



Arolygiaeth Gofal
Cymru
Care Inspectorate
Wales



Memorandum of understanding

Ofsted and Care Inspectorate Wales

This is a memorandum of understanding between Care Inspectorate Wales (CIW) and the Office for Standards in Education, Children's Services and Skills (Ofsted).

Contents

Aims, purpose and scope	3
Principles of cooperation	3
Good regulation and inspection	4
Respect for each inspectorate's independent status	4
Driving improvement in delivering safe social care	4
Pragmatism and the efficient and effective use of resources	4
Being as clear as possible	4
Areas of cooperation	5
Registration	5
Concerns	6
Inspection	6
Enforcement	7
Information-sharing protocol	7
Resolving disagreement	8
Duration and review	8
Annex A: Information-sharing protocol	9
Revision history and approval	9
Introduction	9
Governance	10
Principles	10
Information	10
Legal basis	11
Ownership	12
Rights	12
Exchanges	13
Business processes	14
Appendix A: Parties	15
Signatories	16
Appendix B: Information that may be shared	17
Appendix C: Legal basis	18
Part A: Legal bases for CIW sharing information with Ofsted	19
Part B: Legal bases specific to Ofsted for its sharing of information with CIW	21
Appendix D: Process for sharing information between CIW and Ofsted about unregistered children's homes	23
Context	23
Process for sharing information	23
CIW/Ofsted unregistered children's home letter (SCCDRF1)	25

Aims, purpose and scope

1. This memorandum of understanding (MOU) is between the Care Inspectorate Wales (CIW) and His Majesty's Chief Inspector of Education, Children's Services and Skills (Ofsted). We will refer to these organisations together as 'the inspectorates'.
2. The MOU sets out how the inspectorates will work together to:
 - avoid duplication or confusion
 - protect the interests and rights of children and adults who use services that are regulated and/or inspected by either or both inspectorate(s).

This will help providers of those services to be clear about their accountability. It will also help our staff know when and how to coordinate our work.

3. The MoU also sets out:
 - the respective responsibilities of Ofsted and CIW for securing improvement and effective regulation and enforcement in the social care sector
 - the principles that will be applied when regulated services are provided by the same provider in both jurisdictions.
4. This MOU does not:
 - override the statutory responsibilities and functions of the inspectorates
 - amend any other policies or agreements relating to their respective activities
 - imply any transfer of responsibility from one to the other
 - imply any sharing of statutory responsibilities.
5. This MOU is not enforceable by law. However, Ofsted and CIW agree to adhere to its principles and to have due regard for each other's regulatory functions.

Principles of cooperation

6. In cooperating, the inspectorates intend that the relationship will be characterised by the following principles.

Good regulation and inspection

7. The inspectorates are committed to the principles of good regulation and inspection. These are set out by the Better Regulation Executive¹ and state that regulation and inspection should be:

- proportionate
- accountable
- consistent
- transparent
- targeted.

Collaborating and coordinating the inspectorates' respective activities will enable them to put these principles into practice more successfully than if each acted without reference to the other. It should also assist cost-efficiency.

Respect for each inspectorate's independent status

8. Cooperation must be in the context of each inspectorate's individual remits, statutory powers, duties and accountabilities. The delivery of each inspectorate's statutory functions should, however, be aligned wherever it will:

- avoid confusion or duplication
- lead to the efficient and effective exercise of the inspectorates' respective functions.

Driving improvement in delivering safe social care

9. The aim is that cooperation (including information-sharing) will drive improvement in standards in the care, welfare and safety of children and young people across regulated social care services.

Pragmatism and the efficient and effective use of resources

10. A practical approach to cooperation will ensure the efficient use of each inspectorate's existing processes and resources to reduce duplication wherever possible.

Being as clear as possible

11. This MOU sets out in detail what cooperation means in practice, including the process for sharing information and the information-sharing protocol (ISP).

