethora of organisations works to ensure that public bodies are accountable for their actions, and are efficient and effective in the delivery of services to the people of Wales. It is against this background that the Committee set out to identify the key regulation and inspection bodies operating in Wales and to consider, in broad terms, their contribution to improving public service delivery. Although this work centres on the Committee’s wider public services remit, much of the evidence, subsequent analysis and conclusions focus on the provision of local government services.

I am grateful to those individuals and bodies that have assisted the Committee during the course of its inquiry. We have put forward a comprehensive set of recommendations aimed at simplifying and enhancing the public service regulation and inspection regime in Wales and ensuring continuous improvement within the delivery of public services. We urge the Welsh Assembly Government to give due consideration to these recommendations and take account of the Committee’s view when taking forward its wider agenda of delivering better public services for Wales.

Ann Jones
Chair
Local Government and Public Services Committee
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Chapter 1
Introduction
Introduction

1.1 There has been much debate recently about the role and 
effectiveness of the public services regulation and inspection regime in the 
UK. A Cabinet Office report on public service inspection reform stated that:

…inspection and external review have a key role to play in the 
reform and improvement of public services, providing public 
assurance, holding organisations to account for their performance 
and helping to drive up standards. However, the effort put into 
inspection and external review (both by inspectorates and those 
inspected) must be focused in a way that will have the maximum 
impact on service improvement and deliver real value for money.¹

The Cabinet Office’s Regulatory Impact Unit acknowledges the need to:

[work] with other government departments, agencies and 
regulators to help ensure regulations are fair and effective and 
that all new and existing regulation is necessary.

It further notes:

New regulations should comply with the principles of better 
regulation and impose the minimum burden.²

1.2 The Welsh Assembly Government, in their consultation document, 
Making the Connections: Delivering Better Services for Wales³ recognise 
the need to strengthen, improve and enhance aspects of the regulation and 
inspection regime to ensure that Wales’ public services are accountable, 
efficient and effective.

1.3 We decided, therefore, as part of our public services remit, that we 
should take a strategic overview of the regulation and inspection regime in 
Wales and make recommendations to help ensure that it fulfils the purposes 
for which it was established.

¹Inspecting for Improvement: the Government’s policy on the inspection of public services, Cabinet 
Office, 2003
²Cabinet Office Regulatory Impact Unit Home Page - 
http://www.cabinetoffice.gov.uk/regulation/index.asp
³Making the Connections: Delivering Better Services for Wales, Welsh Assembly Government, 
October 2004
1.4 In May 2004, the Committee agreed the following terms of reference:

*To consider the operation of the public services regulation and inspection regime in Wales, including the roles and accountabilities of inspectorates, their interaction with inspected bodies and the added value the regime brings to public service improvement.*

1.5 We invited written submissions in the summer of 2004. A list of bodies and individuals we received evidence from is at Annex 1.

1.6 In addition, oral evidence was taken in Committee and at informal meetings from the following:

- Professor Steve Martin
- Audit Commission in Wales (ACiW)
- Estyn
- Care Standards Inspectorate for Wales (CSIW)
- Social Services Inspectorate for Wales (SSIW)
- Welsh Local Government Association (WLGA)
- Scottish Executive
- Convention of Scottish Local Authorities (CoSLA)
- Care Forum Wales
- Association of British Social Workers
- Education practitioners

1.7 We would like to extend our thanks to the individuals and organisations who contributed to our inquiry into a very complex subject.

1.8 The report and recommendations that follow are the conclusions the Committee has drawn from the evidence presented to us during the course of our inquiry. We trust that they will be taken forward by the Welsh Assembly Government, the regulation and inspection bodies and local authorities to improve the efficiency and effectiveness of a regime that can deliver great benefits to the people of Wales.
Chapter 2

The landscape of regulation and inspection in Wales
The landscape of regulation and inspection in Wales

2.1 The regulation and inspection regime in Wales is highly complex. Not only are there a plethora of bodies but their regulatory and inspection functions vary in scope. In addition, devolution means that services will be inspected and regulated by Wales only, England and Wales and UK bodies.

2.2 This complexity means that regulation and inspection bodies for services in Wales are constituted in several different ways:

- as part of the National Assembly for Wales and of the Welsh Assembly Government; or
- as non-ministerial departments; or
- as bodies independent of Government; or
- England and Wales bodies dealing with devolved and non-devolved services.4

Bodies that are part of the National Assembly for Wales and of the Welsh Assembly Government

2.3 The Social Services Inspectorate for Wales (SSIW), Care Standards Inspectorate for Wales (CSIW) and Healthcare Inspectorate Wales (HIW) are all established as Divisions within the Assembly. They have several characteristics in common:

- they are accountable both to the relevant Welsh Assembly Government Ministers and to the Assembly in plenary;
- their core staff are civil servants, and their senior officers (a ‘Chief Inspector’ for SSIW and ‘Chief Executives’ for CSIW and HIW) report to an Assembly Director (currently the Principal Finance Officer) who is independent of the policy areas they cover;

4National Assembly for Wales, Local Government and Public Services Committee, Welsh Assembly Government paper LGPS 07-04(p4), July 2004
• they are able to use peer inspectors from the service as well as lay inspectors, to provide additional expertise and perspectives in the inspection process;

• all are governed by specific legislation which determines the scope of their functions and their powers of inspection and intervention;

• all publish reports on all individual service inspections, as well as an annual report which is debated by both the relevant subject committee and plenary;

• all have forward inspection and regulatory work programmes which are produced in consultation with Assembly policy teams and service users and providers;

• their costs are met from Assembly Central Administration Budgets.

2.3.1 Social Services Inspectorate for Wales

The key function of the Social Services Inspectorate for Wales (SSIW) is to inspect the planning and provision of personal social services and children’s services by local authorities in Wales. It has been working with the Audit Commission in Wales to carry out a series of joint reviews of local authority social services since 1999. It also provides professional advice to the Assembly Government on social services and children’s services.

