



National Assembly for Wales / Cynulliad Cenedlaethol Cymru
[Health and Social Care Committee](#) / [Y Pwyllgor Iechyd a Gofal Cymdeithasol](#)

[Regulation and Inspection of Social Care \(Wales\) Bill](#) /
[Bil Rheoleiddio ac Arolygu Gofal Cymdeithasol \(Cymru\)](#)

Evidence from Older People's Commissioner for Wales – RISC 45 / Tystiolaeth gan Comisiynydd Pobl Hŷn Cymru– RISC 45

Cambrian Buildings
Mount Stuart Square
Cardiff CF10 5FL

Adeiladau Cambrian
Sgwar Mount Stuart
Caerdydd CF10 5FL

David Rees AM
Chair, Health & Social Care Committee
Legislation Office
National Assembly for Wales
Cardiff Bay
CF99 1NA

28th April 2015

Dear Chair,

Re: Consultation on the Regulation & Inspection of Social Care (Wales) Bill

Thank you for the opportunity to provide initial written evidence to the Health and Social Care Committee on the general principles of the Regulation and Inspection of Social Care (Wales) Bill.

As Commissioner, I have a statutory function, as set out within the Commissioner for Older People (Wales) Act 2006 and the Commissioner for Older People in Wales Regulations 2007, to keep under review the adequacy and effectiveness of the law affecting the interests of older people in Wales.

Due to the importance of changes to social care to older people and the subsequent importance of ensuring the regulation and inspection

framework that surrounds social care effectively addresses the issues raised by older people, I am submitting this evidence as a discharge of this function.

As outlined in my Framework for Action 2013-17, which sets out my priorities as Commissioner, I have a wide interest in the quality of health and social care and the impact this has on the lives of older people. I have a particular interest in care homes following my legal Review¹ into the quality of life and care of older people living in care homes in Wales and this is reflected in my attached detailed comments.

Regulation and inspection of social care matters to older people, and has a clear impact on their experiences of and within the 'system', the quality and impact of care and support they receive, and their overall quality of life. However, they do not talk about it in this context. Instead, they tell me:

- 1. It is very difficult to judge the quality of care and support received or planned because of a lack of meaningful, accessible and understandable information. It can often feel like navigating through a maze of different reports that can be opaque and inconsistent. This makes it difficult for individuals to make decisions that are appropriate for them and to raise concerns and complaints.**

"Finding a suitable care home for my husband was the most soul destroying thing I have ever had to do. The information you were given was not always what you were presented with when you visited the place. Hoping that you had made a good choice was not clear until you had moved in." **Family member**

- 2. Action is not taken quickly enough to remedy poor care. Poor care is tolerated and no-one seems to be held to account when it goes wrong.**

"I've raised this time and time again and nothing is ever done."
Family member

¹ Older People's Commissioner for Wales, A Place to Call Home, A Review into the Quality of Life and Care of Older People Living in Care Homes, 2014

3. Staff don't have the skills to meet the needs of people or see the individual. Too often the importance of how things are done is overlooked.

"They had no training. I asked and the only training they had received was health and safety and manual handling, they had no idea of how to meet a resident's needs, particularly with dementia."

Family member

Care Home managers and providers also tell me that their experience of the regulation and inspection system of social care is that they feel there are often differing requirements placed upon them between commissioners and regulatory bodies. Care home managers of residential and nursing care homes stated very clearly throughout my Care Home Review² that there is often very little support available to them when they are struggling to provide acceptable care or when they want to change their approach.

From my perspective as Commissioner, there is much in the intent behind the Bill that I welcome:

- **Accountability of care providers** for the quality of care and support provided and the outcomes secured is vital. Those owning care homes as well as those recognised as responsible individuals should be accountable and I welcome the intent in the Bill to progress accountability. However, there are specific omissions and areas for improvement that I expand upon in my attached response. Accountability must also be extended to owners of services and 'fitness to own' should be included within the Bill. Accountability must also be accompanied by potential sanctions and I welcome the proposed indictable offence of failing to comply with any requirement posed by inspectors.
- **More effective powers for the regulator to act quickly and decisively where care is deemed to be 'beyond repair'.** Whilst this is welcomed, there is an important issue that needs to be further explored of how 'beyond repair' is determined and if there will ever be circumstances in which exemptions or exceptions are made.

² Older People's Commissioner for Wales, A Place to Call Home, A Review into the Quality of Life and Care of Older People Living in Care Homes, 2014

This goes to the heart of what we are prepared to tolerate and for how long, which was a central message arising from my Care Home Review. The underpinning regulations and codes need to be clear on this, as well as the criteria against which a judgment to act quickly is made, which should be open, transparent and in the public domain.

- **Embedding wellbeing in the regulatory system.** My Care Home Review found that too often there is a focus on the functional aspects of care, with a reliance on a task-based approach. Whilst I welcome the intent to fully embed wellbeing outcomes at the heart of the inspection process, alongside care and support standards, the standards relating to all care and support provided must be aligned to overall quality of life and wellbeing and there must be a consistent approach to this throughout the system, in particular between regulators and commissioners. I would expect to see close alignment between the wellbeing outcomes proposed in the National Outcomes Framework for Social Services and the key aspects of quality of life in my Care Home Review (see Appendix B). I would also expect these outcomes to be reflected strongly in provider annual returns.
- **Better information about the quality of care delivered** is often something that older people tell me they want to see improved. I strongly welcome greater openness and transparency and I expect social care to mirror the approach adopted by health through the production of Annual Quality Statements. Reporting must include information on both the quality of care received and the overall quality of life and outcomes that have been secured through the provision of care and support. The indicators used to measure this must be meaningful, understandable and relevant to older people. Again, I am explicit in my Care Home Review what this should include.
- **Market stability** is a very significant issue. Recent events within Wales have demonstrated the impact that the withdrawal or closure of a provider can have on the individuals who relied on that care and support as well as on the wider social care system. I was very

clear in my Care Home Review about this and Requirement for Action 7.1 sets out that I expect to see a national plan to ensure the future supply of high quality care homes. I therefore welcome the duty to publish a National Market Stability report. However, this must be strengthened through inclusion within the Bill of a subsequent duty on Ministers to act to ensure that action takes place to secure a sustainable, high quality provider base. There should be a requirement on commissioners to incentivise provision of high quality services to enter and remain in the market within Wales and to remove from the market those that consistently provide poor and unacceptable care. It is my view that poor care should not be tolerated because there is no alternative and quality must sit at the heart of market stability. Whilst I welcome the focus on the financial viability of providers, this in and of itself is not sufficient to provide a high quality base.

- **Social Care Wales.** A key issue is how to ensure that people working within the sector have the right skills, know what is expected of them and that those consistently providing poor care are excluded from working within the sector. I welcome the extended powers for the social workforce regulator, but the Bill provides insufficient detail in relation to this. Social Care Wales must have the legal power to lay down national mandatory standards in relation to those working in the social care workforce, ranging from recruitment to assessment of performance. The Bill, as it currently stands, does not extend workforce registration to any additional groups of social care workers. This does not reflect the level of vulnerability of older people in care homes and leads to a lack of parity with other vulnerable groups.

Whilst there is much to be welcomed in the Bill, its intent must be translated into practice so that it has a positive impact on older people and addresses, in a way that can be evaluated, the three key critiques identified at the beginning of this letter. My view is that the Bill in its current drafting, does not sufficiently make the link back to clear outcomes that would have relevance to older people other than in a broader generic sense e.g. greater openness and transparency.

A detailed commentary on the proposed Bill is attached. I would also raise a number of general observations:

I was cognisant of the development of the Bill and as a result my Requirements for Action, identified through my Care Home Review, were written in such a way so that they could be lifted into the Bill and easily reflected within this legislation. To a certain extent this is the case but not to the extent that I wish to see. This is in part because of a lack of detail on the face of the Bill, but I would like greater assurance that my Requirements for Action will be actioned through regulations and supplementary codes of practice if they are not included on the face of the Bill.

It is crucial that the Bill remains focused, as the initial Framework for Sustainable Social Services did, on the impact it will have on the lives of people. Furthermore, a major omission from the Bill is reference to the UN Principles for Older Persons and the need for the regulation and inspection regime to be underpinned by a human rights-based approach. As Commissioner, I want to see due regard for the UN Principles on the face of the Bill to ensure consistency with the intent within the Social Services and Wellbeing (Wales) Act 2014 of delivering strong voice and real control for people and to ensure that the rights of people using services, and the rights of their carers, are upheld.

I have strongly welcomed the Welsh Government's commitment to an integrated approach to health and social care and it is therefore difficult to understand why this does not extend to the Regulation and Inspection of Social Care (Wales) Bill, something that restricts its ability to deliver systemic assurance about the quality of care and meaningful outcomes for older people in Wales, in particular in relation to the care of older people living in nursing homes or the health needs of older people living in residential care homes.

It is crucially important not to forget the outcomes that older people want and expect to see. It is my view that, notwithstanding the desire not to crowd the face of the Bill, too much of this intent is currently left to regulations. This could result in legislation that suits the system rather than what individuals need and have a right to. It is essential that it remains a Bill about people.

As the independent voice of older people in Wales, my interest will lie in how the intent of the Bill is made real for older people. There are a number of significant areas outlined in my response and I will pay close attention to how these are translated into practice. I will also track the progress of the secondary legislation as it is developed.

I look forward to giving further evidence to the Committee to support the Bill's progress through the detailed scrutiny process.

Yours sincerely,

A handwritten signature in black ink that reads "Sarah Rochira". The signature is written in a cursive style with a long, sweeping tail on the final letter.

Sarah Rochira

Older People's Commissioner for Wales

C.C. Helen Finlayson, Clerk – Health & Social Care Committee

Appendix A – Feedback from older people, family members and the Commissioner’s social care rapporteurs

- 1. It is very difficult to judge the quality of care and support received or planned because of a lack of meaningful, accessible and understandable information. It can often feel like navigating through a maze of different reports that can be opaque and inconsistent. This makes it difficult for individuals to make decisions that are appropriate for them and to raise concerns and complaints.**

“We were not given any help, just told to find a nursing home”

“The most difficult decision I have ever made (and distressing for both of us) in my life”.