¹ The Better Regulation Executive framework: www.gov.uk/government/publications/better-regulation-framework.

Areas of cooperation

12. Areas for cooperation and information-sharing include:

- regulating fostering and adoption services (including adoption support agencies, voluntary adoption agencies and independent fostering agencies) when the provider provides services in both England and Wales,
- investigating people providing unregistered services (when those services are required to be registered with one or both of the inspectorates),
- assessing applications from people seeking to be registered with one or both of the inspectorates
- sharing relevant information about any developments in relation to regulating and/or inspecting:
 - fostering and adoption services (including adoption support agencies, voluntary adoption agencies and independent fostering agencies) when the provider provides services in both England and Wales
 - children's homes (care homes for children) and secure children's homes when providers provide services in both England and Wales
 - residential family centres that offer services to families resident in both England and Wales.

13. Under the Regulation and Inspection of Social Care (Wales) Act 2016 (RISCA), independent fostering services and adoption services are identified as regulated services and must register with CIW. Under the Care Standards Act 2000 (CSA) all independent fostering agencies and adoption agencies with principal offices in England must register with Ofsted. Each branch of a fostering agency must register and be inspected separately, but a single inspection of voluntary adoption agencies is conducted, irrespective of the number of premises used.

14. Under RISCA, any person who provides a regulated service in Wales must register in Wales. Providers of adoption or fostering services in Wales must register with CIW irrespective of where the branch or office is located. Therefore, some providers (primarily those with a principal office in England providing services, whether through a branch or office or otherwise, in Wales) will require dual registrations with CIW and Ofsted and be subject to the regulatory framework under the CSA and RISCA.

Registration

15. CIW and Ofsted will share information to deal with the registration of providers when the provider has declared, or either inspectorate finds out (whether through the application process or otherwise) that the provider has been refused registration or had a registration cancelled with the other inspectorate.

16. The information shared will be relevant to the registration activities of CIW and Ofsted. The request for registration information will:

- set out the reason(s) for requesting the information
 - identify the provider, including, where relevant, the provider's company name and number, directors' names and the responsible individual's/manager's name
 - ask whether any of the named individuals have:
 - been refused registration
 - had a registration cancelled
 - been the recipient of a statutory enforcement notice
 - been disqualified from caring for children (so far as that information is available to the inspectorate)
 - ask for any other information that may be relevant to the provider's fitness to provide a regulated service.
17. The purpose of sharing this information will be to inform fitness and suitability decisions during the registration process to ensure that only fit and suitable persons are registered to provide regulated services.
18. Requests for registration information will be sent to identified staff at each inspectorate, as set out in Appendix A.
19. CIW and Ofsted will each aim to respond to requests for registration information within 10 working days.

Concerns

20. CIW and Ofsted will share information about significant concerns (such as safeguarding concerns or concerns about financial irregularities) that may be relevant to the quality and safety of services within the areas of cooperation, as described above.
21. CIW and Ofsted will share information about significant concerns relating to local authority practice when this information is relevant to their respective regulatory functions. For example, they will share information about possibly inappropriate placements of looked after children.
22. The purpose of sharing information about significant concerns will be to raise awareness of possible and/or actual risks to those using regulated services. This is to enable better protection and earlier resolution of any significant concerns.

Inspection

23. CIW and Ofsted will share final inspection reports of dually registered adoption or fostering services.

24. When CIW or Ofsted is considering taking enforcement action against a dually registered provider, the relevant inspectorate will inform the other as soon as reasonably possible of the nature of the enforcement action and the reasons for it. In these circumstances, the inspectorates may share further information to support their respective regulatory functions, for example, information that may be relevant to the fitness of a provider.
25. The purpose of sharing this inspection and enforcement information will be to:
- raise awareness of possible and/or actual risks to those using regulated services
 - enable both inspectorates to take appropriate regulatory action.