SSIW has an agreed Intervention Protocol which determines the steps which it or the Minister may take where services are found to be below appropriate standards.

Around 30 staff work for SSIW, including inspectors.

2.3.2 Health Inspectorate Wales

Health Inspectorate Wales (HIW) has been in place since April 2004 and is responsible for conducting reviews of, and investigations into, the provision of health care by and for Welsh NHS bodies.
HIW inspection framework includes:

- inspecting NHS bodies and service providers against national standards, agreements and clinical governance guidance in Wales:
- assessing the management arrangements in place to deliver clinical governance and NHS services: and
- assessing the quality of NHS services across agencies/sectors using, for example networks, patient journey tracking.

HIW has the powers to conduct inspections and investigations into Welsh NHS bodies, rights to enter, inspect premises, and powers to require documents and information.

HIW is headed by a chief executive with a team of approximately 30 staff.

### 2.3.3 Care Standards Inspectorate Wales

Care Standards Inspectorate Wales’ (CSIW) key functions are:

- to regulate (in effect to licence) the providers of all forms of personal and social care in Wales, including day-care and residential services for children and adults, domiciliary care services for adults and private and voluntary healthcare; and
- to inspect all registered services.

CSIW has regulatory powers which enable it to intervene directly when services are judged to fall below minimum standards of quality of user or patient safety. CSIW levies charges on service providers for some, but not all, of its regulatory activities.

### Non-ministerial department

#### 2.4 There is one major regulatory and inspection body that operates out-with the Assembly, namely, Her Majesty’s Inspector of Schools in Wales (Estyn).
2.4.1 Estyn

Estyn is a non-ministerial department out-with the Assembly established in 1992. Its key functions are to inspect and report on the quality of education and training and on the standards achieved by learners (except for higher education where quality assurance is a matter for the Higher Education Funding Council for Wales, HEFCW).

Estyn’s Chief Inspector is appointed by the Queen on the advice of the Secretary of State, after consultation with the Assembly Government. In practice the Chief Inspector of Estyn reports to the Assembly, and to the Education and Lifelong Learning (ELL) Minister. The ELL Minister agrees Estyn’s Corporate Plan. The Chief Inspector’s Annual Report is considered by the ELL Committee and debated in plenary.

Estyn staff are civil servants who are employed by Estyn subject to agreement on numbers and terms and conditions by the Assembly. The Assembly provides Estyn with a number of core services in human resources, finance, etc., under a series of service level agreements.

Estyn:

• operates within a specific legislative framework setting out a requirement that most aspects of education and learning be inspected to a six year cycle;
• provides advice to the ELL Minister to inform policy review and development;
• does not have powers of intervention but publishes reports on individual inspections and provides an annual report on education and training in Wales;
• works jointly with SSIW and CSIW on specific areas of common interest, and has recently begun joint inspection of local education authorities’ performance, with the Audit Commission in Wales (AcIWi);
• carries out inspection of schools, using mainly registered inspectors operating under contract to Estyn;
• does not levy fees but its costs are met by the Assembly from within the ELL Main Expenditure Group.

Independent of government

2.5 There is one major regulatory and inspection body that operates independent of Government, namely the Wales Audit Office.

2.5.1 Wales Audit Office

From April 2005 the Wales Audit Office (WAO) will combine the functions of the National Audit Office and the ACiW, into a single body for Wales.

The WAO:

• is responsible for carrying out financial and value for money audits for the Assembly Government; Assembly Sponsored Public Bodies (ASPBs) and other Assembly funded bodies including NHS bodies (local health boards and trusts);

• is responsible for appointing auditors for the financial audit of all Welsh local authorities (although audit services may be provided by private sector audit firms);

• is responsible for the inspection of local authority performance under the Wales Programme for Improvement (WPI), value for money surveys, performance and corporate management reviews, and for other inspection programmes conducted, jointly with the other Wales inspectorates in health, social care and education;

• can carry out the functions exercised by the Audit Commission in England, in relation to non-devolved public services involving local authorities or the NHS, such as for youth offending services in Wales;

• will lay its non-local government reports before the Assembly for consideration by the Assembly’s Audit Committee. The Committee will also approve the WAO funding based on a draft value for money work programme prepared annually in consultation with service providers and Ministers; and
• will not lay local government related reports before the Assembly but they will be published in line with existing Audit Commission practice and can be considered by the Assembly and its subject committees.

**England and Wales bodies**

2.6 There are a number of regulation and inspection bodies which operate on an England and Wales basis and impact directly on devolved public services in Wales.

2.6.1 Healthcare Commission

The Healthcare Commission has certain England and Wales functions such as:

- conducting reviews of the overall provision of particular kinds of healthcare across England and Wales (for example national clinical audits, the review of the provision of cancer care across England and Wales);
- the publication of national performance data; and
- publishing an annual report on the state of health care in England and Wales.

**Non-devolved functions**

2.7 Some England and Wales regulation and inspection bodies cover non-devolved services and sometimes work in partnership with relevant Welsh bodies. These include:

2.7.1 HM Inspectorate of Prison

HM Inspectorate of Prisons (HMIP) is an independent inspectorate which reports on conditions for and treatment of those in prison, young offender institutions and immigration removal centres. HM Chief Inspector of Prisons (the Chief Inspector) is appointed by the Home Secretary, from outside the
Prison Service, for a term of five years. The Chief Inspector reports directly to the Home Secretary on the treatment of and conditions for prisoners in England and Wales and other matters as directed by the Home Secretary.

2.7.2 HM Inspectorate of Probation

HM Inspectorate of Probation is an independent inspectorate funded by the Home Office and reports directly to the Home Secretary. It is independent from both the policy making and operational functions of the National Probation Service for England and Wales. It carries out a range of inspections including joint inspections of Youth Offending Teams (YOTs) with the ACiW, Estyn and SSIW.