“Someone advising me what a good care home looked and felt like may have stopped me leaving Mum in a home that had staff more focussed on their staff meetings than on active residents having any stimulating conversation or being treated with respect. I've (or rather Mum) learned the hard way that a 5* hotel environment is not often a 5* care environment”.

“I was surprised at the lack of meaningful and accessible information. There was a lot of practical info i.e. the number of beds, but it’s disappointing that there are so few indicators of quality of care and quality of life within a care home setting.”

- 2. Action is not taken quickly enough to remedy poor care. Poor care is tolerated and no-one seems to be held to account when it goes wrong.**

“My mother’s teeth were left to rot in her mouth.”

“For me, she is safe but her life is sad. At least she is not abused.”

“Visiting in the afternoons I often had to ask staff to change my mother’s pad as she was leaking. The difficulty getting her from her room to downstairs meant that she did not get her pad changed before

lunch nor even immediately after. The result was always embarrassing, distressing and humiliating to her.”

“You are powerless.”

“We want to make sure that people are held to account, but it’s a long slog for justice and a heavy load we are carrying.”

“I wrote 3 different letters about various incidents and never had an outcome I was happy with”

3. Staff don’t have the skills to meet the needs of people or see the individual. Too often the importance of how things are done is overlooked. I have been clear through my Care Home Review,³ about the importance of an incentivised and professional social care workforce

“I feel like my grandfather is talked down to. I very much think he is ‘still in there’ despite not being able to talk. He is a bright man and I wish he was treated like it.”

“A care home is as good as its staff”

“They had no training. I asked and the only training they had received was health and safety and manual handling, they had no idea of how to meet a resident’s needs, particularly with dementia.”

“It is evident that the majority of those working in care home settings genuinely want to do a meaningful job and give the people they are working with a good quality of life - many of them have hidden wings on their backs. The problem is that often they are not supported within the environment in which they work and appropriate training is not the norm”.

³ Older People’s Commissioner for Wales, A Place to Call Home, A Review into the Quality of Life and Care of Older People Living in Care Homes, 2014

Appendix B – Definition of ‘Quality of Life’ and the domains that should be used in relation to ‘Quality of Life’

- Older people tell me that their lives have value, meaning and purpose when they:
 - Feel safe and are listened to, valued and respected;
 - Are able to get the help they need, when they need it, in the way they want it;
 - Live in a place which suits them and their lives;
 - Are able to do the things that matter to them
- Requirement for Action 6.1 of the Care Home Review outlines the following domains that should be used in relation to quality of life.

At present, there is an inconsistent and geographically variable focus on quality of life within commissioning, which is too often seen as a functional task-based process. Although there is action being taken at a local level in Wales to better recognise quality of life and the Welsh Government has published a new Social Services National Outcomes Framework, this has yet to translate into a consistent and systematic approach to the commissioning, regulation and inspection of care that has quality of life at its heart and is reflected in the way that commissioning, regulation and inspection are implemented.

There are competing and inconsistent demands upon providers, both in relation to standards and reporting, as well as an inconsistent approach to joined-up working, information sharing and the use of information to better evaluate quality of life and care.

Requirement for Action 6.1 states:

A single outcomes framework of quality of life and care, and standard specification, is developed for use by all bodies involved in the regulation, provision and commissioning, and inspection of care homes and should flow through to become a defining standard within the future Regulation and Inspection Act. It must include references to the following:

1. *Independence and autonomy*
2. *Control over daily life*
3. *Rights, relationships and positive interactions*
4. *Ambitions (to fulfil, maintain, learn and improve skills)*
5. *Physical health and emotional wellbeing (to maintain and improve)*
6. *Safety and security (freedom from discrimination and harassment)*
7. *Dignity and respect*
8. *Protection from financial abuse*
9. *Receipt of high quality services*



Older People's Commissioner for Wales
Comisiynydd Pobl Hŷn Cymru

Response from the Older People's Commissioner for Wales

to the

**National Assembly for Wales, Health and Social
Care Committee consultation on the
Regulation and Inspection of Social Care (Wales)
Bill**

April 2015

For more information regarding this response please contact:

Older People's Commissioner for Wales,
Cambrian Buildings,
Mount Stuart Square,
Cardiff, CF10 5FL
08442 640670

About the Commissioner

The Older People's Commissioner for Wales is an independent voice and champion for older people across Wales, standing up and speaking out on their behalf. She works to ensure that those who are vulnerable and at risk are kept safe and ensures that all older people have a voice that is heard, that they have choice and control, that they don't feel isolated or discriminated against and that they receive the support and services they need. The Commissioner's work is driven by what older people say matters most to them and their voices are at the heart of all that she does. The Commissioner works to make Wales a good place to grow older - not just for some but for everyone.

The Older People's Commissioner:

- Promotes awareness of the rights and interests of older people in Wales.
- Challenges discrimination against older people in Wales.
- Encourages best practice in the treatment of older people in Wales.
- Reviews the law affecting the interests of older people in Wales.

Regulation and Inspection of Social Care (Wales) Bill

The Older People's Commissioner for Wales has a statutory duty, as set out within the Commissioner for Older People (Wales) Act 2006 and The Commissioner for Older People in Wales Regulations 2007 to keep under review the adequacy and effectiveness of law affecting the interests of older people in Wales. As outlined by her Framework for Action 2013-17, the Commissioner has a wide interest in the quality of social care and the impact this has on the lives of older people.

Regulation and inspection of social care matters to older people, and has a clear impact on their experiences of the 'system' and their quality of life. However, they do not talk about it in this context. The Commissioner's critique of the Regulation and Inspection of Social Care (Wales) Bill addresses the concerns raised by older people and those delivering services, as outlined in her accompanying letter.

However, the Commissioner takes a particular interest in care homes following her legal Review into the quality of life and care of older people living in care homes in Wales. Due to the importance of the regulation and inspection framework that surrounds social care, and the need to raise the concerns of older people and whether the Bill makes sufficient provision to fully address them, the Commissioner is submitting this evidence as a discharge of this function.

Executive Summary / Questions from Committee

- 1. Do you think the Bill as drafted will deliver the stated aims (to secure well-being for citizens and to improve the quality of care and support in Wales) and objectives set out in Section 3 (paragraph 3.15) of the Explanatory Memorandum? Is there a need for legislation to achieve these aims?**

Whilst there is much to be welcomed in the Bill, its intent must be translated into practice so that it has a positive impact on older people. The Commissioner's view is that the Bill in its current drafting does not sufficiently make the link back to clear outcomes that would have relevance to older people other than in a broader generic sense e.g. greater openness and transparency. Significantly more detail is required for an assessment to be made and for the Commissioner to provide any real assurances in relation to this question.

Please see the detailed response which provides further information on the Commissioner's views on whether the specific sections of the proposed Bill meets its stated aims.

2.What are the potential barriers to implementing the provisions of the Bill (if any) and does the Bill adequately take account of them?

The proposed Bill focuses exclusively upon social care and there is little integration with the regulation and inspection of health. There are no duties placed on health boards to ensure quality of healthcare outcomes in complex care cases and it is the Commissioner's view that this is a major omission from the Bill and will severely limit the impact of the Bill.

Additionally, the lack of lay assessors within the inspection process means that people's voices won't be heard, something that would not only weaken inspection processes, but would also undermine the intent of the Social Services and Wellbeing (Wales) Act 2014.

3.Do you think there are any issues relating to equality in protection for different groups of service users with the current provisions in the Bill?

It is the Commissioner's view that the Bill's failure to extend workforce registration to domiciliary and residential care staff puts older people at a disparity with other vulnerable groups. As registration is currently applied

to those working with children, the Commissioner does not see a valid reason as to why registration should not also be used to protect vulnerable older people.

4. Do you think there are any major omissions from the Bill or are there any elements you believe should be strengthened?

Whilst the Commissioner welcomes much of the Bill, there are a number of areas that need to be strengthened:

- The definition 'care' focuses too heavily on physical activities
- Overview of providers' sustainability should be extended
- There must be an action plan to set out how the National Market Stability Report will be taken forward
- The voices of service users must be reflected within annual returns from service providers and within annual reports from local authorities on their social services functions
- Lay assessors must be part of the inspection process
- Public bodies must be accountable for poor commissioning practices
- Training on the Code of Practice on the standards expected of all staff must be mandatory

Additionally, it is the Commissioner's view that there are a number of omissions from the Bill:

- An integrated approach between health and social care
- 'Fitness to own' a regulated service
- Workforce registration does not extend to domiciliary and residential care workers

5. Do you think that any unintended consequences will arise from the Bill?

It is the Commissioner's view that the Welsh Government's intent to deliver an integrated approach to health and social care will be hindered through a lack of integration between the inspection regime for health and social care.

Changes to the structure of local government in Wales and the development of other legislation, such as the Wellbeing of Future Generations (Wales) Act 2015 need to be taken into account in order to mitigate against any unintended consequences in the delivery of the Bill's intent.

6. What are your views on the provisions in Part 1 of the Bill for the regulation of social care services? For example moving to a service based model of regulation, engaging with the public, and powers to introduce inspection quality ratings and to charge fees.

The Commissioner welcome's the intent to provider better information through the duty on providers to submit an annual return. The annual returns need to clearly link to the wellbeing outcomes contained within the National Outcomes Framework and also reflect the Commissioner's Requirements for Action, which were published as part of her Care Homes Review report, A Place to Call Home?⁴.

It is the Commissioner's view that the Bill must set out what must be covered in the annual returns and that this should not be left solely to the regulations that will underpin the Bill. Additionally, the annual reports should be published within 1 month of the inspection report and the regulator must also provide a view on the report's accuracy. The Commissioner is also concerned that the Bill currently doesn't contain any reference to the need for the views of people using a service to be included in the annual report.

The Commissioner welcomes the to power in the Bill to introduce inspection quality ratings as this will help improve openness and transparency, enabling people to make more informed choices about the care and support they receive. Ratings must, however, reflect both wellbeing and service quality indicators and these must be defined and reported on in a way that reflects the issues that matter to older people.

⁴ Older People's Commissioner for Wales, A Place to Call Home, A Review into the Quality of Life and Care of Older People Living in Care Homes, 2014

7. What are your views on the provisions in Part 1 of the Bill for the regulation of local authority social services? For example, the consideration of outcomes for service users in reviews of social services performance, increased public involvement, and a new duty to report on local markets for social care services.