Enforcement

26. The inspectorates will share information about statutory compliance and enforcement action, including criminal enforcement, in relation to adoption or fostering services when the provider provides services in both England and Wales.
27. CIW and Ofsted will share information about statutory compliance and enforcement action in relation to children's homes when that information is relevant to the other regulator's functions and performance.
28. The purpose of sharing information about statutory compliance and enforcement action is to:
- raise awareness of possible and/or actual risks to those using services affected by the enforcement action
 - enable appropriate regulatory action to be taken.

To avoid doubt, neither inspectorate will seek to influence the decision of the other relating to enforcement or regulatory action.

29. When necessary, the inspectorates will provide evidence to inform and support the other's regulatory enforcement action or criminal prosecution. Evidence provided may include evidence gathered during inspections and witness statements.

Information-sharing protocol

30. Effective cooperation may, in some circumstances, require the inspectorates to exchange information including that set out in this section of the MOU. The inspectorates acknowledge that a decision to share information will:
- be decided on a case-by-case basis

- always be subject to compliance with any applicable laws, data protection principles, code of practices, guidance and the agreed information-sharing protocol at Annex A.
31. The information-sharing protocol at Annex A sets out the basis and arrangements for controlling the exchange of information between the inspectorates.

Resolving disagreement

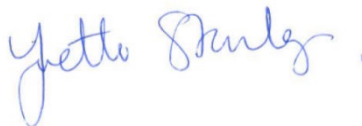
32. The inspectorates will each nominate officers for the day-to-day management of the cooperation and information-sharing set out in this MOU. Any disagreement will normally be resolved swiftly at operational level or through these nominated officers. If this is not possible, the issue may be referred to Ofsted's National Director, Social Care and CIW's Deputy Chief Inspector, who will jointly be responsible for ensuring a mutually satisfactory resolution.

Duration and review

33. This MOU takes effect on 1 April 2020. It will remain in force until either or both of the parties revoke it.
34. The MOU will be reviewed at least every three years or whenever changes to the relevant legislative framework are proposed or introduced.



.....
Deputy Chief Inspector
Care Inspectorate Wales



.....
National Director, Social Care
Ofsted

Annex A: Information-sharing protocol

Revision history and approval

Version	Revision description	Date
1.0	First published version	3 March 2020
2.0	Second published version	10 December 2021
3.0	Third published version	23 May 2023

Introduction

This information-sharing protocol (ISP) sets out the basis and arrangements for controlling the exchange of information between the inspectorates, CIW and Ofsted.

Note that this ISP is not an alternative mechanism for Freedom of Information or subject-access requests, which both have their own separate processes.

The aims of this ISP are to:

- set out the principles that the inspectorates will use for sharing information
- create a generic template for sharing information between the inspectorates
- ensure compliance with public record and data protection regulations.

The main body of the ISP sets out the broad principles for the way in which the parties will work together. There are a number of appendices that provide further details. These are:

- Appendix A: Partners – This provides details of the inspectorates, the main contacts for this ISP and any additional guidance about the way in which the inspectorates agree to collaborate.
- Appendix B: Information – This shows the main categories of regulatory and business information that the inspectorates will share and provides a summary of the rationale for this sharing.
- Appendix C: Legal basis – This summarises the legal basis for sharing the information.
- Appendix D: Process for sharing information between CIW and Ofsted about unregistered children's homes.

While not a legally binding document, this ISP shows the intent of the inspectorates to satisfy their regulatory duties through sharing information lawfully to protect the well-being of service users.

Governance

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 at least every three years and distributed to all organisations who have an ISP with CIW.

When there are changes that will impact the arrangements under this ISP, the parties must inform each other without delay. If there is disagreement, the contacts listed in Appendix A should initially liaise to reach an appropriate resolution. If there is a need to terminate the ISP, the parties should endeavour to give at least one calendar month's warning of the intended termination date.

Principles

The inspectorates will share information following these principles.