2.7.3 HM Inspectorate of Constabulary

The key function of the HM Inspectorate of Constabulary (HMIC) is the formal inspection of the 43 police forces in England and Wales; the Police Service of Northern Ireland; the National Criminal Intelligence Service; the National Crime Squad; and the Central Police Training and Development Authority (Centrex). Thematic inspections are also undertaken, some in conjunction with other bodies, especially the other criminal justice system inspectorates. HMIC are appointed by the Crown on the recommendation of the Home Secretary and is funded by the Home Office.

2.7.4 Benefit Fraud Inspectorate

The Benefit Fraud Inspectorate (BFI) was set up in 1997 and is an inspectorate of the Department for Work and Pensions. It reports to the Secretary of State on the administration of social security across both central government agencies and local authorities, with a particular emphasis on standards of counter-fraud and security performance. This involves inspections of administration and counter-fraud activities within these organisations, reporting the findings, making recommendations for improvements and identifying good practice.
Devolved and non-devolved functions

2.8 England and Wales regulation and inspection bodies cover both devolved and non-devolved functions:

2.8.1 Planning Inspectorate

The main work carried out by the Planning Inspectorate Wales is the processing of planning and enforcement appeals and holding inquiries into local development plans. It also deals with a wide variety of other planning related casework including listed building consent appeals, advertisement appeals, and reporting on planning applications called in for decision by the Welsh Assembly Government. It processes applications for awards of costs which may arise from any of these. The amount of work carried out and the way in which it is dealt with is set out in a concordat with the Welsh Assembly Government and with the Office of the Deputy Prime Minister.5

2.8.2 Environment Agency

Environment Agency Wales is an ASPB, while also being part of the corporate Environment Agency for England and Wales. As an ASPB, it obtains part-funding and direction from the Welsh Assembly Government, and is accountable to the Assembly for its activities and expenditure in Wales.

The Environment Agency’s responsibilities include the regulation of land quality, industrial pollution, waste management, radioactive substances, water resources and water quality. Its website states:

*Feedback from those that we regulate, and from the public, has emphasised the need for a consistent, timely and transparent approach to regulation as well as the need to provide value for money and clear communication. At the heart of our modernising regulation activities is the risk-based approach. We will target our*

5Office of the Deputy Prime Minister website http://www.odpm.gov.uk/stellent/groups/odpm_devolution/documents/page/odpm_dev_608525-03.hcsp
resources on the highest environmental risks and the poorest performing operators and will provide encouragement for better performers.⁶

2.8.3 Health and Safety Executive

The Health and Safety Commission (HSC) and the Health and Safety Executive (HSE) are responsible for the regulation of almost all the risks to health and safety arising from work activity in Britain. The HSE has specific responsibility under the Health & Safety at Work etc Act 1974 to make adequate arrangements for enforcement of the relevant statutory provisions of the 1974 Act. The Executive has the power to appoint inspectors, whose powers are defined by the 1974 Act.

The HSE oversees health and safety in nuclear installations and mines, factories, farms, hospitals and schools, offshore gas and oil installations, the safety of the gas grid and the movement of dangerous goods and substances, railway safety, and many other aspects of the protection both of workers and the public. Local authorities are responsible to HSC for enforcement in offices, shops and other parts of the services sector. The HSC is sponsored by the Department for Work and Pensions.

A concordat exists between the Welsh Assembly Government and the HSE to provide the framework for the working relationship between HSE and the Assembly.⁷

2.8.4 Food Standards Agency

The Food Standards Agency (FSA) has a Welsh ‘arm’ but in practice is an integral part of the UK or GB body. The FSA audits assess local authorities’ conformance against the Food Law Enforcement Standard published by the Agency in 2001 as part of the framework agreement on local authority food law enforcement.

⁶Environment Agency website home page - www.environment-agency.gov.uk
⁷Concordat between the Health and Safety Executive and the National Assembly for Wales, Health and Safety Executive, September 2000
http://www.hse.gov.uk/welsh/wcordat.htm#Introduction
2.9 Other bodies

Some regulatory bodies are concerned mainly or exclusively with issues of professional regulation, staff training, qualifications and registration. These include public sector bodies such as the Care Council for Wales and the General Teaching Council and self-regulatory independent or charter bodies, such as the General Medical Council.

Some regulatory functions are carried out by ASPBs such as the Welsh Language Board and the Qualifications, Curriculum and Assessment Authority for Wales (ACCAC), or by England and Wales Non Departmental Public Bodies such as the Commission for Racial Equality. Both the Welsh Language Board and ACCAC are to be merged with the Assembly.

2.10 This report focuses primarily on the work of those organisations who operate in the first two categories mentioned above, namely, as part of the National Assembly for Wales and of the Welsh Assembly Government; or as non-ministerial departments. Many of our findings and recommendations, however, will apply to bodies which fall into any of the other categories and we commend our report to those bodies and to the UK Government.

2.11 The next chapter examines the legislative framework under which these bodies operate.
Chapter 3

Legislative framework
Legislative framework

3.1 The previous chapter highlighted the complex landscape of the regulation and inspection regime in Wales and the fact that different bodies are constituted in different ways under distinct pieces of legislation. This chapter considers the legislative framework underpinning the key regulation and inspection bodies and the implications of these for the conduct of regulation and inspection in Wales.

Social Services Inspectorate for Wales, Health Inspectorate Wales and Care Standards Inspectorate Wales

3.2 The functions and powers of the Social Services Inspectorate Wales (SSIW) are set out in part 2 chapter 6 of the Health and Social Care (Community Health and Standards) Act 2003. These functions are given to the Assembly in the Act but have been delegated to SSIW.