It is essential to ensure that in any review of social service performance, outcomes for the service users' perspective of care and support received and not the perspective of system quality assurance is captured.

The regulations that underpin the information contained within local authority annual reports and the regulations in relation to the review and investigation of local authority inspection processes must be subject to the super-affirmative procedure to ensure appropriate scrutiny.

Additionally, the regulations prescribing the content of the local market stability reports must also be subject to super-affirmative procedure as they will need to align with the regulations that set out the content of the National market Stability report and must therefore be subject to appropriate scrutiny.

8. What are your views on the provisions in Part 1 of the Bill for the development of market oversight of the social care sector?

The Commissioner welcomes the duty on local authorities to assess the financial sustainability of larger providers. However, it is the Commissioner's view that this should be extended to include, at the very minimum, those providers delivering services in areas where market analysis shows that there is no alternative provision should they become unsustainable.

The Commissioner welcomes the duty to introduce a National Market Stability Assessment and the regulations specifying the content of this report must reflect the Requirement for Actions outlined in her Care Home Review.

9. What are your views on the provisions in Part 3 of the Bill to rename and reconstitute the Care Council for Wales as Social Care Wales and extend its remit?

The Commissioner welcomes the proposed extension to the remit of the workforce regulator. This provides an opportunity to drive transformation and improve social care practice for all practitioners and the Commissioner expects SCW's role in providing advice and assistance to reflect Requirement for Action 5.6 of her Care Home Review, which relates to the creation of a national improvement service.

10. What are your views on the provisions in Parts 4 - 8 of the Bill for workforce regulation? For example, the proposals not to extend registration to new categories of staff, the removal of voluntary registration, and the introduction of prohibition orders.

Equality of workforce registration is needed across all sectors working with vulnerable people. It is the Commissioner's view that registration of the social care workforce should be extended to domiciliary and residential care workers. This needs to also be accompanied by a fully enforceable Code of Practice on the standards expected of all social care workers with training on the Code mandatory for all staff.

11. What are your views on the provisions in Part 9 of the Bill for co-operation and joint working by regulatory bodies?

As stated in the Commissioner's Care Home Review, it is absolutely essential for bodies to work together to deliver quality of life outcomes for older people and ensure that they are safeguarded from harm.

12. In your view does the Bill contain a reasonable balance between what is included on the face of the Bill and what is left to subordinate legislation and guidance?

The Commissioner's view is that too much of the intent of the Bill is currently left to regulations. Regulations are not subject to the same degree of scrutiny by the National Assembly for Wales and this could result

in legislation that suits the system rather than what individuals need and have a right to.

Additionally, the insertions into the Social Service and Wellbeing (Wales) Act 2014 in relation to local authority social service must be subject to the super-affirmative procedure.

13. What are your views on the financial implications of the Bill as set out in parts 6 and 7 of the Explanatory Memorandum?

As outlined by her Care Home Review in Requirement for Action 6.3, the Commissioner is concerned that the Impact Assessment in relation to increasing citizen involvement does not cost the use of lay assessors in the inspection process or refer to the role of CHC in this. Whilst it is of course right to properly evaluate the financial implications of legislation, it is important to not forget the cost of poor care both to the individual, commissioners and the reputation of public bodies.

14. Are there any other comments you wish to make about specific sections of the Bill?

Please see detailed response.

Analysis of the Sections of the Bill

Definition of Care

The Commissioner is concerned that the definition of 'care' on the face of the Bill focusses too heavily on the physical activities associated with the delivery of care. Good care is not just about feeling safe or having basic physical needs met, essential as these are, it is also about having the best quality of life, in whatever way a person defines this. Within the current system, there is

Section 3 – Other key terms

no formal way to recognise or reinforce crucial values such as compassion, friendship and kindness, self-determination, choice and control. These values are key to quality of life and must be placed at the heart of what is defined as 'care' as they will ensure that older people are supported as individuals rather than a homogenous group, and will challenge the depersonalised and objectified approach of task based care that not only disempowers individuals but can all too easily lead to undignified care, emotional neglect and abuse.

An integrated approach to regulation and inspection

Not currently in Bill

In the Commissioner's Review into the quality of life and care of older people living in care homes in Wales, it was clear that many older people receive both health and social care services within residential and nursing settings and that the boundaries are often blurred from both the service user's and the wider health and social care system's perspective. This is a major omission from the Bill. The Review found that there are inconsistencies, and gaps in the health and social care systems, both in the way that older people experience the services and how they're monitored – such as the inspection and regulation of health care services within a care home setting. For example, assumptions are made about the competencies of nurses in nursing care homes which inhibit health boards from taking a proactive approach to ensure that people have access to nursing with specialist skills i.e. diabetic nurses as well as basic primary care e.g. dental services. Without oversight from Healthcare Inspectorate Wales (HIW) these issues may continue to impact on the quality of older people's lives because of a lack of independent assurance from a healthcare perspective.

This issue must be addressed and the Bill must place a duty on both HIW and CSSIW to carry out and publish joint inspections. This will ensure that they work together to speak with one voice on overall wellbeing and the quality of health, social care and support.

This is a serious omission from the Bill and an issue identified in the Commissioner's Care Home Review outlined by Requirement for Action 6.5. HIW do not currently inspect the standard of health care delivery within care homes as it falls outside of their remit and this means that there is not appropriate and effective scrutiny of the delivery of healthcare in nursing care homes. The Commissioner holds the view that CSSIW is best placed to be the lead inspector in relation to nursing homes given the overriding importance of quality of life.

Market Stability

When large providers fail the impact is felt dramatically by individuals. However there is also an impact on the statutory sector, who at short notice may have to find alternative care and support for significant numbers of very vulnerable people. When small or single care homes close, the difficulties faced by the statutory body may not be as significant, particularly in less rural areas, but the impact on the individual in the home can be just as devastating. This can also be the case in when there is a change in home care provider, impacting on the familiarity of staff delivering intimate care.

The Regulation and Inspection of Social Care Bill should protect the individual while also ensuring the accountability of the system. 'Due diligence' should therefore apply to all large providers and, to manage risk,

Sections 58-62 – Market Oversight

(Part 1, Chapter 7)

s.58(1) Regs – criteria for determining whether section 60 applies

s.58(4) Regs – extend of application of s.60

those providing services in areas where market analysis shows that there is no alternative provision. The regulations under Section 58 need to apply to all providers of care and support services.

s.60(6) Regs –
information to
assess
financial
sustainability

Additionally, the regulations under Section 60 should specify information in relation to a person's 'fitness to own' a care and support service, allowing for the request of information such as whether an owner has had previous care and support services in their ownership fail in the past.

s.62(3) Regs –
national market
stability report

National market stability report

The Commissioner welcomes the duty to publish a National Market Stability Report. However, it is vital for the report to make recommendations as to how the preferred provider base/market will be delivered and for there to be a duty on Welsh Ministers to present their action plan to the National Assembly for Wales on when and how they will meet the recommendations.

The underpinning regulations that will set out the content of the National Market Stability Report must also reflect Requirements for Action 5.1, 5.8, 7.1 and 7.2, as set out in the Commissioner's Care Home Review, so that the report covers the following information:

- a. The availability of skilled and competent Care Home Managers, including the impact of vacancy levels on older people's quality of life and care*
- b. A national demographic projection of need, including anticipated trends in and changes to the type of provision required as a result of increasing acuity and dependency*
- c. A clear statement on the preferred type of provider base/market*
- d. A national analysis of the barriers to market entry*

- e. A clear statement on investment to grow social enterprises and co-operative social care sectors, particularly in areas with a low provider base*
- f. A clear action plan to deliver the preferred provider base/market*
- g. The current and future level of nursing required within the residential and nursing care sector, including the care for older people living with mental health problems, cognitive decline and dementia.*

Additionally, the regulations prescribing the content of the local market stability reports must also be subject to the super-affirmative procedure as they will need to align with the regulations that set out the content for the National market Stability report and must, therefore be subject to the appropriate scrutiny.

Annual Return

The Commissioner strongly welcomes the proposal that all providers must submit an annual return to the service regulator and that it will be published by the regulator along with their service inspection report. The Commissioner also strongly welcomes the proposals for these reports to clearly link to the wellbeing outcomes contained within the National Outcomes Framework.

However, this will not be sufficient unless:

1. These are published within 1 month of the inspection report being undertaken to ensure that they are an accurate reflection of the quality of care provided;
2. The regulator provides a view on accuracy of the report. If they do not do this, it will not be possible to challenge the new indictable offence of false descriptions or false statements.

Section 8 – Annual Return (Part 1, Chapter 2)

s.8 (2) Regs –
info within an
annual return

3. These reports must be required to contain information in line with Requirement for Action 5.5, 6.2 and 6.10 of the Commissioner's statutory review, A place to Call Home?, which include:
 - a) Number of dementia champions⁵
 - b) How on-going feedback from older people has been used to drive continuous improvement;
 - c) Quality of life of older people in relation to the delivery of care and support;
 - d) Staff levels, turnover, skills, investment in training and use of agency staff; and,
 - e) Number of POVA referrals, complaints and improvement notices, including full details on improvement action
4. The Annual Return has relevance to the service user. The Commissioner is concerned that there doesn't appear to be any reference in the Bill that the service user must be involved in the production of these reports or that they should be written in an accessible format and in plain language for use by the public. The development of the format for the annual reports must be tested with current users or residents of care homes and their families.

The Commissioner is clear that the face of the Bill should set out what **must** be covered in the Annual Returns, what **may** not be covered, albeit in outline, and the way in which these returns must be developed. The Annual Return must have relevance to the service user as intended, and the principle of providing better information about the quality of care delivered must therefore not be left solely to regulations.

⁵ Dementia Champion defined in Appendix B

5. The wellbeing outcomes developed have relevance to older people. The Commissioner welcomes the proposed requirement that Annual Returns must make reference to wellbeing outcomes. She is clear, however, of the need for consistency and that these must be the same wellbeing outcomes outlined in the National Outcomes Framework for Social Services⁶, as set out in Requirement for Action 6.1 of her Care Home Review.

