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Ein cyf / Our ref:

Eich cyf / Your ref:

Dyddiad / Date: 15 May 2015

Dear Sarah

**Formal written notice issued under the Commissioner for Older People (Wales) Act 2006: Additional information required**

Thank you for your letter dated 17 April and I am writing to respond to the actions allocated to CSSIW in your report A Place to Call Home following your review of care homes in Wales.

Overall, we support the key conclusions, the characteristics of the best care homes and the principles underpinning really good care identified by the review. We welcome the perspective and additional insight that your review has brought and wish to respond positively to the actions identified for CSSIW

I am pleased to say that much of CSSIW's practice is already focused on the issues you have raised. In particular, our guiding principle is to put service users at the heart of our work. The Quality of Life is a core theme in our current inspections and this is supported by the use of the Short Observational Framework for Inspection (SOFI) tool which enables us to directly assess the experiences of people with dementia and other disabilities.

In considering our response, you may also find it helpful if I set out the current context for our work which includes the Welsh Government's agenda for transforming care and social services, and a number of emergent initiatives. These include:

- The Social Services and Well-being (Wales) Act with its accompanying National Outcomes Framework.
- The emerging requirements of the Regulation and Inspection (Wales) Bill. These will substantially change regulatory practice from 2017.

- Welsh Language Measure, Standards and “More than Just Words”.
- Welsh Government’s developing vision for the care home sector.
- The review into Operation Jasmine.
- The new framework for standards in nursing care.
- Welsh Government’s Green Paper on Care and Social Service Inspectorate Wales and Health Care Inspectorate for Wales that the Minister has committed to publish later this summer.

These developments are also aligned to the issues you have identified in your report, placing the well-being of people at the heart of services through a focus on real outcomes and by understanding and meeting their needs. In responding to your actions, we will need to factor all these requirements into our work to determine our priorities and how best to support the improvements you too are seeking to achieve.

One of the transformative changes in CSSIW’s practice is the development of a Quality Judgement Framework (QJF) which we will be piloting in 2015. The QJF will focus on the outcomes for people using services and their well-being, thereby supporting the core theme of the Social Services and Well-being (Wales) Act 2014. It will enable us to publish a “rating” for providers of care services giving more information about services, providing a catalyst for improvement and empowering people to make informed choices. We are also using the findings and actions in your report to inform the development of the QJF and we are confident that it will give us a reliable line of sight on a number of the issues you raise.

Another key development in our business model is the development and implementation of a new ICT system which went “live” in CSSIW in 2014. We plan to use the system to develop our digital services, and this will facilitate on-line data collection and the ability to collate information across services. This will be critical in reporting on some of the issues you have identified.

In relation to the specific action points that you have identified for CSSIW’s attention, I shall respond to each in turn.

*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.*

In practice, there are failures in care, “never events” that trigger immediate enforcement action either by CSSIW or other partner agencies, for example POVA referrals under the All Wales Procedure. Sometimes, however, the thresholds for enforcement action are not as clear and this is where our inspectors have to bring their professional judgement to bear in assessing the risks to service users, and the capability of the provider to make improvements. Setting the thresholds will be a critical part of our QJF and we will include an equivalent of “never events” for care homes for older people, these will be identified and used as “tipping points” into “poor” judgement ratings and, as is currently the case, provide a trigger for enforcement action.

We have commenced consulting extensively on the QJF and this will provide us with an opportunity to send a strong message to all care home providers about the standards we expect. It will also empower people using services, their carers and families by providing more information about the quality of services.

The Minister for Health and Social Services has indicated that the introduction of the QJF will be implemented following rigorous testing of the system in practice and clear evidence on the cost benefits of introducing ratings. CSSIW will, however, be publishing revised inspection guidance in the autumn of 2015. This will include thresholds for non-compliance in relation to unacceptable care practices (“never events”). We will wish to incorporate the learning from the Flynn Review, likely to be published later this summer. This guidance will be publically available and provides a short-term opportunity to clarify and strengthen expectations prior to the implementation of the Bill.