3.3 The Act also contains the provisions for new arrangements for regulating and monitoring quality and standards in the provision of health and social care in England and Wales. In England, two new commissions, the Commission for Healthcare Audit and Inspection (CHAI) and the Commission for Social Care Inspection (CSCI) will undertake the regulatory functions set out in the Act. These two bodies will replace the existing Commission for Health Improvement (CHI) and the National Care Standards Commission (NCSC).

3.4 Arrangements in Wales will differ as Care Standards Inspectorate Wales (CSIW) and SSIW will fulfil the functions for social care. Health Inspectorate Wales (HIW) is being established as a parallel body to CHAI to carry out inspection and review of healthcare provided by or for NHS bodies in Wales. Its functions and powers are given to the Assembly in part 2 chapter 4 of the Act and are delegated to HIW. It is intended that HIW should adopt a collaborative approach, working in partnership with several regulatory bodies across England and Wales, including the Healthcare Commission, National Audit Office, Audit Commission in Wales (ACiW), CSIW and SSIW.
3.5 The Care Standards Act 2000 places a statutory duty on the National Assembly for Wales to encourage the improvement of the quality of certain care services in Wales. To this end, CSIW is required to report on trends in the quality and health of these services.

3.6 The Care Standards Act 2000 and the Children Act 1989 provide the legal basis for all the work undertaken by CSIW. The National Assembly for Wales makes regulations and sets the national minimum standards.

Estyn

3.7 Estyn is independent of, but funded by, the National Assembly for Wales under Section 104 of the Government of Wales Act 1998. When established in 1992, the inspectorate’s main purpose was the inspection of education provided in schools. However, its role and responsibilities were extended throughout the 1990s to include, for example, inspection of further education under arrangements agreed with the then Further Education Funding Council for Wales and inspection of the Careers Service and Government funded training under arrangements agreed with the then Welsh Office. The formal responsibility for inspection of post-16 learning passed to Estyn as a result of provisions in the Learning and Skills Act, 2000. The Chief Inspector now has statutory responsibility for inspection of most aspects of education and training in Wales (with the exception of most aspects of higher education). This arrangement is quite different from the position in England where responsibilities are divided between Ofsted and the Adult Learning Inspectorate.8


3.9 The School Inspections Act 1996 as amended by the Learning and Skills Act 2000 and the Education Act 2002 requires the Chief Inspector of Estyn to keep the National Assembly informed about the quality of

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8Written evidence by Estyn, para.3, p.10
education and training in Wales and standards achieved by learners. It also provides powers for the National Assembly to require the Chief Inspector to provide advice on matters relating to education and training within her remit. These powers have been delegated to the Minister for Education and Lifelong Learning (ELL).

3.10 The Education Bill currently before the House of Lords proposes the repeal of the *School Inspections Act 1996* and re-enacts many of the Act’s provisions, with some significant changes. It reforms school inspections in England in line with the introduction of a new system of more regular, lighter touch inspections, and it gives the National Assembly for Wales the power to introduce similar reforms in the future. It includes a number of Wales-only provisions: for the inspection of careers services in Wales; for the Assembly to establish an advisory board; and for the Assembly to provide advice on the appointment of the Chief Inspector for Wales.

**Wales Audit Office**

3.11 The Audit Commission for local authorities and the NHS in England and Wales was established on 1 April 1983 under provisions in the *Local Government Finance Act 1982*, now consolidated into the *Audit Commission Act 1998*. Its initial remit was to appoint auditors of the accounts of local authorities; prepare and keep under review a Code of Audit Practice and undertake studies of the value for money (VFM) of local government.

3.12 Under the *National Health Service and Community Care Act 1990* the functions of the Audit Commission were extended to cover the audit of local health bodies. Further powers were given to the Commission in legislation, notably in the *Local Government Act 1992* (which required it to prescribe performance indicators for local authority services) and in the *Audit Miscellaneous Provisions Act 1996* (which required it to work with the Social Services Inspectorate on joint service reviews).

3.13 Under the *Local Government Act 1999*, ACiW exercises important responsibilities for auditing and inspecting the duties of continuous improvement and best value placed upon local authorities and other public bodies.

3.15 The Public Audit (Wales) Act 2004 sets out the main statutory framework for the new Wales Audit Office (WAO) which will be a single audit and inspection body covering all sectors of government, except those reserved to the UK government. The Auditor General for Wales, as head of the WAO, will either directly audit bodies, such as the Assembly and the NHS, or, in the case of local government, appoint auditors. The Act places reciprocal obligations on the WAO to co-operate with the Assembly, the Audit Commission (in England) and the Healthcare Commission (the Commission for Healthcare Audit and Inspection).

Joint reviews

3.16 Specific legal provision for joint reviews is contained in the Audit Commission Act 1998, which enables ACiW to assist the National Assembly for Wales in carrying out such reviews. Joint reviews are a partnership between the National Assembly through the SSIW and the ACiW. The first five-year cycle of reviews covered all local social services authorities in Wales and England and was carried out by a special team on behalf of SSIW, Social Services Inspectorate (England) and the Audit Commission. This arrangement ended in 2003.

3.17 The statutory basis for the second round of joint reviews is derived from the Health and Social Care (Community Health and Standards) Act 2003. Under section 92 of the Act, the National Assembly for Wales has the general function of encouraging improvement in the provision of Welsh local authority social services. Section 94 allows it to conduct reviews of, and investigations into, the way in which local authorities in Wales discharge their social services functions. These tasks are carried out by SSIW on behalf of the National Assembly.

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9The New Wales Audit Office: How it will affect audit and inspection, Audit Commission in Wales, August 2004 http://www.agw.wales.gov.uk/new_wao.pdf
10Joint Reviews website http://www.joint-reviews.gov.uk/framewrk.html
3.18 Increasingly, inspection bodies are having to collaborate with a range of other bodies. For example, the Youth Offending Team (YOT) inspection programme that started in June 2003 will inspect all 155 England and Wales YOTs over a five to six year cycle. This involves nine inspectorates: the Audit Commission, Commission for Health Improvement, Estyn, HM Inspectorate of Constabulary, HM Inspectorate of Prisons, HM Inspectorate of Probation, Office for Standards in Education (Ofsted), Social Services Inspectorate and SSIW.