It is the Commissioner's view that the regulations on Annual Returns must also reflect Requirements for Action 5.5, 6.2 and 6.10 in her Care Home Review so that Annual Returns cover the following information:

- a. Number of dementia champions⁷
- b. How on-going feedback from older people has been used to drive continuous improvement
- c. Quality of life of older people in relation to the delivery of care and support
- d. Staff levels, turnover, skills, investment in training and use of agency staff
- e. Number of POVA referrals, complaints and improvement notices, including full details on improvement action

Outcomes-based Approach

The Commissioner is a strong supporter of the National Outcomes Framework that underpins the Social Services & Well-being (Wales) Act 2014 and welcomes the fact that this will apply to all providers of care and support

Section 26 – Regulations about regulated services (Part 1, Chapter 2)

⁶ The national outcomes framework for people who need care and support and carers who need support, 2014-15

⁷ Dementia Champion defined in Appendix B

services.

The Commissioner also welcomes the replacement of Regulations and National Minimum Standards for Adult Services with regulations in relation to wellbeing and operational practice. For consistency, the regulations in relation to wellbeing should be the same as, or closely aligned to the, National Outcomes Framework otherwise the current criticism of an inconsistent approach by different agencies will continue, albeit in a different way.

In relation to residential care, the Commissioner expects the two sets of regulations and the underpinning Code of **Guidance** to address Requirement for Action 6.1 of her Care Home Review, which states that:

A single outcomes framework of quality of life and care, and standard specification, is developed for use by all bodies involved in the regulation, provision and commissioning, and inspection of care homes and should flow through to become a defining standard within the future Regulation and Inspection Act. It must include references to the following:

- 1) Independence and autonomy*
- 2) Control over daily life*
- 3) Rights, relationships and positive interactions*
- 4) Ambitions (to fulfil, maintain, learn and improve skills)*
- 5) Physical health and emotional wellbeing (to maintain and improve)*
- 6) Safety and security (freedom from discrimination and harassment)*
- 7) Dignity and respect*
- 8) Protection from financial abuse*
- 9) Receipt of high quality services*

In addition, the Commissioner expects, in line with Requirements for Action 1.1 and 1.3 of her Care Home

s. 26(1) Regs – requirements on service providers (wellbeing and operational practice)

Review, that these standards and underpinning codes of service guidance make specific reference to the following:

- a) The full involvement of an older person to ensure that have effective voice, including advocacy support where necessary;*
- b) Ensuring an older person's personal history, social and cultural interests, occupation, achievements, likes, dislikes and aspirations are understood and reflected in their future life. This must include meeting the diverse needs of older people who are Lesbian, Gay, Bisexual or Trans, those who are Black, Asian or Minority Ethnic and those with or without religion of belief;*
- c) Meeting the emotional needs of older people to ensure they feel safe, valued, respected, cared for and cared about;*
- d) Meeting the communication needs of people living with dementia and/or sensory loss;*
- e) The needs of Welsh language speakers and those for whom English is not their first language;*
- f) Active steps are taken to encourage be-friending schemes to support and retain existing friendships.*

Commissioning

The Bill does not make specific reference to the commissioning function of local authorities. This is a significant omission from the Bill as both residential and domiciliary care commissioning in Wales is currently inconsistent and variable in respect of its focus on balance between cost and quality. Quality of care, and quality of life, of those receiving a service must be put at the forefront of all commissioning decisions, in both residential and domiciliary care commissioning. Whilst the Commissioner recognises the challenging environment in which public services operate, cost should never be the primary driver behind commissioning decisions. This was

No specific
Section

highlighted as a particular issue in the Commissioner's Care Home Review, as was the negative impact that commissioning without a focus of quality of life outcomes has upon the individual.

The Bill should place a duty on local authorities and health boards to commission against quality of life outcomes, as identified by the Care Home Review Requirement for Action 6.1, through the following domains:

- a. Independence and autonomy*
- b. Control over daily life*
- c. Rights, relationships and positive interactions*
- d. Ambitions (to fulfil, maintain, learn and improve skills)*
- e. Physical health and emotional wellbeing (to maintain and improve)*
- f. Safety and security (freedom from discrimination and harassment)*
- g. Dignity and respect*
- h. Protection from financial abuse*
- i. Receipt of high quality services*

The Bill should place a duty on directors of local authority social services, and their health equivalents, to ensure that commissioning of health and social care is against the single quality of life outcomes framework that is used by all bodies which are involved in the regulation, commissioning, inspection of care provision. This framework aligns with the National Outcomes framework in the Social Services and Wellbeing (Wales) Act 2014, but provides the further detail necessary to prevent failures within the commissioning process that time and again lead to unacceptable levels of care, including emotional neglect, and inconsistent and conflicting requirements on care providers.

This will ensure that local authorities commissioning places for individuals in care homes will not only lay out service specifications and ensure that the care package can be delivered within their fee structure, but will also actively seek on-going assurances that an older person is safe, well cared for and has a good quality of life.

Service Inspections

The Commissioner recognises that a quality rating approach has limitations, particularly where improvements are being implemented. However, she is a strong advocate for the openness and transparency agenda and the importance of clear and meaningful information as a tool to help people make decisions that are appropriate to their needs and to safeguard themselves.

The quality ratings adopted must reflect both wellbeing and service quality indicators and these must be defined and reported on in way that reflect the issues that matter to older people. Again, for consistency in relation to residential care, this should include the issues identified in the Commissioner's Care Home Review, which is clearly laid out in Requirement for Action 1.1:

A national approach to care planning in care homes should be developed and implemented across Wales. This must support:

- *The full involvement of the older person to ensure they have an effective voice, including advocacy support where necessary. This may include independent advocacy or advocacy under the Mental Capacity Act.*
- *Ensuring the older person's personal history, social and cultural interests, occupation, achievements, likes, dislikes and aspirations are understood and reflected in their future life. This must include*

Sections 31-35 – Information and Inspections (Part 1, Chapter 3)

Section 39 – Engagement with the public (Part 1, Chapter 4)

s.32(3) Regs – service inspections

s.32(4) Code – service inspection (manner in which they are carried out)

s.35(1) Regs – inspection

meeting the diverse needs of older people who are lesbian, gay, bisexual or trans, those who are Black, Asian or minority ethnic and those with or without religion or belief.

ratings

- *Meeting the emotional needs of older people to ensure they feel safe, valued, respected, cared for and cared about.*
- *Meeting the communication needs of people living with dementia and/or sensory loss.*
- *The needs of Welsh language speakers and those for whom English is not their first language.*
- *Entitlements to healthcare and assessment for, and referral to, healthcare services.*
- *Individual rights versus risk management.*
- *Multidisciplinary assessment (across Health Boards, Local Authorities and including specialist third sector organisations) and specialist clinical assessment.*

The Commissioner is concerned that the Bill does not build in a requirement for the use of lay inspectors within the inspection process, having made clear in her Care Home Review that the benefit of doing so far outweighs the cost associated with the system and the cost to an individual in respect of poor care. Given the use of lay assessors in other parts of the UK as experts by experience and the commitment from Community Health Councils to play an active role in listening to the voices of service users and ensuring the quality of healthcare provision from a lay perspective, it is disappointing that this is absent from the Bill. The Commissioner has clearly outlined in her Requirement for Action 6.3 that: *Lay assessors are used, on an on-going basis, as a formal and significant part of the inspection process.*

The Commissioner welcomes the proposal for a Code of Practice in relation to inspection as a general principle alongside relevant qualification requirements but cautions that these should not exclude those with significant experience or lay assessors. The Code of Practice must make clear the issues to be focussed on, which should be consistent with the regulations in respect of wellbeing, and standards of care and support, but also allow for free comment to ensure that people are able to feed in their experiences during the inspection process. Service users must include, in particular for those whose voices are weakest, family members, carers (not paid) and independent advocates (where people do not have someone to speak out on their behalf). The Code of Practice must make clear the principles of effective listening and ensure that the needs of older people across the breadth of protected characteristics are heard, including older people living with dementia and/or sensory loss.

It is also the Commissioner's view that the Code of Practice should place a requirement upon the inspection process to seek the views of the social care workforce. In addition, the formation of the view on the quality of care and support and the overall wellbeing of people receiving care and support should take into account the view of commissioners to ensure that the inspection report upon which the public place value, is clearly triangulated against all known sources of opinion about the care and support provided and the impact upon the individual's wellbeing.

Improving Standards (Social Care Wales)

The Commissioner welcomes the creation of Social Care Wales (SCW) and the extension of its remit. Evidence

received as part of her Care Home Review suggested that the Care Council for Wales does not currently have the powers necessary to drive the relentless and systematic cultural change needed to be a strong champion for the development and professionalisation of the social care workforce.

The Commissioner expects SCW's role in providing advice and assistance to care and support providers to comply with Requirement for Action 5.6 of her Care Home Review and the principles contained within this, which include:

- a) Identifying significant and/or on-going risk factors concerning quality of life or care provided and potential breaches of human rights;*
- b) The skills of experienced practitioners (such as Care Home Managers) are used to provide intensive and transformational support to drive up the standards of quality of life and care for residents as well as prevent and mitigate future safeguarding risk;*
- c) The development of a range of resources and training materials to assist services with improvement*

Whilst the Commissioner welcomes the duty on SCW to provide information on its work and to engage with the public, the face of the Bill must be clear that this must be ongoing and meaningful engagement that hears the voices and experiences of older people, including those living with dementia or a sensory loss, as well as the diverse voices of the social care workforce. The Commissioner's best practice principles around engagement are outlined in Appendix A.

Whilst the intent to create a body that can provide practical support is welcomed, without significant

resourcing the impact of this will be limited and insufficient to extend the impact of best practice and remedy the poor care that exists. It must be remembered that alongside the huge detrimental impact of poor care to an individual, there is also a cost to the public purse.

It is the Commissioner's view that the National Improvement Services, as outlined in Requirement for Action 5.6, should be funded by Social Care Wales. Support for a National Improvement Service has been received from local authorities, health boards and independent care providers. Funding for Social Care Wales and a national improvement service to drive up the standards of care will be fundamental to its overall success, ensuring that resources of commissioning teams are not unduly diverted.