The Bill, when enacted, will fundamentally change the regulatory framework in Wales. It is important to note that Section 26 of the Regulation and Inspection (Wales) Bill will enable Welsh Ministers to impose requirements on service providers. When enacted, Ministers will have the power to make provision in relation to the standards of care that must be provided. These will be in line with the codes to be issued under Section 9 of the 2014 Social Services and Well-being (Wales) Act. Regulations and guidance will be prepared under Section 28 of the Bill and will place specific duties on providers. There are therefore further opportunities to consider how “never events” might be embedded in a stronger legal framework post 2017.

*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 ongoing feedback from older people has been used to drive continuous improvement.*

The “quality of life” and the experiences of people using services is a core theme of our inspections. Our visits to care homes involve speaking to people using services, and directly observing and reporting on their experiences. We have introduced SOFI to support this approach and strengthen the evidential basis of our work. Also, we have “informal” systems for engaging with local people at an area, regional and national basis, and these are being strengthened in 2015/16 with the establishment of regional advisory panels.

We have significantly strengthened our response to incoming concerns and since 2012 we have doubled the number of concerns we respond to (2700 last year, a high proportion in relation to the care of older people). These provide an important source of information about what matters to people. We are refining and expanding our use of questionnaires during 2015 and have invested heavily in the development of social media. This provides a new avenue for those people who use the internet to be in direct contact with us.

We have had strong engagement with providers and commissioners, through our local authority monitoring and review of local authority social service functions, attendance at local council forums and scrutiny and national organisations, including Care Forum Wales.

We have regular meetings to discuss areas of regional and national improvement, and engage across Wales at all of the “essential updates” held for local providers. This had led to a reappraisal of our inspection process and strong enthusiasm for the co-production of the QJF with the care sector. The QJF work is ongoing and our training programme for inspectors in the autumn of this year will include direct input from both providers, people using services and commissioners.

Our proposals for the QJF will align our work to the National Outcomes Framework and Welsh Government’s definition of “well-being”. This will become the universal approach for defining and considering quality of life across regulation and commissioning.

We plan to use our new IT system to introduce unified, accurate, reliable data collection across regulators and commissioners. This will enable progress to be measured, trends analysed and intelligence provided to support improved strategic planning to manage the market to develop, and to meet the actual needs of people. In addition, we are working on a revised framework for our annual evaluation of councils’ social services to meet the proposals set out in the White Paper.

There is also a further opportunity for us to develop a new model for annual reporting in line with the expectations of the new Bill which will come into force in 2017.

### *6.3 Lay assessors are used, on an ongoing basis, as a formal and significant part of the inspections process.*

As an underlying principle, we have always promoted the value of involving a wide range of people in our work and our Participation Plan sets out our strategy for doing so, which includes the use of lay assessors/independent visitors. We have undertaken pilot studies for using independent visitors in inspections of older people’s homes and registered services for people with learning disabilities. We have looked at the costs/benefits and looked at their use by other inspectorates, and have concerns that lay inspectors do not remain “lay”. We also note, and have discussed with your office, the benefits and also the challenges of using rapporteurs as part of your review. We have actively explored the use of Community Health Councils (CHCs) and noted that previous legal challenge in relation to their role poses problems as their legal remit does not extend to care or nursing homes. However, we see the merit in using the expertise of CHCs in the inspection process and are looking at ways of how this can be achieved as part of a range of approaches.

Our evaluation of independent visitors showed benefits. However, as detailed in John Kennedy’s Care Home Inquiry, May 2015<sup>1</sup>, “people who feel involved feel happier” and want voice, choice and control over their lives, and making this happen in a relationship centred approach<sup>2</sup> would be better evidenced in the personalisation of services. Supporting a small group of independent visitors for a sample of inspections was resource intensive. To scale this up into a full programme for our regulated settings, numbering some 4500 inspections, of which just under half are in adult regulated settings, would require significant resources. At present, CSSIW has insufficient resources to undertake

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<sup>1</sup> John Kennedy’s Care Home Inquiry, JRF,2015

<sup>2</sup> Essex County Council My Home Life, Owen 2012

this in a way which is safe and sustainable, even through the auspices of local voluntary organisations.

We do, however, plan to use lay assessors as part of thematic inspections and inspections of councils, and this will include direct inspection of some care homes. Through this we will involve citizens in reviews which cover the wider processes of delivering social care, which will shape both our work and the provision of services at a more strategic level.