3.19 This, and the preceding chapter have set the scene against which we carried out our review of the regulation and inspection regime in Wales. The following four chapters outline our findings and recommendations, based on the evidence we received.
Chapter 4

Regulation and inspection as mechanisms for improvement
Regulation and inspection as mechanisms for improvement

4.1 There is an assumption that the regulation and inspection regime in Wales is a mechanism for improvement. In Making the Connections: Delivering Better Services for Wales\textsuperscript{11}, the Welsh Assembly Government describes regulation and inspection thus:

\emph{Regulation and inspection therefore play a vital part in ensuring that public services are accountable, effective and efficient.}

4.2 This role is fulfilled mainly through the Wales Programme for Improvement which assesses performance across a wide range of local authority services and requires each authority to produce improvement and regulation plans.

4.3 The Audit Commission in Wales (ACiW) observed in 2003 that:

\emph{There is strong evidence from its first full year that the Wales Programme for Improvement (WPI) is starting to drive change and improvement. Improvement Plans in most authorities show a high level of ownership of risks identified by the Whole Authority Analysis, and with councils committed to finding solutions. Most authorities are also improving their performance management and measurement arrangements.}\textsuperscript{12}

4.4 The inspection and regulation bodies who gave us evidence had diverse views about their impact on the improvement of public services. Many saw their work as providing a trigger for improvement, while the Welsh Language Board claimed that the use of the Welsh language in public services had improved as a result of regulation and inspection.

\textsuperscript{11}Making the Connections: Delivering Better Services for Wales, Welsh Assembly Government, October 2004

4.5 Research by Professor Steve Martin (Centre for Local and Regional Government Research, Cardiff University) and colleagues found that the link between inspection and improvement was difficult to quantify, particularly as the full impact of inspection is not always apparent until a few years after it has taken place.13

4.6 We think that it is important for the continued credibility and reliability of the inspection regime that a clear link between regulation and inspection and service improvement can be seen.

4.7 We recommend that the Welsh Assembly Government should seek to develop a measure of the level of improvement that results from the inspection regime and that it should be used to inform the inspection and improvement process.14

4.8 For regulation and inspection to be an effective process, it should not stop when the inspection report has been delivered. We agree with the view expressed by most of the inspected bodies that inspection has a positive impact up to a point; for example it can ensure that an organisation focuses on its performance in preparing for an inspection and it can highlight areas for improvement which may not have been evident from the ‘inside’.

4.9 Improvement, however, is not a resource neutral issue. Many of our witnesses emphasised that, for the most part, improvements cannot be carried out without the use of additional resources. In the education field, some practitioners told us that the same weaknesses were highlighted time after time in some schools because they did not have the resources to improve between inspections.

4.10 While we understand that it could be divisive were those organisations which fail to be seen as benefiting from failure, we believe that not only should recommendations for improvement be realistic and achievable but that improvement may not be achievable without some increase in, or redistribution of, resources.

13The Impact of external inspection on local government, H Davis, J Downe and S Martin, Joseph Rowntree Foundation, September 2001
4.11 We recommend that the Welsh Assembly Government issues guidance to local authorities on how resources can be made available to ensure that the recommendations from inspections are carried out.

4.12 Many of the improvements highlighted in inspection reports are designed to make already acceptable services better. Some inspections, however, highlight weaknesses that indicate a complete failure in an area of service delivery. In these circumstances, we believe that strong measures need to be taken to safeguard the service users and to ensure that service improvement happens rapidly and is maintained. There was some concern expressed that, whilst some services could benefit from additional resources to remedy their failings, others (for example care homes) could be closed down. Some contributors also highlighted the fact that too little action was taken over services which were seen both by the inspectors and other service providers to be failing.

4.13 We recommend that the Welsh Assembly Government should ensure that measures that can be taken against failing organisations should be made clearer to all involved in the process and strong lines of responsibility identified.

4.14 We recommend that the Welsh Assembly Government should investigate any anomalies that exist between the measures that can be taken against failing organisations by the different inspection regimes. If necessary, legislation should be amended to ensure the same level of measures apply in all regimes.

4.15 We recommend that the Welsh Assembly Government should ensure that measures currently in place for failing organisations are applied consistently and that their effects are regularly monitored and publicised.

4.16 Many of those giving evidence emphasised the need for support for service providers to help them through the improvement process.

4.17 Capacity and support were identified as key issues by inspected bodies following inspection. If there is a problem a body needs support, not another inspection telling it that it has not improved. Some inspected
bodies felt that ACiW reports tend to assess the capacity for improvement but do not supply suggestions for how to improve. It was felt that a sense of ownership of the inspection process by the inspected bodies and service users was needed. Those inspected need to be comfortable with self assessment but can only do that without a climate of blame.

4.18 There were concerns expressed, however, that a distinction needs to be made between a supportive and a consultancy role for inspection bodies. Professor Steve Martin noted the changing role of the Audit Commission as being less of a guard dog ‘sniffing out and alerting Ministers to failing services and service providers’ to becoming more of a ‘guide dog.’ The Welsh Local Government Association (WLGA) expressed particular concern that the ACiW had started to see itself not just as an inspector and a regulator but as an improvement agency:

*From our point of view, that is difficult. The danger is that the Audit Commission becomes judge and jury in that respect: that is, it identifies service weaknesses and then it comes in almost as a consultancy arm and offers assistance in solving those difficulties.*

This claim was strongly refuted by the ACiW.