The provision within the Bill to introduce specific powers for regulators to cooperate and jointly exercise their functions is welcome. Careful consideration needs to be given to confidentiality in order not to deter providers from self-referring, but this will need to be balanced with a duty to report where issues are particularly serious. Notwithstanding this, there should be a clear duty on public bodies to share information and jointly exercise their functions when safeguarding concerns are raised. This should raise awareness of what constitutes poor care, ensuring that poor practice is challenged and that everyone is empowered to report it.

However, in order to ensure that older people are treated with dignity and respect, and to avoid potential human rights breaches, the Commissioner has required CSSIW to take action in line with Requirement for Action 1.5 to develop and publish an explicit list of 'never events' that clearly outline practice that must stop immediately. These 'never events' must be defined in regulations and

used by public bodies to identify and report poor care.

Workforce Registration & Training

A key issue is how to ensure that people working within the sector have the right skills, know what is expected of them and that those providing poor care are excluded from working within the system.

At present there are only mechanisms in place for social workers, temporary EU workers and managers of registered services and this excludes very significant numbers of people, including those working in residential and domiciliary care as paid carers

It is important to recognise that while workers may not enter these sectors with the intention to abuse, or provide poor care, there are clearly individuals who, by virtue of the circumstances they find themselves in or other reasons, should not be working within the sector. The Commissioner's interest lies in the most impactful way of ensuring that older people are adequately safeguarded and protected through preventing people from working in the sector if they do not have the right skills or abilities to provide quality care.

Older people receiving social care and support are in a position of potential vulnerability and it is incumbent on society to ensure that the level of protection and safeguards reflects this. It should therefore have equity to the care of children in residential care homes as older people with complex care issues, dementia or fluctuating capacity are equally dependent on the people who care for them to ensure that their human rights are upheld and

**Section 79 –
The Register**
(Part 4)

**Section 83 –
“Appropriately
qualified”**
(Part 4)

**Section 111 –
Codes of
practice** (Part
5)

that they are able to live without fear. There is evidence that our own fear of ageing prevents us from acknowledging this, but an ageist attitude of denial and inequality should not be the standard that we set in legislation.

The Bill as it currently stands does not extend registration to other groups of workers within social care which are regulated, it simply makes provision for a possible extension in the future. This is not sufficient in respect of domiciliary and residential social care.

There is, at present, no mechanism to ensure that those who are unfit to work in the unregulated social care workforce are excluded from working within these sectors. Whilst it is recognised that there may be financial implications to extending workforce registration and a risk that a requirement to register could build additional time into the recruitment process, the cost of unacceptable care outweighs this, in both the cost to individual and the cost to the public purse. The quality of life of individuals receiving social care services should always be placed before logistical barriers to changing the system.

Given the particularly weak mandatory baseline for training of paid carers in care homes, it is even more important that those who are not fit to work in the sector are not able to work in the sector.

It is the Commissioner's view that regulation of the residential and domiciliary care workforce must be addressed as an urgent priority. There are a number of examples of employment within other sectors where staff are subject to a registration process, such as childminders or those working in the private security industry (bouncers).

It is the Commissioner's view that a Code of Practice on the standards expected of all social care workers is not sufficient. The evidence from her commissioned research into Whistleblowing in Wales⁸ makes clear that, staff rarely refer back to codes of practice and as a result, poor care often goes unchallenged. In addition, the Bill provides no information about what would happen if a breach of this Code of Practice is proven, the process by which such a challenge would be made and the consequences of a serious breach (such as its link with preventing a person from working in the sector i.e. prohibition orders).

As such, it is the Commissioner's view that this will have little impact, in particular when poor care has been on-going for a period of time. This is further weakened by the lack of duty to report any breach of the Code of Practice. This is not to say that a code of practice does not have a place in respect of outlining what is acceptable and what is unacceptable, but in and of itself it will not reduce poor care.

Codes of practice should be closely aligned to codes of behaviour and the Commissioner's view is that regulation would be the best way forward (see section on regulations), but if prohibition orders are to be used instead of regulation in relation to domiciliary and residential care, they must link to the Code of Practice. Without this, the Code is simply a set of expectations that are not linked to fitness to work within the sector.

The Code of Practice must make reference to Human Rights and the UN Principles and SCW must consult on

⁸ Whistleblowing in Wales – a report by Public Concern at Work for the Older People's Commissioner for Wales, February 2012

the Code. The Code needs to clearly set out the expectation on the workforce, so that they are aware that their job is to work with and empower individuals to live the best quality of life possible, ensuring that issues around capacity and risk assessment do not impede the right of an individual to make decisions, even if this could mean taking risks.

It is the Commissioner's view that a better way to drive up quality of care would be through strengthening the mandatory training requirements on the entire workforce and ensuring that those who are not fit to practice can be identified and excluded from the sector. Training in relation to the Code of Practice must be mandatory on providers so that they are compelled to train all staff in relation to the Code.

One of the most effective ways to drive up quality of care is through the use of detailed recruitment competencies, strengthened induction training, and on-going continuous professional development (CPD). As set out in the Commissioner's Care Home Review in Requirements for Action 2.3 and 5.3, 'appropriately qualified' covers the following training requirements:

- a) Staff understand and can minimise the risk factors associated with falls*
- b) Staff understand the balance of risk management against the concept of quality of life*
- c) Staff undertake basic dementia training with Care Home Managers undertaking further dementia training on an ongoing basis as part of their skills and competency development*
- d) The rights and entitlements of older people*
- e) Care, compassion, kindness, dignity and respect.*

The Commissioner would expect the Bill to give powers to SCW to mandate this into the social care system.

Accountability: Registered Individual

The Commissioner welcomes the intention to strengthen corporate accountability and the range of duties that the Registered Individual (RI) will be accountable for. The detail of secondary legislation that will sit underneath these intentions is crucial to its success and there will need to be wide engagement with relevant partners in its development. However, there are a number of questions as to how this intent will translate into practice and what real difference would it make where poor care has taken place. For example, what is stopping another member of the Board from becoming the RI? Whilst this may remove the individual it will not change the culture at the top. Similarly, where an individual owner is a RI, who would replace them if they needed to be removed?

Accountability must also be accompanied by potential sanctions and the Commissioner welcomes the proposed indictable offence of failing to comply with any requirement posed by an inspector. This should sit with the RI and inspectors need to be resourced to be able to enact this. Further clarity is needed on the links to the criminal justice system.

Owners can put pressure on the RI, so it is therefore important that the Bill makes provision for regulations on 'fitness to own' a service, an area that is currently omitted from the Bill. This should be on the face of the Bill to send a strong and clear message about what is acceptable in Wales. The Commissioner holds the view that where a person has owned a care home that has closed because of significant poor care, they should be

Section 19 – Responsible Individual (Part 1, Chapter 2)

s.19(4) Regs – prescribing fitness to be an RI

s.27 (1) Regs – duties imposed on RI

prevented from owning a care home in the future. This must be reflected in regulations, together with the requirement for an owner to demonstrate financial acumen to manage business.

The regulations that set out the duties that the RI will be accountable for and the regulations that that will prescribe 'fitness to practise' will be vital in ensuring that the intent of the Bill is translated into practice. The Commissioner will take a close interest in this as, for example, one of the duties that the RI must be accountable for is ensuring the financial and corporate health of the service.

Accountability: Fitness to practise

Whilst the Bill outlines the criteria for when 'fitness to practise' is impaired, the Commissioner is concerned that there is no definition of 'deficient performance' on the face of the Bill. Ensuring high standards in the workforce is a driving principle of the Bill and should therefore not be specified in regulations.

Additionally, 'fitness to practise' should not just be judged on the evidence of negatives, it should also include positives.

Section 116 – Fitness to practise (Part 6, Chapter 1)

s.116 (6) Regs
– Grounds of
impairment of
fitness to
practise

Accountability: Offences

The Commissioner welcomes the proposed creation of two additional offences in relation to the submission of annual returns and a failure to display a registration certificate, as well as the flexibility for current offences to be treated as indictable offences. It is important to note however the Commissioner's view on the insufficiency of the criminal

Section 41-54 – Offences (Part 1, Chapter 5)

law at a UK level, particularly in relation to proving intent in cases of wilful neglect and the current lack of corporate responsibility.

This is a debate that the Welsh Government should engage with in relation to the Criminal Justice and Courts Bill, the Commissioner is happy to provide a separate paper on this issue as whilst it is non-devolved, it has clear reference to people using social care.

Local authority social services: Annual Reports

Whilst accountability for the quality of care provided sits with the providers of care, local authority social services, as commissioners of care, carry a level of accountability both in respect of commissioned support and the duties placed upon them under the Human Rights Act 1998. It is therefore right and proper that they report annually upon their work. At present they are required to publish an annual report on the delivery of their social service functions and the Commissioner welcomes the requirements under the Bill for this report to be scrutinised by the National Assembly for Wales. This is an important step in terms of scrutiny of the performance of social services across Wales. However, this will only be a step forward if the regulations that outline what will be included in these reports identify the right issues to report upon.

As this will be subject to a negative resolution due to the enactment of this being through an amendment to the Social Services & Wellbeing (Wales) Act 2014, there will be no opportunity for these requirements to be amended by Assembly Members, with the only option available being to cancel the regulations. It is therefore the Commissioner's view that the regulations containing the information that local authorities should report on should be subject to super-affirmative procedure. This would

Section 55 – Reports by local authorities and general duty of the Welsh Ministers

(Part 1, Chapter 6)

Sections 56 – Reviews, investigations and inspections

(Part 1, Chapter 6)

s.55(3) – Regs to prescribe the form of the annual report

allow for debate on the initial proposals as well as the redraft following consultation. It is also the view of the Commissioner that the Chief Inspector of Social Services should provide a clear narrative in respect of each report as to whether she considers the work of the local authority to be acceptable, as well as an overview of the quality of provision of social care across Wales.

In respect of what should be included within the regulations on reporting requirements, the Commissioner sees no reason why the issues identified in her Care Home Review in Requirement for Action 6.7 should not be included:

Annual Quality Statements are published by the Director of Social Services in respect of the quality of life and care of older people living in commissioned and Local Authority run care homes. This should include:

- a) the availability of independent advocacy in care homes*
- b) quality of life and care of older people, including specific reference to older people living with dementia and/or sensory loss*
- c) how the human rights of older people are upheld in care homes across the local authority the views of older people, advocates and lay assessors about the quality of life and care provided in care homes*
- d) geographic location of care homes*

Annual Report from CSSIW (Chief Inspector's Report)

The Commissioner welcomes the intent from CSSIW to extend the use of independent visitors to provide additional perspectives on social care and support services.