- Information will be shared proactively in support of each inspectorate's relevant functions.
- Where there is a common interest between the inspectorates (such as public reports or media announcements), the inspectorates will work collaboratively to share information. This is to reduce the burden on the inspectorates and avoid confusion or duplication.
- Information-sharing must be:
 - relevant to the inspectorates' functions
 - proportionate to the tasks required
 - necessary to achieve the required purposes
 - legally justified.
- Information shared will be limited to those staff within each inspectorate whose roles require them to process that information.

Other areas of information control (such as security, transmission, legal basis and rights) are described below.

Information

The inspectorates hold a variety of hard copy and digital information to support their functions. The broad categories of these functions are:

- the registration and regulation of care services and providers
- the inspection of care services and providers
- the enforcement of standards across care services and providers
- the investigation of persons providing regulated services without registration
- the inspection and performance evaluation of local authority social services.

However, information can readily move between these functional areas. For example, an inspection can reveal a significant 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 significant concern leads to enforcement actions. This complex inter-relationship of information needs to be understood because 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 that the information is relevant, necessary and proportionate to the intended aim of that sharing.

There are important reasons why information is shared. These are summarised, against various categories of information in the table in Appendix B to this ISP.

How the inspectorates handle the personal information we receive is set out in our published privacy notices². For example, if a significant concern is received from another organisation, it will be handled as if it were one of the inspectorates' own significant concerns from the time of receipt. Privacy notices also include reference to retention schedules. These are important because they affect the availability of information over time, which can be a critical factor in business processes, such as enforcement activities. Privacy notices also include reference to those organisations the inspectorates share information with.

Legal basis

There has to be adequate legal basis for sharing information between the inspectorates. 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 (such as concerns about the safety of service users) or to the particular functions of an organisation (such as 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:

- non-personal: typically anonymised information used in statistical analysis
- personal: information by which an individual can be identified, either directly (by a name) or indirectly (by deduction from contextual information supplied)
- special category: sensitive information about individuals relating to areas like health, sexuality, religion and so on.

However, there will always be exceptional circumstances in which information must be shared for the protection and well-being of service users but which are not

² The CIW Privacy Notice: www.careinspectorate.wales/how-we-use-your-information. The Ofsted Privacy Notice: www.gov.uk/government/publications/ofsted-privacy-notices/social-care-ofsted-privacy-notice#local-authority-childrens-services.

specifically covered under this ISP. In those circumstances, the well-being of service users is paramount and the information must be shared. The legal basis for this should be established as a priority. As soon as possible after this sort of event, the inspectorates should inform each other of the exceptional circumstances using the contacts set out in Appendix A to this ISP. This information can then be used to update this ISP so that similar situations occurrences are clearer in the future.

Ownership

The data controller determines why and how personal data is processed. This places on an organisation certain responsibilities under the UK's data protection legislation:

- the UK General Data Protection Regulations (UK GDPR)
- the UK Data Protection Act (DPA) 2018.

When information is shared with another organisation, both the sending and receiving organisations are independent data controllers. 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.

Rights

The inspectorates agree to uphold data subject rights in relation to any personal information that is shared. Please note that a 'data subject' means the identified or identifiable living individual to whom personal data relates. This, for example, could refer to updating shared information that has been found to be incorrect.

The inspectorates must remain aware of the statutory data subject rights and support each other in meeting these as necessary.

In the event of a data breach, those involved in sharing that information must be notified as soon as possible. After a breach is reported, a review must be carried out to understand the circumstances of the breach, to define a remedial action plan and to assess the future viability of the ISP.

Where shared information is to be disclosed to third parties, the rights of and impact on the originating party should always be taken into consideration. This is particularly important when sharing the information could adversely affect the originating party. This includes responding to Freedom of Information (FOI) requests and similar interactions with third parties.