The Chief Inspector of Social Services observed:

*In the end, there is a line that an inspectorate cannot cross. While we would do promotion work on an all-Wales basis, we would never be involved in helping an individual authority to tackle the detail of its change agenda because, the next time that we turned up, we could hardly be objective, having been ourselves embroiled in doing the improvement work in that authority. That is an inappropriate divide for us to travel across.*

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16National Assembly for Wales, Local Government and Public Services Committee - Record of proceedings, 22 September 2004 Q39, p.11
17National Assembly for Wales, Local Government and Public Services Committee - Record of proceedings, 1 December 2004, Q102, p12-13
4.19 We consider that the inspection agencies have a role to play in supporting the service providers they inspect through the improvement process but we acknowledge the problems involved in defining that role.

4.20 We recommend that inspection agencies should draw up proposals for how they can offer appropriate support to those they inspect to achieve the improvements necessary.
Chapter 5

The burden of inspection versus risk
The burden of inspection versus risk

5.1 The Wales Programme for Improvement is based around the principle that regulation must be proportionate to risk. Guidance from the Welsh Assembly Government states that:

The starting point for the Wales Programme for Improvement is an in-depth assessment by each local authority of its own fitness to achieve continuous improvement across both corporate and service functions.18

5.2 We received almost unanimous evidence from the inspected bodies that they consider the burden of inspection to be too high, both in terms of resources and its effect on service delivery and often to be disproportionate to the risks involved.

5.3 Many of those giving evidence as service providers highlighted the fact that inspections often took large amounts of staff time and stretched already tight resources. Several of the respondents emphasised the fact that inspection preparation often diverted staff away from their main purpose of service provision so exacerbating performance issues. One local education authority said that:

The effect [of inspection] is to add substantially to the work load of staff e.g. compilation of information required by inspectors, responding to requests from evidence, arranging meetings for inspectors, completing forms and questionnaires, responding to telephone calls, being interviewed etc. The feeling is created of constantly being under the microscope. The additional workload deflects from the delivery of frontline services to our customers.19

5.4 The Care Forum, coming from the perspective of private care home owners, felt that there should be fewer inspections for low risk homes, offset by more unannounced inspections.20 There was a great deal of support from all the inspected bodies for a more risk based approach to be taken to inspection.

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19Written evidence from a local education authority
20Oral evidence from Carmarthen rapporteur meeting, November 2004
5.5 We acknowledge that risk based assessment must be carried out within prescribed guidelines and to agreed standards. We recognise the role that inspecting bodies should play in advising on these guidelines and standards.

5.6 While some of the inspection bodies, notably Estyn, are moving towards a more risk based inspection regime, we believe that the current system of standardised inspection places too heavy a burden on those bodies who are performing well.

5.7 We recommend that those organisations that carry out inspections should start to move towards a more risk based assessment system.

5.8 We heard evidence from the Welsh Local Government Association in support of a role for local authorities’ overview and scrutiny committees in self assessment. They emphasised the importance of self assessment:

*We have been saying quietly for three years—and we do not feel that this view has been heard enough by everyone in Wales and it needs to be heard now—that effective internal scrutiny can be an effective form of regulation. In other words, if we have issues in local government that are not of crucial high risk, should they not be dealt with by scrutiny committees, maybe with the independent advice of an inspector alongside them, as opposed to a full inspection?*

5.9 We are in full agreement with this view. Our report on our previous inquiry into the operation of new political structures in local government recommended that:

*...local authorities take measures to ensure that the overview and scrutiny function is afforded a central role in both the structure and the ethos of the authority. In order to achieve this non-executive members need to understand their role and have a full appreciation of its potential and importance.*

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21National Assembly for Wales, Local Government and Public Services Committee - Record of proceedings, 22 September 2004, Q32, p9
22The Operation of New Political Management Structures in Local Government, Local Government and Public Services Committee, May 2004
5.10 We consider that the role of overview and scrutiny committees in assisting the self assessment process, by dealing with issues which do not present a high risk, would enhance their role within local authority structures.

5.11 We recommend that local authority overview and scrutiny committees should have a role in assessing the risk of services within local authorities.

5.12 We also consider policy agreements to be a useful tool for local authorities to establish a system of self assessment. Containing, as they do, an expectation from the Welsh Assembly Government and an undertaking from the local authority to assess and reduce risk, they provide a key document in the improvement process.

5.13 We recommend that policy agreements be used by local authorities to help assess risk within their areas of service provision.

5.14 The financial costs and value for money must also be key considerations when evaluating the regulation and inspection regime.

5.15 The costs of inspection are high. In the 17 months to March 2004, the Audit Commission in Wales received £21.4 million in fees from local authorities and health bodies and spent £21.2 million discharging its functions of audit, performance assessment and grant certification. In their evidence to us, Denbighshire County Council estimated that an educational services inspection in 2003 cost them approximately £24,000 in staff time and acknowledge that more complex inspections will, inevitably be more expensive.

5.16 We were pleased to hear that all the inspected bodies giving us evidence recognised and supported the need for regulation and inspection. Many of them, however, questioned whether the costs of inspections outweighed the benefits gained from them.
5.17 We consider that some form of cost-benefit analysis of the regulation and inspection regime, preferably on an inspection body basis would greatly enhance the credibility of the regime and highlight areas where a more risk based approach could be taken.

5.18 We recommend that the Welsh Assembly Government should undertake research to establish a method for producing a cost benefit analysis of the regulation and inspection regime in Wales based on the costs and benefits of each inspection body/sector being inspected.
Chapter 6

Methods of inspection
Methods of inspection

6.1 Evidence to the Committee indicated that there is no uniform method used by the inspection bodies to carry out their inspections. This was highlighted in research done by the Centre for Local and Regional Government Research at Cardiff University. It found that:

Authorities also report concerns about the different methodologies, criteria and report methods used by different inspectorates covering local government services...Whilst they have made some attempts to co-ordinate their work programmes more effectively through a joint forum, each of the inspection services continues to have its own distinctive culture, inspection methodology and timetable.

6.2 We received little evidence of issues surrounding the methods of individual inspectorates but several respondents had comments about issues common to the majority of the regimes.