The Bill states that the Annual Report from CSSIW may also contain any other information that Welsh Ministers think appropriate. The Commissioner expects the Chief Inspector's report to also include a commentary on the quality of life of older people in care homes, in line with Requirement for Action 6.9, the Bill must state that the report must reflect:

- a) The availability of independent advocacy*
- b) Quality of life and care of older people, including specific reference to older people living with dementia and/or sensory loss*
- c) How the human rights of older people are upheld*
- d) The views of older people, advocates and lay assessors about the quality of life and care provided*

Whilst the Commissioner welcomes the duty on CSSIW to engage with the public when producing their report for the Chief Inspector, the face of the Bill must be clearer that this must be ongoing and meaningful engagement that hears the voices and experiences of older people, including those living with dementia and/or a sensory loss. The Commissioner's best practice principles around engagement are outlined in Appendix A.

Appendix A – Best practice engagement principles

Engagement with older people in Wales Engagement

‘The ongoing involvement of older people, their forums/networks and statutory and voluntary sector organisations that represent their interests, through informal consultation or discussion.’ Engagement is a two-way process that involves active listening. It should be meaningful and the

Local Authority should be seen to be interacting with older people, encouraging their participation, adopting an inclusive approach and demonstrating a willingness to change as a result of learning through engagement.

Practical Engagement

- Local Authorities should engage with a broad range of older people on an on-going basis. This can be achieved through organisations that represent older people, but Local Authorities should also find

ways to engage with individuals who do not attend the immediately obvious groups. Local Authorities should consider where older people are and where they go in the course of their daily lives. Older people should not be thought of as a group apart from the rest of the community. With their knowledge and experience, older people are well placed to gauge the importance and effectiveness of community services.

- Local Authorities should recognise that many older people remain active through continued working, childcare, caring commitments or volunteering and therefore often have little time to voice their concerns and priorities regarding community services. Older people have constraints on their time in the same way that younger people do.
- Local Authorities should also consider those older people who are not so visible in everyday life: it is essential that they are not excluded from engagement on community services.
- Local Authorities should ensure that they include people whose voices are seldom heard. There are also specific requirements under the Equality Act 2010 that Local Authorities must comply with in respect of engagement with people with protected characteristics.
- Local Authorities should use a variety of methods for engagement e.g. public gatherings, face to face meetings, correspondence by letter or email, telephone conversations, intermediaries or advocates where necessary. Venues and information should be accessible for all.
- Invitations to engage should be open and lead to an on-going relationship with older people, rather than be linked to one standalone issue. If an older person identifies a barrier to engagement, then Local Authorities should make genuine efforts to eliminate that barrier
- Engagement should take place at a point when older people will be given a genuine opportunity to contribute their thoughts, voice their

concerns and influence decision-makers. Consideration should also be given to how local forums and individuals that represent older people, such as Older People's Champions, Strategy for Older People Coordinators, and 50+ Forums, can feed into the engagement and consultation process.

- Local Authorities should tell older people how their thoughts and opinions have helped shape proposals for consultation.
- Local Authorities should have particular regard to Principle 7 of the United Nations Principles for Older Persons, which states that older people should remain integrated in society and participate actively in the formulation and implementation of policies that directly affect their wellbeing. The provision of community services, in one form or another, is therefore crucial in this regard.

Appendix B – Dementia Champion definition

What does the Commissioner mean by a Dementia Champion?

A dementia champion is a vehicle for promoting care home ownership of good practice in the quality of life and care of older people living with dementia in care homes.

The Commissioner's review found that where individuals or teams were supported to understand, engage and champion the rights and lived experiences of people with dementia: that residents were happier, 'challenging' behaviour reduced and staff reported higher levels of satisfaction in their work. Most importantly, these homes were found to deliver great outcomes for all residents.

The Commissioner is not wedded to a specific way of implementing a dementia champion or programme within care homes but she will want to see what action you have or will take to ensure the delivery and ongoing improvement of quality of life and care outcomes for older people living with dementia and emotional frailty . This could be through the support of an external or internal change programme or supporting a nominated, enthusiastic and motivated individual who you will empower to drive organisational change, be a model of good practice and challenge poor care outcomes.

Appendix C – Older People’s Commissioner for Wales, Care Home Review: Requirements for Action

Key Conclusion 1: Too many older people living in care homes quickly become institutionalised. Their personal identity and individuality rapidly diminishes and they have a lack of choice and control over their lives.

Link to Welsh Government policy and legislative areas: National Outcomes Framework for the Social Services and Wellbeing Act 2014, Declaration of the Rights of Older People in Wales, A Framework for Delivering Integrated Health and Social Care for Older People with Complex Needs, Integrated Assessment, Planning and Review Arrangements for Older People.

Required Action	Outcome	Impact of not doing	By whom /By when
<p>1.2 A national approach to care planning in care homes should be developed and implemented across Wales. This must support:</p> <ul style="list-style-type: none"> The full involvement of the older person to ensure they have an effective voice, including advocacy support where necessary. This may include independent advocacy or 	<p>Older people receive information, advice and practical and emotional support in order for them to settle into their new home beginning as soon as a decision to move into a care home is made (Action 1.1, 1.2).</p> <p>Older people’s physical, emotional and communication needs are</p>	<p>Older people are unable to settle into their new home, which has a detrimental impact upon their health and wellbeing.</p> <p>The individual needs, wishes and aspirations of older people are not recognised or understood and as a result their ability to do the things that matter to them is significantly undermined, as is</p>	<p>Welsh Government November 2015</p>

<p>advocacy under the Mental Capacity Act.</p> <ul style="list-style-type: none"> • Ensuring the older person's personal history, social and cultural interests, occupation, achievements, likes, dislikes and aspirations are understood and reflected in their future life. This must include meeting the diverse needs of older people who are lesbian, gay, bisexual or trans, those who are Black, Asian or minority ethnic and those with or without religion or belief. • Transitional support once a decision has been made to move to a care home to ensure that the care planning process begins prior to moving into the care home. • Meeting the emotional needs of older people to ensure they feel safe, valued, respected, 	<p>fully understood, as are the issues that matter most to them, and these are reflected in the services, support and care that they receive.</p> <p>Older people have real control over and choice in their day-to-day lives and are able to do the things that matter to them, including staying in touch with friends and family and their local community.</p>	<p>their quality of life and mental wellbeing.</p> <p>Older people are unable to communicate effectively, which leads to an increased risk of isolation, withdrawal and emotional neglect.</p> <p>Older people are denied their rights to self-determination, autonomy and control over their lives.</p>	
--	--	--	--

<p>cared for and cared about.</p> <ul style="list-style-type: none"> • Meeting the communication needs of people living with dementia and/or sensory loss. • The needs of Welsh language speakers and those for whom English is not their first language. • Entitlements to healthcare and assessment for and referral to healthcare services. • Individual rights versus risk management. • Multidisciplinary assessment (across Health Boards, Local Authorities and including specialist third sector organisations) and specialist clinical assessment. <p>This guidance should clearly align to the new National Outcomes Framework, which underpins the</p>			
--	--	--	--

<p>Social Services and Wellbeing (Wales) Act 2014.</p> <p>National reporting of the quality of care plans and care planning against the national guidance and against the intended outcomes of the national Outcomes Framework should be undertaken annually (see action 6.10).</p>			
<p>1.2 All older people, or their advocates, receive a standard 'Welcome Pack' upon arrival in a care home that states how the care home manager and owner will ensure that their needs are met, their rights are upheld and they have the best possible quality of life. The Welcome Pack will make explicit reference to:</p> <ul style="list-style-type: none"> • How the care home manager will support the resident as they move into their new home. • Standard information about their human rights in line with the Welsh Declaration 	<p>Older people are aware of their rights and entitlements, and what to expect from the home.</p> <p>Older people are clear about how they can raise concerns and receive support to do so.</p>	<p>Older people are unaware of the support that should be available to them while making the transition into their new home, which can lead to low expectations and a lack of accountability for providers.</p> <p>Older people are at risk of neglect and abuse as they are unaware of who to speak to should they need help in making a complaint or need support to stand up for their rights.</p> <p>Older people are at risk of not receiving that to which they</p>	<p>Welsh Government & Care Home Providers</p> <p>March 2016</p>

<p>of the Rights of Older People.*</p> <ul style="list-style-type: none"> • A Statement of Entitlement to health care support.* • Support to sustain and promote independence, continence, mobility and physical and emotional wellbeing. • Ensuring their communication needs are met, including people with sensory loss. • Maintaining friendship and social contact. • Support to help them maintain their independence and to continue to be able to do the things that matter to them. • The development and maintenance of their care and support plan and 		<p>are entitled to, leading to an undermining of their health, wellbeing and quality of life.</p>	
---	--	---	--

<p>what will be included in it.*</p> <ul style="list-style-type: none"> • Ensuring a culture of dignity and respect and choice and control over day-to-day life. • The skills and training of staff. • Their right to independent advocacy and how to raise concerns. * <p>(The areas marked with * should be standard in format to ensure consistency across Wales)</p>			
<p>1.3 Specialist care home continence support should be available to all care homes to support best practice in continence care, underpinned by clear national guidelines for the use of continence aids and dignity.</p>	<p>Older people are supported to maintain their continence and independent use of the toilet and have their privacy, dignity and respect accorded to them at all times (Action 1.1, 1.3, 1.5).</p>		<p>Welsh Government Guidance April 2015 Health Boards Implementation December 2015</p>
<p>1.4 National good practice guidance should be developed and implemented in relation to mealtimes and the dining experience, including</p>	<p>Mealtimes are a social and dignified experience with older people offered real choice and variety, both in</p>	<p>Older people do not enjoy mealtimes, are at increased risk of malnutrition and ill health through a lack of</p>	<p>Welsh Government April 2015</p>

for those living with dementia.	respect of what they eat and when they eat (Action 1.1, 1.4).	support at mealtimes and miss out on meaningful and important social interaction. The dignity of older people is significantly undermined.	
1.5 An explicit list of 'never events' should be developed and published that clearly outlines practice that must stop immediately. The list should include use of language, personal care and hygiene, and breaches of human rights.	Older people are treated with dignity and respect and language that dehumanises them is not used and is recognised as a form of abuse (Action 1.1, 1.3, 1.4, 1.5, 4.6).	Unacceptable practice continues and goes unchallenged.	CSSIW March 2015
1.6 Older people are offered independent advocacy in the following circumstances: <ul style="list-style-type: none"> • when an older person is at risk of, or experiencing, physical, emotional, financial or sexual abuse. • when a care home is closing or an older person is moving because their care needs have changed. • when an older person needs support to help 	Older people living in care homes that are closing, as well as older people that are at risk of or are experiencing physical, emotional, sexual or financial abuse, have access to independent or non-instructed advocacy.	Older people are unable to secure their rights or have their concerns addressed, which places them at increased risk of harm. An increased risk of adult practice reviews and civil litigation.	Local Authorities & Care Home Providers & Health Boards April 2015

<p>them leave hospital.</p> <p>For those with fluctuating capacity or communication difficulties, this should be non-instructed advocacy.</p> <p>When a care home is in escalating concerns, residents must have access to non-instructed advocacy.</p>			
---	--	--	--

Key Conclusion 2: Too often, care homes are seen as places of irreversible decline and too many older people are unable to access specialist services and support that would help them sustain or regain their quality of life.