Inspectorates should consider informing data subjects or their lawful representatives about the need to share their information (and consider any requirement to seek their consent) at the earliest appropriate opportunity. This will take into account the practicability of making contact with the data subject, the risk of harm to others and the risk of hindering any related investigations or legal proceedings. If contact is made, it would be to inform the data subjects what personal information is to be shared, with whom and for what purposes.

Exchanges

The quality of the information shared is the responsibility of the original sender of the information. It is important this quality is defined when sharing so no wrong assumptions are made. 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.

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 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.

Whenever information is shared, it must be shared securely. A broad outline of the ways in which this can be done is shown below. As the methods can be subject to regular change, each of the parties should consult with their information security leads to ensure that they are compliant and up to date.

- Publicly available information: This requires no special protective measures.
- Sensitive information (hard copy): Typically this involves secure packaging (for example, double-wrapping) and a way of monitoring the transportation (such as tracking packages or using a courier service).
- Sensitive information (digital):
 - Trusted networks: There are secure networks that can be used without the addition of further protective measures. The inspectorates keep lists of these on their respective intranets.
 - Secure service (online): These are typically procured services that provide secure means of sending digital content between different organisations (such as email encryption).
 - Secure service (offline): These are typically encrypted password-protected digital storage devices, such as disks or memory sticks. These are often more suitable for transferring larger quantities of digital information. The inspectorates provide lists of approved devices on their respective intranets.

The inspectorates must ensure that 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 practice, such as ISO27001 or Cyber Essentials, and the standards laid down for public bodies such as the government security policy framework. These measures include:

- enforcing correct levels of access to information (such as using secure hosting and secure login)
- ensuring information continuity (such as carrying out regular off-site backups)

- protecting information from malicious attack (such as using virus protection and firewalls)
- ensuring that any third-party processing adheres to the regulations governing the handling of personal information (such as through contractual arrangements).

Business processes

This ISP is tailored to sharing information between the inspectorates in support of their statutory functions. However, there can be a need to coordinate respective business processes, whether directly or indirectly related to sharing information.

Coordinating business processes requires active participation to be successful. Although this ISP can help to establish the principles of collaborative working, it cannot keep pace with the regular and rapid changes of operational environments. This collaboration is best facilitated by the inspectorates meeting to manage the support processes and strengthen working relationships.

Although 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:

- identifying changes required to this ISP
- confirming contact details, including senders and receivers of information
- providing proforma to speed up sharing information
- ensuring that processing of information remains in line with this ISP
- agreeing the appropriate mechanism for transferring information securely
- agreeing the scheduling of information-sharing
- arranging training, awareness-raising sessions and similar, associated with information-sharing and related business processes
- dealing with issues and risks arising from the process of information-sharing
- planning for joint operations that require information-sharing.


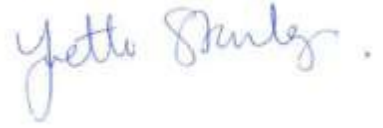
Appendix A: Parties

This appendix lists the parties that will be 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 CIW and Ofsted have agreed to collaborate.

Partner	Main aims	ISP contact	Business processes
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 Quality & Information Manager e: CIWInformation@gov.wales	CIW@gov.wales
His Majesty's Chief Inspector of Education, Children's Services and Skills (Ofsted)	His Majesty's Chief Inspector of Education, Children's Services and Skills is supported by Ofsted, the Office for Standards in Education, Children's Services and Skills (Ofsted). Ofsted regulates and inspects services that provide care for children and young people, and provision of early and later years education services to children. Ofsted inspects services providing education and skills for learners of other ages.	Matthew Reed Senior Business Manager e: EYRegulatoryandSocialCare@Ofsted.gov.uk	scadmin@ofsted.gov.uk

Signatories

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

Partner	Care Inspectorate Wales	His Majesty's Chief Inspector of Education, Children's Services and Skills (Ofsted)
Name	Margaret Rooney	Yvette Stanley
Role	Deputy Chief Inspector	National Director, Social Care
Signature		
Date	23-05-2023	23-05-2023