6.3 In the previous chapter, we recommended that self assessment be seen and used as a valid method of inspection and that it is used more widely. We believe that some local authorities and inspection bodies in Wales, and further afield, are already setting standards for self assessment and that valuable lessons can be learnt from them. Following consultation, Estyn introduced, from September 2004, a new inspection framework that provides a common format for inspection of all sectors of education and training. Self assessment and peer assessment form part of this.

6.4 We recommend that the Welsh Assembly Government should undertake further research to identify best practice in self assessment for inspections. This should then be disseminated among inspection bodies and local authorities.

6.5 There are currently few regulation and inspection bodies who use unplanned and unannounced inspections as their main method of inspection. The majority of the service providers acknowledged that the

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23 Public Services Regulation and Inspection: Key Issues. A background note prepared for the Wales Local Government and Public Services Committee – Professor Steve Martin, July 2004
current system of planned inspections allowed for a full and rounded picture of performance to be gathered by the inspection bodies. There was, however, a surprising level of support among them for more unscheduled, unannounced inspections.

6.6 The benefits of unscheduled inspection were seen as being:

- less burdensome on the inspected bodies – no preparation time needed;
- less disruptive to service provision;
- inspectors are more likely to get a flavour of the day to day running of the service;
- no opportunity for failing areas to be ‘hidden’ or quick short-term solutions applied;
- inspectors get a ‘real’ picture of service provision

6.7 We recommend that inspection bodies should seek ways of moving towards less frequent planned inspections (in conjunction with self assessment) and should carry out more unplanned, unannounced inspections.

6.8 Much of the evidence we received focused on the role of the service providers in regulation and inspection. Issues were raised, however, especially among the practitioners who gave evidence at our rapporteur sessions, about the role of service users.

6.9 The extent to which service users are involved in the regulation and inspection process varies between the different regimes. In some areas, such as mental health and the elderly, it can be difficult to engage service users in a way that is valuable both to them and to the inspection process.

6.10 There appears to be confusion in some areas about the role of service users in inspections. We received evidence from the British Association of Social Workers that their role was often not made clear even when they were involved in the process.
6.11 We believe that service users have a vital role to play in the regulation and inspection regime. As the customers, it is in their interests that the services are regulated and inspected to ensure high standards.

6.12 We recommend that there should be a clearly defined role for service users in the inspection process and that role should be communicated to them by the most effective means possible.

6.13 We recommend that service users should be involved in the report back process, especially if they have been involved at the inspection stage.
Chapter 7

‘Joined-up thinking’ in regulation and inspection
‘Joined-up thinking’ in regulation and inspection

7.1 A multiplicity of bodies operate the Welsh regulation and inspection regime (see chapter 2). Many of them are responsible for regulating and inspecting the same service providers on different aspects of their work.

7.2 In *Making the Connections: Delivering Better Services for Wales*[^24], the Welsh Assembly Government pledged to:

> Promote greater collaboration between the R&I bodies on planning their reviews, collecting data and sharing knowledge and expertise, which will improve effectiveness while reducing the burdens on inspected bodies.

The urgent need for this action was strongly illustrated in the evidence we received. The lack of ‘joined-up thinking’ between the regulation and inspection bodies was the issue that caused the most concern to the service providers. This issue alone was considered to place the highest burden on the bodies being inspected.

7.3 Previous chapters have referred to the burden of regulation and inspection, especially in terms of risk. For the regime to be effective, it should not place an undue burden on service providers. We consider that this burden could be further reduced by the regulation and inspection bodies taking a more co-ordinated approach.

7.4 Many of the service providers that gave us evidence referred to problems caused by multiple inspections undertaken by different bodies within a short timescale. They felt that there was often a great deal of duplication in the services inspected. This could lead not only to a great deal of work being done by the service provider but also to the service provider receiving a number of negative reports as there was little time to improve the service in between inspections.

The regulation and inspection bodies also acknowledged that there is a need to move towards a more co-ordinated approach and gave some examples of where this was being attempted. On the whole, however, they agreed that more work needs to be done to reduce the burden of inspection.

We welcome the comments made by several responders, that the new Wales Audit Office is seen as a positive step in the co-ordination of regulation and inspection in Wales, but we agree with the Welsh Local Government Association:

There is ample room for improvement and rationalisation in this area.25

We have considered the suggestion from some of those giving us evidence that there should be a single regulation and inspection body to cover Wales.

The main advantages of the establishment of such a body would be in the co-ordination of inspections and the sharing of information. There were concerns expressed, however, that a single regulatory and inspection body would lack the expertise currently available to the individual bodies. There would still be individual inspection bodies for those service providers covered by England and Wales bodies (such as probation and prison services, Health and Safety, Food Standards).

We do not, therefore, recommend the establishment of a single regulation and inspection body for Wales.

Concerns were expressed that legislation establishing some of the regulation and inspection bodies is too prescriptive to allow a greater degree of collaborative working. We consider that, as some of the regulation and inspection bodies in Wales are established by the Welsh Assembly Government (e.g. Care Standards Inspectorate for Wales, Social Services Inspectorate for Wales, Care Council for Wales, Welsh Language Board), rather than by primary legislation (e.g. Estyn, Wales Audit Office), there is the facility to change their remits to encourage co-operative working.

25Written evidence from the Welsh Local Government Association
7.10 We recommend that inspection bodies should seek ways in which inspections can be rationalised to reduce the burden on those being inspected through the inspection sub-group of the Wales Programme for Improvement and the Wales Inspectorate and Regulators Fora.

7.11 We recommend that inspection bodies should liaise over their inspection programmes to ensure that the burden of inspection is not increased by several different inspections within a short timeframe.

7.12 We recommend that the Welsh Assembly Government should ensure that the remits of those regulation and inspection organisations established by them, include and encourage co-operative working between them.