Link to Welsh Government policy and legislative areas: Social Services and Wellbeing (Wales) Act and National Outcomes Framework , Sustainable Social Services: A Framework for Action, Together for Health – Stroke Delivery Plan 2012-16

Required Action	Outcome	Impact of not doing	By whom /By when
2.1 A National Plan for physical health and mental wellbeing promotion and improvement in care homes is developed and implemented. This draws together wider health promotion priorities, as well as particular risk factors linked to care homes, such as loneliness	Older people benefit from a national and systematic approach to health promotion that enables them to sustain and improve their physical health and mental	Older people are at increased risk of falls and ill health. Older people's physical and mental health will decline more quickly than it needs to and they have an earlier need for more specialist care.	Lead Welsh Government March 2016

and isolation, falls, depression, a loss of physical dexterity and mobility.	wellbeing.	<p>An increase in workload and pressure for the care home workforce.</p> <p>An increase in referrals to NHS services, as well as earlier and longer hospital admissions for older people.</p>	
2.2 Older people in care homes have access to specialist services and, where appropriate, multidisciplinary care that is designed to support rehabilitation after a period of ill health.	Older people receive full support, following a period of significant ill health, for example following a fall, or stroke, to enable them to maximise their independence and quality of life.	Older people have reduced mobility, increased frailty and loss of independence, with an increased risk, due to immobility of significant health problems, such as pressure ulcers, pneumonia and deteriorating mental health.	Health Boards and Local Authorities in partnership July 2015
<p>2.3 A National Falls Prevention Programme for care homes is developed and implemented. This should include:</p> <ul style="list-style-type: none"> • Enabling people to stay active in a safe way • Up-skilling all care home staff in understanding and minimising the risk factors associated with falls • The balance of risk 	Older people's risk of falling is minimised, without their rights to choice and control over their own lives and their ability to do the things that matter to them being undermined.	<p>Older people are at an increased risk of falls leading to reduced mobility, increased frailty and loss of independence, with an increased risk, due to immobility of significant health problems, such as pressure ulcers, pneumonia and deteriorating mental health.</p> <p>Significant financial impact on</p>	Welsh Government November 2015

<p>management against the concept of quality of life and the human rights of older people, to ensure that risk-averse action taken by care staff does not lead to restrictive care.</p> <p>National reporting on falls in care homes is undertaken on an annual basis (see action 6.8).</p>		<p>the NHS due to increased admissions.</p>	
<p>2.4 The development and publication of national best practice guidance about the care home environment and aids to daily living, such as hearing loops and noise management, with which all new homes and refurbishments should comply.</p> <p>This guidance should also include mandatory small changes that can be made to care homes and outdoor spaces to enable older people with sensory loss and/or dementia to maximise their independence and quality of life.</p>	<p>The environment of all care homes, internally and externally, is accessible and dementia and sensory loss supportive.</p>	<p>Older people are unable to move around the care home safely and independently or do the things that they enjoy.</p> <p>Older people struggle to communicate with each other and staff, leading to isolation and withdrawal.</p>	<p>Welsh Government July 2015</p>

Key Conclusion 4: Some of the most basic health care needs of older people living in care homes are not properly recognised or responded to.

Link to Welsh Government policy and legislative areas: Fundamentals of care, National Service Framework for Older People, Together for Health: a Five Year Vision for NHS Wales, Setting The Direction, Together for Health: Eye Health Care Delivery Plan for Wales 2013-2018, NHS Wales Delivery Framework 2013-14 and Future Plans, Rural Health Plan – Improving Integrated Service Delivery across Wales, Together for Health: A National Oral Health Plan for Wales 2013- 18, National Outcomes Framework for the Social Services and Wellbeing (Wales) Act 2014.

Required Action	Outcome	Impact of not doing	By whom /By when
<p>4.1 A clear National Statement of Entitlement to primary and specialist healthcare for older people in care homes is developed and made available to older people, including:</p> <ul style="list-style-type: none"> • Access to regular eye health, sight and hearing checks • Dietetic advice and support • Access to podiatry and dentistry services 	<p>There is a consistent approach across Wales to the provision of accessible primary and specialist health care services to older people living in care homes and older people's healthcare needs are met (Action 4.1, 4.2, 4.5).</p> <p>Older people in nursing care homes have access to specialist nursing services,</p>	<p>Older people are unable to see or hear properly, undermining their ability to communicate and their independence, placing them at greater risk of isolation and falls, emotional withdrawal and poor mental health (Action 4.1, 4.2, 4.3).</p> <p>Older people in nursing homes have preventable physical</p>	<p>Lead Welsh Government March 2015</p>

<ul style="list-style-type: none"> • Access to specialist nursing services • GP access and medicines support • Specialist mental health support • Health promotion and reablement support <p>This must cover both residential and nursing care.</p> <p>Care home providers ensure older people receive information about their healthcare entitlements as part of their 'Welcome Pack' (see action 1.2).</p>	<p>such as diabetic care, tissue viability, pain management and palliative care (Action 4.1, 4.2).</p> <p>Older people are supported to maintain their sight and hearing, through regular eye health, sight and hearing checks (Action 4.1, 4.2, 4.3).</p> <p>Older people are able to, or supported to, maintain their oral health and retain their teeth (Action 4.1, 4.2, 4.3).</p> <p>Older people have full access to dietetic support to prevent or eliminate malnourishment and to support the management of health conditions (Action 4.1, 4.2, 4.3).</p>	<p>health conditions, unnecessary pain and their overall wellbeing is undermined through on-going poor management of chronic health conditions.</p> <p>Older people lose their teeth unnecessarily and are unable to eat the foods they prefer; individuals' specific dietary needs are not met, which can lead to malnutrition and undermines their overall health.</p> <p>An increase in workload and pressure for the care home workforce.</p> <p>An increase in hospital admissions due to falls and a lack of primary care support to maintain independence.</p> <p>A failure to deliver on the Social Services National Outcomes Framework and the Fundamentals of Care for older people in residential and</p>	
--	---	---	--

		nursing care homes.	
<p>4.2 A formal agreement is developed and implemented between the care home and local primary care and specialist services based on the Statement of Entitlement. This should include:</p> <ul style="list-style-type: none"> • Referral pathways, including open access • Waiting times • Referral and discharge information • Advice and information to support the on-going care of the older person in the home • Access to specialist services for older people in nursing homes, in line with the Fundamentals of Care Guidance. 			<p>Health Boards & Care Home Providers</p> <p>April 2015</p>

4.3 Care staff are provided with information, advice and, where appropriate, training to ensure they understand and identify the health needs of older people as well as when and how to make a referral.	Care staff understand the health needs of older people, and when and how to access primary care and specialist services (Action 4.3, 5.4).		Health Boards November 2015
4.4 Upon arrival at a care home, older people receive medication reviews by a clinically qualified professional, with regular medicine reviews undertaken in line with published best practice.	Older people receive appropriate medication and the risks associated with polypharmacy are understood and managed.	Older people are at risk of potentially dangerous interactions between multiple medications.	Health Boards Begin April 2015
4.5 Community Health Councils implement a rolling programme of spot checks in residential and nursing care homes to report on compliance with the National Statement of Entitlement and Fundamentals of Care.	Older people are able to challenge, or have challenged on their behalf, failures in meeting their entitlements.	Older people living in care homes are denied access to an independent health watchdog and there is no independent challenge to failures to meet healthcare entitlements.	Welsh Government November 2015

Key Conclusion 5: The vital importance of the role and contribution of the care home workforce is not sufficiently recognised. There is insufficient investment in the sector and a lack of support for the care home workforce.

Link to Welsh Government policy and legislative areas: Social Care Workforce Development Programme,

Sustainable Social Services for Wales: A Framework for Action, Social Services and Wellbeing Act, National Outcomes Framework, Integrated Assessment, Planning and Review Arrangements for Older People.