Appendix B: Information that may be shared

Category	Description	Reason for sharing
Enforcement	Requests for information Information supplied to support an enforcement action taken by one of the inspectorates. The nature of the information depends on the request received in each case. Typically, this might involve inspection reports and/or inspectors' witness statements.	To ensure that enforcement actions reliant on the sharing of information are not impeded and that support is given in relation to the regulatory and judicial process.
	Enforcement actions 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 service users in circumstances related to the enforcement actions and to allow appropriate protective measures to be put in place.
Concerns	Significant concerns cover any significant 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 service users, allowing for appropriate protective measures to be implemented and earlier resolution to the concerns.
Inspections	Inspection reports and supporting documentation.	To raise awareness of possible and actual risks to service users and ensure the integrity of information available to the inspectorates.
Registrations	Applications, registrations, pending de-registrations and de-registrations.	To allow cross-checking in regard to registrations that can: <ul style="list-style-type: none"> ▪ protect service users from malpractice ▪ prevent registrants avoiding enforcement actions or regulatory duties ▪ allow the provision of benefits dependent on registration ▪ facilitate the processing of dependent registrations.
Strategy	Business processes, analytical anonymised information and strategic and operational planning.	To share best practice, align strategic development, inform policy development and support collaborative operational working.
Investigatory	Information obtained as part of investigations into the provision of regulated services by persons who are not registered.	To ensure that the inspectorates are aware of criminal investigation work and to protect service users from receiving inadequate services. Also to assist in the presentation of comprehensive evidence in any proceedings.
	Media Collated information prepared for media presentation.	To provide a joined-up narrative in dealings with external media.

Appendix C: Legal basis

There must be a legal basis for all information-sharing between the inspectorates.

At least one legal basis under Article 6 of the UK GDPR needs to be met when sharing any personal data. However, if special category data is to be shared between the inspectorates, it will be necessary to identify both a lawful basis under Article 6 of the UK GDPR and a separate condition for processing under Article 9. The DPA 2018 sets out the conditions that can be relied on.

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

Part A of this appendix covers the overarching legal basis for information-sharing between the inspectorates. Part B covers any legal obligations specific to Ofsted that Ofsted will rely on if it considers that the sharing of information is necessary either to comply with legal obligations or in the exercise of functions. Where entries against parties are left blank, this indicates the legal basis in Part A is being relied on for the sharing of information.

The tables used in Parts A and B broadly indicate the types of information to be 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 service users' 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 basis for CIW sharing information with Ofsted

Partners	R	I	C	E	S	Scope	Legal basis
CIW	x	x	x	x		Information relevant to the regulation and inspection of social care and childcare for the citizens of Wales.	<p>Personal data sharing</p> <p>Article 6(1)(c) UK General Data Protection Regulation (UK GDPR): Permission to share information when it is necessary for compliance with a legal obligation; or Article 6(1)(e) UK GDPR: 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; 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>Special category data sharing</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 Article 9(2)(c) UK GDPR: Permission is given to share information where it is necessary to protect the 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: Paragraph 6 when it is necessary to exercise a function conferred by an enactment of rule of law; Paragraph 10 when it is necessary for the purposes of discharging certain protective functions that are designed to protect members of the public from certain conduct that 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</p>

						<p>necessary for reasons of substantial public interest; Paragraph 18 when it is necessary for the safeguarding of children and individuals at risk.</p> <p>Personal and special category data sharing</p> <p>Legal obligations that may be relied on 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 cooperation and joint working by regulatory bodies in the registration and regulation of persons providing care home services.</p> <p>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 cooperation between partner agencies to improve the well-being of children.</p>
				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; Section 32, (5), (6) and (7): Care Standards Act 2000; Section 40: Children and Families (Wales) Measure 2010; Regulation 2, paragraphs (2), (3) and (4): Child Minding and Day Care (Inspection and Information for Local Authorities) (Wales) Regulations 2010; Section 36 (3) RISCA</p> <p>The above provides for information to be made available to the public.</p> <p>Strategic information that is anonymised (for example, business processes or analytics) does not come under the data protection regulations and needs only business agreement, not a legal basis.</p>

