# WRITTEN STATEMENT

# BY

# THE WELSH GOVERNMENT

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| **TITLE** | **Update on implementation of the Regulation and Inspection of Social Care (Wales) Act 2016** |
| **DATE** | **01 May 2019** |
| **BY** | **Julie Morgan AM, Deputy Minister for Health and Social Services** |

The Social Services and Well-Being (Wales) Act 2014 (‘the 2014 Act’) firmly centred the delivery of care and support on individuals, having a stronger voice and greater control, within a more integrated social care system. That Act – which came into force in April 2016 – placed duties on local authorities with health boards and other partners to assess, plan and provide or arrange services to meet the care and support needs within their areas, with a focus on improved outcomes for individuals and their carers. Its companion, the Regulation and Inspection of Social Care (Wales) Act 2016 (‘the 2016 Act’) and regulations thereunder, place proportionate and appropriate requirements on service providers and responsible individuals to ensure that service delivery is of demonstrable standard and shares the same aims of meeting individuals’ needs and promoting well-being. This statement provides and update on recent steps in the phased implementation of the 2016 Act.

**Registration of regulated services**

It was originally envisaged that the new system of service regulation would beimplemented and operational for all regulated services by April 2019. For Phase 2 services – care home, secure accommodation, residential family centre and domiciliary support services – regulations came into force in February and April 2018. Since then, Care Inspectorate Wales (CIW)has re-registered over 1,300 out of approximately 1,750 services with the remaining due for completion by the end of June.

The inspectorate has worked extensively with providers to ensure that their applications (and therefore the information CIW has on which to register and inspect them) have been completed accurately and fully, thus easing their eventual path to re-registration. Corresponding regulations setting the standards required of Phase 3 services – adult placement, children’s statutory advocacy, fostering and adoption services – were passed by this Assembly earlier this year and came into force on 29 April. Provided that these services re-apply to register – or in the case of advocacy services, apply for the first time – by 31 August, CIW anticipates that registrations will be determined by the end of this calendar year.

**Local authority fostering and adoption services**

As local authority fostering and adoption services are not ‘regulated services’ within the meaning of the 2016 Act, they will not need to register with CIW but will continue to be inspected by them. However it has been our policy objective to apply the same standards, in so far as appropriate, across regulated and local authority services. To achieve this we have used powers under the 2014 Act and the Adoption and Children Act 2002, respectively, to place equivalent requirements on these services. I am confident that through the core requirements we have put in place – including those in relation to the governance of services, the way in which they are carried out, how they should be staffed and how they support and safeguard people – for regulated and local authority services, we have achieved the desired consistency of approach, whilst identifying and making adjustments to ensure that each set of regulations provides the best fit for the particular service.

**Accountability for regulated services**

The 2016 Act and associated regulations place clear duties and responsibilities on owners of regulated services both in their capacity as providers and as employers in the care and support sector. They also require the designation of a ‘responsible individual’ for each service, who will need to meet with fitness criteria and have duties placed directly on them for ensuring the effective management and oversight of the service; ensuring the compliance of the service (particularly in respect of record keeping and policies and procedures) and leading on monitoring, reviewing and improving the quality of the service. Meanwhile, service managers, to be registered with Social Care Wales (SCW), retain responsibility for the day-to-day running of services. These are important features in rebalancing legal accountability for the overall performance and safety of regulated services towards providers and key decision makers, rather than those delivering care and support, person to person.

The regulations take a proportionate and, in so far as possible, universal approach tothe creation of offences for all regulated services, ensuing that they are capable of being understood by services and enforced by CIW. The regulations define which breaches will automatically constitute an offence and those whereby an offence may be committed if they result in people being exposed to avoidable harm, loss of money or property. Many of them replicate or modify existing offences and, based on recent data and CIW’s approach to enforcement – as outlined within their Securing Improvement and Enforcement policy – we anticipate that prosecution will be a last resort in holding providers and responsible individuals to account. The Regulated Services (Penalty Notices) (Wales) Regulations 2019, laid before the Assembly last week, will offer another enforcement option and act as a further deterrent. From July 2019, these will replace regulations made in 2017 and extend CIW’s option to issue a penalty rather than pursue a prosecution for certain offences to all regulated services.

**Next steps**

Now that the essential operational elements of the 2016 Act are in place, work will continue with CIW, SCW, providers and citizens to apply the framework, including making any necessary amendments to secure our policy objectives in the light of experience or the direction of travel. Having re-established effective and responsive systems for the regulation and inspection of approximately 1,800 services and their workforce (over 60,000 strong), this will take time to bed in but I am assured by the work that has taken place over the last 3 years and more, in conjunction with regulators and key stakeholders, that we have built a coherent and robust base from which to operate. I am also confident that we have established a system with sufficient flexibility to allow for new services and models of care and support to be brought into the regulatory fold, when and where this becomes desirable.

In due course reporting mechanisms built into the 2016 Act, including annual returns from service providers (from May 2020) as well as annual reports from both CIW and SCW, will provide an indication as to how the changes envisaged in the development and implementation of the Act are being delivered. The Welsh Government will take a keen interest in these sources, make best use of the intelligence they present and where indicated take appropriate and timely action, keeping Members appraised.

I want the whole sector to channel efforts into communicating to citizens the key legislative and system changes we have made, so that people who receive care and support, and their families, or those who are looking to choose their social care services, have a better idea of what they can and should expect. From 2021, we also intend to use powers within the 2016 Act to introduce a robust but fair and consistent ratings system for regulated services, as part of the inspection process, in order to achieve further transparency and encourage improvement. Strengthening voice and control is a cornerstone of the legal framework we have put in place and raising awareness of rights thereunder will help secure this.

I would like to thank the regulators, stakeholders and members for contributing their expertise in these fields. This has materially influenced the development of the regulations and accompanying guidance or codes of practice now in place. I also commend CIW for the success of its own implementation activity – the digitalisation of registration; the re-alignment of inspection and enforcement frameworks; the re-training undertaken and buy-in from inspectors and the extensive support offered to providers in preparing them for registration and ongoing regulation under the 2016 Act.

The Information and Learning Hub, hosted by SCW, provides access to resources about social care legislation in Wales and includes links to the regulations, guidance and codes of practice made under both Acts.

<https://socialcare.wales/hub/regulation-and-inspection>

<https://socialcare.wales/hub/sswbact>