7.13 Another aspect of concern in this area is the sharing of information between regulation and inspection bodies. Many of those giving us evidence were concerned about the amount of duplicated information that is required across a number of different inspections. This not only adds to the burden of inspection but causes resentment among the service providers who see themselves providing the same information in different formats and styles to several different organisations.

7.14 We consider that the sharing of relevant information between regulation and inspection bodies can form an important part of reducing the burden of service providers.

7.15 We recommend that good practice in sharing information among regulating and inspection bodies should be identified and used as models for co-operative working.

7.16 We recommend that the Welsh Assembly Government and inspection bodies consider initiatives such as the Joint Scrutiny Forum website and Scottish Executive Charter for Inspectorates in Scotland in order to facilitate greater transparency and co-ordination in terms of timing of inspections and methodological approaches.26

7.17 There are many areas of service provision that can be considered as ‘cross-cutting’. Services for children, for example, often involve a range of agencies in the health care, social services and education fields. Services for older people, similarly, cut across health, social services and care responsibilities.

7.18 Evidence from the Scottish Executive illustrated how it had addressed this problem and was working on a joint inspection framework for child protection services, involving several regulation and inspection bodies. Although it is only a pilot scheme, early evidence shows that it is addressing some of the problems encountered in the regulation and inspection of child protection services.

7.19 Although there was general support for more cross-cutting inspections, concern was expressed that, in the area of social services, there was a danger of some client groups ‘falling through the gaps’.

7.20 We agree that more consideration needs to be given to cross-cutting inspections and will be interested to see the outcome of the evaluation of the Scottish experience in child protection. We acknowledge the concerns expressed about cross-cutting working, but consider that these can be overcome with true co-operative working and careful planning.

7.21 We recommend that models of inspection regimes covering cross cutting issues should be identified by the Welsh Assembly Government and assessed for suitability in Wales.

7.22 In the area of regulation, we received evidence of the lack of rationalisation in the regulations governing the social care sector. This sector is, necessarily, heavily regulated to provide the best possible care service for vulnerable members of the population in both local authority and private provision. The evidence suggested, however, that the level of regulation, stemming from many different pieces of legislation made at different times, is restricting the quality of service provided in this sector.
7.23 We consider that any rationalisation of the regulation of the care sector should be thorough and well thought out to ensure that safeguards and levels of service are maintained. We are concerned, however, that an overly burdensome system may be affecting the quality of care of the people it is designed to protect.

7.24 We recommend that the Welsh Assembly Government carry out research on the regulation regime for each sector with a view to potentially rationalising regimes and decreasing the regulation burden.
Annex 1

List of written submission

Audit Commission in Wales
Care Council for Wales
Care Standards Inspectorate for Wales
Centre for Local & Regional Government Research
Coity Higher Community Council
Denbigshire County Council
Estyn
Food Standards Agency Cymru
Gowerton Community Council
Gwynedd County Council
Health and Safety Executive
HM Inspectorate of Prisons
Institute of Local Government Studies, University of Birmingham
Isle of Anglesey County Council
Llandyrnog Community Council
Llangadog Community Council
Llangattock Vibon Avel Community Council
Llantilio Crossenny Community Council
Mid & West Wales Fire and Rescue Service
NCH Cymru
Old Radnor Community Council
Prestatyn Town Council
Social Services Inspectorate Wales
St Asaph Town Council
TACT Cymru
Waunfawr Community Council
Welsh Language Board
Welsh Local Government Association
Annex 2

Summary of recommendations

1. We recommend that the Welsh Assembly Government should seek to develop a measure of the level of improvement that results from the inspection regime and that it should be used to inform the inspection and improvement process.

2. We recommend that the Welsh Assembly Government issues guidance to local authorities on how resources can be made available to ensure that the recommendations from inspections are carried out.

3. We recommend that the Welsh Assembly Government should ensure that the measures that can be taken against failing organisations should be made clearer to all involved in the process and strong lines of responsibility identified.

4. We recommend that the Welsh Assembly Government should investigate any anomalies that exist between the measures that can be taken against failing organisations by the different inspection regimes. If necessary, legislation should be amended to ensure the same level of measures apply in all regimes.

5. We recommend that the Welsh Assembly Government should ensure that measures currently in place for failing organisations are applied consistently and that their effects are regularly monitored and publicised.

6. We recommend that inspection agencies should draw up proposals of how they can offer appropriate support to those they inspect to achieve the improvements necessary.

7. We recommend that those organisations that carry out inspections should start to move towards a more risk based assessment system.

8. We recommend that local authority overview and scrutiny committees should have a role in assessing the risk of services within local authorities.
9. We recommend that policy agreements be used by local authorities to help assess risk within their areas of service provision.

10. We recommend that the Welsh Assembly Government should undertake research to establish a method for producing a cost benefit analysis of the regulation and inspection regime in Wales based on the costs and benefits of each inspection body/sector being inspected.

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12. We recommend that inspection bodies should seek ways of moving towards less frequent planned inspections (in conjunction with self assessment) and should carry out more unplanned, unannounced inspections.

13. We recommend that there should be a clearly defined role for service users in the inspection process and that role should be communicated to them by the most effective means possible.

14. We recommend that service users should be involved in the report back process, especially if they have been involved at the inspection stage.

15. We recommend that inspection bodies should seek ways in which inspections can be rationalised to reduce the burden on those being inspected through the Inspection sub group of the Wales Programme for Improvement and the Wales Inspectorate and Regulators Fora;

16. We recommend that inspection bodies should liaise over their inspection programmes to ensure that the burden of inspection is not increased by several different inspections within a short timeframe.

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Further Copies

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Further hard copies of this document can be obtained from:

Liz Wilkinson
Committee Services
The National Assembly for Wales
Cardiff Bay
Cardiff
CF99 1NA

Tel: 029 2089 8151

Email: elizabeth.wilkinson@wales.gsi.gov.uk
Website: http://www.wales.gov.uk