We absolutely recognise the value of involving citizens in our work and have in the past year established our National Advisory Board with over 50% representation from people with experiences of services and carers. In the coming year, we will be establishing three regional advisory panels to look more closely at our operational practice and this will provide even greater opportunities for citizens to be directly involved in our work.

Our National Advisory Board has been a great success, providing both informed insights into the challenges facing families and in shaping our programme of work. During 2105 we will bring in regional advisory panels to provide citizen assurance to our inspection work, we plan to include local people in an end-to-end appraisal of our inspection process. In addition, our National Advisory Board members and Operation Jasmine relatives have been involved in a number of our work streams, for example the QJF.

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:*

- *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 with sensory loss*
- *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*

The Chief Inspector's annual report already comments on the quality of care services and I am happy to consider how this can be expanded to include a specific commentary on the areas that you have highlighted.

I understand your suggestion is for the Chief Inspector's annual report to comment on these individual areas annually, not "thematically". Whilst we routinely consider these areas in our inspections of providers, to provide an overview in the annual report with any degree of validity and authority will require a tailored approach to evidence gathering. The themes you have identified are important and significant but the collection of data will require some further thought, closer definition and scoping. I set out below our early thinking on how we might take this action forward.

Bed bound: CSSIW will be including census data collection in the annual returns we request from providers and this will enable us to comment on trends. On a thematic basis, we could look in more detail at the experiences and care of those who are bed bound.

Dementia: CSSIW has done some work to shape “service descriptors”, including those for providers specialising in dementia care. These will not be implemented until the new Regulation and Inspection Bill becomes law. These will help us to build a picture of the market for such care, identify trends and lines of further enquiry. In the development of a revised annual return, we plan to collect data on numbers of staff who have received dementia training and our new ICT system will enable us to record and collate observations from SOFI. This will provide an evidence base for assessing the quality of life of people with dementia and providing an informed commentary in the annual report.

Sensory loss: CSSIW will be able to report on this once our revised annual return is in place later this year, which will include questions developed by Sense Cymru. We also plan to undertake a thematic study next year using volunteers from Sense Cymru, which will provide a more qualitative analysis and commentary, and we have commissioned them to develop an inspection guide for older people with sensory loss.

Implementation of care plans: CSSIW are able to report on this through analysis of compliance as this is a key line of enquiry in both our inspections of regulated care and local authority social services. Local authorities also have duties to ensure individual care plans are regularly reviewed to ensure outcomes enable people to achieve well-being. The Social Services and Wellbeing (Wales) Act 2014 seeks to strengthen these arrangements.

Accuracy of external statements from independent providers: CSSIW will look at this action in the context of the Regulation and Inspection (Wales) Bill which may include specific requirements in relation to the accuracy of reporting by providers. In doing so, we will need to have regard to our powers and capacity to undertake such a function and the level of assurance we can provide. We are in a position to evaluate the accuracy of legally required documents like the Statement of Purpose and can therefore capture and report on non-compliance in this regard.

Upholding of human rights of older people: In general terms, the principles of human rights underpins all our work and the delivery of care services across Wales. However, the rights are not explicitly set out in the relevant statutes for care services, regulations or national minimum standards. This also applies to our inspection framework. This is because of the breadth and complexity of covering human rights in the wider sense would make inspections overly bureaucratic and onerous. Consequently, it would be a significant challenge to provide good quality analytical data, although in time we expect the QJF to provide a valuable evidence source to track and report on people’s well-being. Upholding and respecting older people’s human rights is at the heart of good care and the QJF will allow us to comment on the behaviours and practices that we require of providers. In addition to this, other strands of our work, such as our data monitoring and reporting on Deprivation of Liberty Standards, action in response to safeguarding and concerns raised with us, provide intelligence that we can report annually although these only reflect some aspects of human rights.

I hope these comments are helpful, and reflect your aspirations and the priorities arising from the review. I should like to affirm CSSIW's commitment to supporting the Older People's Commissioner for Wales and continue to work in partnership to improve the quality of care and well-being of older people across Wales.

Yours sincerely

A handwritten signature in blue ink that reads "Richardson". The signature is written in a cursive style.

Imelda Richardson

**Chief Inspector**

CSSIW – Care and Social Services Inspectorate Wales