						When sensitive information is shared (such as coordination of media activities), it must be covered under the legal basis relating to that type of information.
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Part B: Legal basis specific to Ofsted for its sharing of information with CIW

Partners	R	I	C	E	S	Scope	Legal basis
His Majesty's Chief Inspector of Education, Children's Services and Skills (Ofsted)	x	x	x	x	x	Information relevant to children's services, adoption and fostering services, and local authority inspections and reviews in England.	<p>Education and Inspections Act 2006</p> <p>Section 117(2) provides that Ofsted shall, in performing its functions, have regard to the need to safeguard and promote the rights of children; to promote the efficient and effective use of resources; and to ensure that any action is proportionate with risk.</p> <p>Paragraph 13 of Schedule 11 provides that Ofsted may do anything that it considers is necessary or expedient for the purposes of, or in connection with, its functions.</p> <p>Section 119(1) provides that HMCI shall perform her functions so as to encourage the improvement of activities within her remit and to encourage the efficient and effective use of resources in carrying out such duties. Section 119(2) requires HMCI to ensure that her functions are performed efficiently and effectively. Section 119(3) requires HMCI to have regard to the need to safeguard and promote the rights of children.</p> <p>Paragraph 6 of Schedule 12 provides that HMCI may do anything that she considers necessary or expedient for the purposes of, or in connection with, her functions.</p> <p>Paragraph 8 of Schedule 13 provides that HMCI may provide advice or assistance to another public authority for the purpose of the exercise by that authority of its functions.</p> <p>Section 153 also provides that information obtained by HMCI in connection with any of her functions may be used in connection with any of her other functions.</p>

							<p>Care Standards Act 2000</p> <p>Ofsted is the registration authority for, and has the power to inspect, children’s homes, residential family centres, residential holiday schemes for disabled children, fostering agencies, voluntary adoption agencies and adoption support agencies in England.</p> <p>While carrying out its functions under the Care Standards Act, Ofsted obtains personal data about the owners, managers and employees of care providers as well as personal data about children, their parents or other associated individuals. We process and share that information using the powers in the Education and Inspections Act 2006.</p>
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Appendix D: Process for sharing information between CIW and Ofsted about unregistered children's homes

Context

In England, it is an offence under section 11 of the Care Standards Act 2000 to carry on or manage a children's home without registration.

In Wales, it is an offence under section 5 of the Regulation and Inspection of Social Care (Wales) Act 2016 to provide a care home for children without registration.

On occasion, local authorities place children across the border in England or Wales with providers that are operating unregistered children's homes. Welsh local authorities should inform CIW when they make such placements. There is no requirement for English local authorities to inform Ofsted.

Both Ofsted and CIW have powers to begin criminal investigations into providers operating unregistered children's homes, and can subsequently instigate prosecution proceedings against them.

However, Ofsted and CIW have no legal powers to take compliance action against a provider operating an unregistered children's home that is located outside of their respective jurisdictions.

Process for sharing information

Children placed by Welsh local authorities in England

- If CIW is made aware that a Welsh local authority has placed a child in an unregistered children's home in England, it will notify Ofsted by completing Section A of the '[CIW/Ofsted unregistered children's home letter](#)' (SCCDRF1) and emailing this to Unregistered.CH@ofsted.gov.uk.
- Ofsted will then tell CIW that it has reviewed the information and is taking appropriate action by completing Section B of the SCCDRF1 and emailing this to CIW@gov.wales.
- If Ofsted receives information that a Welsh local authority has placed a child in an unregistered children's home in England, Ofsted will complete Section A and also Section B (if the information is known at that stage) and email this to CIW@gov.wales. If Ofsted needs to seek further information before completing Section B, it will email this separately later.
- Ofsted will also email a 'Welsh placing LA standard unregistered children's home update' letter to the Welsh local authority concerned. It will copy this email to CIW@gov.wales.