Required Action	Outcome	Impact of not doing	By whom /By when
<p>5.1. A national recruitment and leadership programme is developed and implemented to recruit and train future Care Home Managers with the right skills and competencies. The programme should include accredited continuous professional development for current and future care home managers and should support them to be leaders of practice and champions of a positive care home culture.</p> <p>Annual national reporting on the availability of skilled and competent Care Home Managers in care homes across Wales, including the impact of vacancy levels upon older people's quality of life and care.</p>	<p>Care homes have permanent managers who are able to create an enabling and respectful care culture and support paid carers to enable older people to experience the best possible quality of life.</p>	<p>Care homes are without or share managers and care homes are without leadership or overview.</p> <p>Managers do not have the skills, competencies or support required to ensure the delivery of safe and high quality care.</p> <p>An increased risk of unacceptable quality of life and care for older people.</p> <p>There is a lack of information available to support workforce planning.</p> <p>There is a lack of opportunity for the professional development of Care Home Managers.</p>	<p>Care Council for Wales</p> <p>April 2016</p>
<p>5.2 The development and implementation of a national</p>	<p>Older people are cared for by care staff and managers</p>	<p>A lack of time and skills places pressure on care staff</p>	<p>Welsh Government</p>

standard acuity tool to include guidelines on staffing levels and skills required to meet both the physical and emotional needs of older people.	who are trained to understand and meet their physical and emotional needs, including the needs of people with dementia and sensory loss, and who have the competencies needed to provide dignified and compassionate care.	that impacts upon the quality of life of older people and leads to a focus on task-based care, which increases the risk of potential emotional neglect.	& Care Home Providers April 2016
5.3 A standard set of mandatory skills and value based competencies are developed and implemented, on a national basis, for the recruitment of care staff in care homes.	Older people receive compassionate and dignified care that responds to them as an individual (Action 5.3, 5.4, 5.5).	Older people are cared for by people who do not understand and are not able to meet their needs (Action 5.3, 5.4, 5.5).	Care Council for Wales & Care Home Providers From September 2015
5.4 A national mandatory induction and on-going training programme for care staff is developed and implemented. This should be developed within a values framework and should include: <ul style="list-style-type: none"> The physical and emotional needs of older people, including older people living 		Older people receive care and support from care staff who do not have the skills, values or competencies to work in care homes, which can place older people at risk of harm and/or emotional neglect. Poor practice goes unchallenged due to a lack of	Care Council for Wales December 2015

<p>with dementia.</p> <ul style="list-style-type: none"> • Adult safeguarding, emotional neglect and 'never events'. • How to raise concerns. • Good communication and alternative methods of communication for those living with dementia and/or sensory loss. • Supporting without disabling. • The rights and entitlements of older people. <p>Care, compassion, kindness, dignity and respect.</p>		<p>appropriate training and a lack of support for those who want to raise concerns.</p> <p>An increase in workload and pressure on care staff.</p>	
5.5 All care homes must have at least one member of staff who is a dementia champion.			Care Home Providers September 2015
5.6 A National Improvement Service is established to improve care homes where Local Authorities, Health Boards and CSSIW have identified significant and/or on-going	Care homes that want and need to improve the quality of life and care of older people have access to specialist advice, resources	Older people live in care homes where poor practice continues, their quality of life is poor and they are at risk of	Welsh Government Lead in partnership with Local

<p>risk factors concerning the quality of life or care provided to residents and/or potential breaches of their human rights.</p> <p>The national improvement team should utilise the skills of experienced Care Home Managers, as well as other practitioners, to provide intensive and transformational support to drive up the standards of quality of life and care for residents as well as to prevent and mitigate future safeguarding risks.</p> <p>This service should also develop a range of resources and training materials to assist care homes that wish to improve in self-development and on-going improvement.</p>	<p>and support that leads to improved care and reduced risk.</p>	<p>emotional abuse and neglect.</p> <p>The resources of commissioning teams are diverted to supporting failing care homes.</p> <p>An increase in workload and pressure for care staff.</p>	<p>Authorities, Health Boards, Care Home Providers</p> <p>September 2016</p>
<p>5.7 The Regulation and Inspection Bill should strengthen the regulatory framework for care staff to ensure that a robust regulation of the care home workforce is implemented for the protection of older people.</p>	<p>Older people are safeguarded from those who should not work within the sector.</p>	<p>Older people receive care and support from care staff who do not have the skills, values or competencies to work in care homes, placing older people at risk of harm and emotional neglect.</p> <p>Vetting and barring</p>	<p>Welsh Government</p> <p>April 2018</p>

		procedures to prevent employment of unsuitable staff provide only partial protection for older people living in care homes.	
5.8 A cost-benefit analysis is undertaken into the terms and conditions of care staff. This analysis should include the impact of the introduction of a living wage and/or standard employment benefits, such as holiday pay, contracted hours and enhancements.	The true value of delivering care is recognised and understood.	There is a restricted recruitment pool due to continued difficulties in recruiting people with the right skills, values and competencies.	Welsh Government January 2016

Key Conclusion 6: Commissioning, inspection and regulation systems are inconsistent, lack integration, openness and transparency, and do not formally recognise the importance of quality of life

Link to Welsh Government policy and legislative areas: Sustainable Social Services for Wales: A Framework for Action, Social Services and Wellbeing Act, National Outcomes Framework

Required Action	Outcome	Impact of not doing	By whom /By when
6.1 A single outcomes framework of quality of life and care, and standard specification, is developed for use by all bodies involved in the	Quality of life sits consistently at the heart of the delivery, regulation, commissioning and	There are unacceptable variations in the standards set for the care of older people, an inconsistent focus on	Welsh Government April 2015

<p>regulation, provision and commissioning, and inspection of care homes and should flow through to become a defining standard within the future Regulation and Inspection Act. It must include references to the following*:</p> <ol style="list-style-type: none"> 1. Independence and autonomy 2. Control over daily life 3. Rights, relationships and positive interactions 4. Ambitions (to fulfil, maintain, learn and improve skills) 5. Physical health and emotional wellbeing (to maintain and improve) 6. Safety and security (freedom from discrimination and harassment) 7. Dignity and respect 8. Protection from financial abuse 9. Receipt of high quality services <p>*Source: Flintshire Outcomes Framework</p>	<p>inspection of residential and nursing care homes.</p>	<p>quality of life and inconsistent and conflicting requirements upon providers.</p>	
--	--	--	--

6.2 Care home providers, commissioners and CSSIW should develop informal and systematic ways in which to ensure they better understand the quality of life of older people, through listening to them directly (outside of formal complaints) and ensuring issues they raise are acted upon. Annual reporting should be undertaken of how on-going feedback from older people has been used to drive continuous improvement (see action 6.10).	Commissioners, providers and inspectors have a thorough understanding of the day-to-day quality of life of older people living in care homes (Action 6.2, 6.3). Older people's views about their care and quality of life are captured and shared on a regular basis and used to drive continuous improvement (Action 6.2, 6.3).	Issues are not addressed before they become significant, impactful and costly to remedy (Action 6.2, 6.3). Opportunities to make small changes that can make a significant difference to quality of life and care are missed. Safeguarding issues are not identified at an early stage. Older people feel ignored, powerless and unable to influence issues that affect their lives.	Care Home Providers & Local Authorities & Health Boards & CSSIW April 2015
6.3 Lay assessors are used, on an on- going basis, as a formal and significant part of the inspection process.			CSSIW April 2015
6.4 An integrated system of health and social care inspection must be developed and implemented to provide effective scrutiny in respect of the quality of life and healthcare of older people in nursing homes.	The quality of life and healthcare of older people living in nursing homes is assessed in an effective way with clear and joined up annual reporting (Action 6.4, 6.5, 6.6).	Poor practice is not identified and older people are placed at increased risk of harm or do not receive that to which they are entitled (Action 6.4, 6.5, 6.6).	Welsh Government lead (Action 6.4, 6.5, 6.6) December 2015
6.5 Annual integrated reports should			

be published between inspectorates that provide an assessment of quality of life and care of older people in individual nursing homes.			
6.6 An annual report on the quality of clinical care of older people in nursing homes in Wales should be published, in line with Fundamentals of Care.			
<p>6.7 Annual Quality Statements are published by the Director of Social Services in respect of the quality of life and care of older people living in commissioned and Local Authority run care homes. This should include:</p> <ul style="list-style-type: none"> • the availability of independent advocacy in care homes • quality of life and care of older people, including specific reference to older people living • with dementia and/or sensory loss • how the human rights of older people are upheld in care 	<p>Older people have access to relevant and meaningful information about the quality of life and care provided</p> <p>by or within individual care homes and there is greater openness and transparency in respect of the quality of care homes across Wales and the care they provide (Action 6.7, 6.8, 6.9, 6.10).</p>	<p>A lack of transparency undermines older people's ability to make appropriate decisions, undermines wider public confidence and acts as a barrier to systemic change.</p>	<p>Local Authorities - Outline AQS</p> <p>September 2015</p>

<p>homes across the Local Authority</p> <ul style="list-style-type: none"> • the views of older people, advocates and lay assessors about the quality of life and care • provided in care homes • geographic location of care homes <p>Further details of reporting requirements should be included as part of the Regulation and Inspection Bill.</p>			
<p>6.8 Health Boards include the following information relating to the quality of life and care of older people in residential and nursing care homes in their existing Annual Quality Statements:</p> <ul style="list-style-type: none"> • the inappropriate use of anti- • psychotics • access to mental health and wellbeing support 			<p>Health Boards September 2015</p>

<ul style="list-style-type: none"> • number of falls • access to falls prevention • access to reablement services • support to maintain sight and hearing <p>Further areas for inclusion to be developed as part of the AQS guidance published annually.</p>			
<p>6.9 The Chief Inspector of Social Services publishes, as part of her Annual Report, information about the quality of life and care of older people in care homes, which includes the following:</p> <ul style="list-style-type: none"> • the quality of life of older people in care homes who are bed- bound • the quality of life of older people in care homes living with dementia • the quality of life of older people in care homes living 			<p>CSSIW Annual Report</p>

<p>with sensory loss</p> <ul style="list-style-type: none"> • the implementation of care plans in older people's care homes • the accuracy of external statements from independent providers • how the human rights of older people are upheld in care homes across Wales 			
<p>6.10 Care home providers report annually on the delivery of quality of life and care for older people. This will include:</p> <ul style="list-style-type: none"> • Quality of life of older people against the Standard Quality Framework and Supporting Specification. • Levels and skills of staff including staff turnover, use of agency staff and investment in training • Number of POVA referrals, 			<p>Care Home Providers December 2015</p>

complaints and improvement notices, including full details on improvement action when a home is in escalating concerns.			
6.11 A national, competency based, training programme for commissioners is developed, to ensure that they understand and reflect in their commissioning the needs of older people living in care homes, including the needs of people living with dementia.	Older people are placed in care homes that can meet their needs by commissioners who understand the complexities of delivering care and are able to challenge providers about unacceptable care of older people.	Older people are placed in care homes that are unable to meet their needs. Commissioners are unable to challenge poor practice.	Care Council for Wales December 2015