Children placed by English local authorities in Wales

- If Ofsted is made aware that an English local authority has placed a child in an unregistered children's home in Wales, it will notify CIW by completing Section A of the SCCDRF1 and emailing this to CIW@gov.wales.
- CIW will then tell Ofsted that it has reviewed the information and is taking appropriate action by completing Section B of SCCDRF1 and emailing this to Unregistered.CH@ofsted.gov.uk.
- CIW will then email the English local authority concerned with any panel outcome letters detailing its actions. It will copy this to Unregistered.CH@ofsted.gov.uk.

Notification that the placement has ended

- If either CIW or Ofsted is notified that a placement in an unregistered children's home has ended, then the relevant inspectorate will inform the other using the above email addresses.

Notification that Ofsted has requested information from a Welsh local authority regarding a criminal investigation of a provider

- If Ofsted emails a Welsh local authority as part of a criminal investigation concerning an unregistered children's home in England, it will copy in CIW@gov.wales.

CIW/Ofsted unregistered children's home letter (SCCDRF1)

Use the below Section A and B letter templates, adding/deleting details of the relevant regulator as required. Use the relevant organisation's branding for letters, including its logo, the date and addresses.

Section A

Dear **CIW/Ofsted**

Unregistered children's home

We are contacting you because we believe a Welsh local authority has placed a child in an unregistered children's home in England.

It is an offence, under section 11 of the Care Standards Act 2000, to carry on or manage an establishment that provides care and accommodation for children without it being registered to do so. Ofsted is the lead regulator for dealing with unregistered children's homes in England.

Or

We are contacting you as we believe an English local authority has placed a child in a service that is operating without registration in Wales.

Section 5 of the Regulation and Inspection of Social Care (Wales) Act 2016 states it is an offence to provide a regulated service or services in Wales without being registered to do so.

Known information

CIW has received the following information, which indicates that a person(s) may be providing care and accommodation to a child placed in England by a Welsh local authority and this is not registered with Ofsted.

Or

Ofsted has received the following information, which indicates that a person(s) may be providing care and accommodation to a child placed in Wales by an English local authority and this is not registered with CIW.

Placing authority

Name of authority:

Contact details for head of service:

Provider information

Name of provider:

Setting address:

Age of child/children:

If you have any questions, please contact
EYRegulatoryandSocialCare@ofsted.gov.uk/CIW@gov.wales.

Yours sincerely

CIW/Ofsted

Section B

CIW/Ofsted response

Having reviewed the information sent to us, we can confirm the following [choose from the following options and delete those not relevant].

- Ofsted/CIW believes that the provider is operating an unregistered children's home.
- Ofsted/CIW does not believe that the provider is operating an unregistered children's home.
- Ofsted/CIW is taking no further action against the provider.
- Ofsted/CIW has issued the provider with a letter that informs them they must apply for registration with CIW/Ofsted or cease operating an unregistered children's home.
- Ofsted/CIW has started a criminal investigation into the provider for operating an unregistered children's home.

If you have any questions, please contact
Unregistered.CH@ofsted.gov.uk/CIW@gov.wales.

Yours sincerely

CIW/Ofsted



The Office for Standards in Education, Children's Services and Skills (Ofsted) regulates and inspects to achieve excellence in the care of children and young people, and in education and skills for learners of all ages. It regulates and inspects childcare and children's social care, and inspects the Children and Family Court Advisory and Support Service (Cafcass), schools, colleges, initial teacher training, further education and skills, adult and community learning, and education and training in prisons and other secure establishments. It assesses council children's services, and inspects services for children looked after, safeguarding and child protection.

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