

REGULATION AND INSPECTION OF SOCIAL CARE (WALES) ACT 2016

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1 – Regulation of Social Care Services

Chapter 3: Sections 32-37 - Information and inspections

86. **Section 33** provides the Welsh Ministers with the power to obtain information in relation to the exercise of their functions as regulator of care and support services under this Act. This is subject to any legal restriction on obtaining such information (subsection (2)).
87. **Section 33(1)** defines the term “inspection” for the purposes of Part 1. An inspection will involve two things: an assessment of the quality of care as well as an assessment of the organisation and co-ordination of the service.
88. **Section 34** sets out an inspector’s powers of entry and inspection. The inspector may inspect any premises which the inspector has reasonable grounds to believe is (or has been) used as a place at or from which a service is (or has been) provided, such as a place where a care home service is provided. But an inspector may also inspect premises which the inspector has reasonable grounds to believe is (or has been) used in connection with the provision of a regulated service. This could be offices or a storage facility on an industrial estate where documents connected with the service are kept. It may also include a car used in connection with the provision of a domiciliary support service (see subsection (6)). Where an inspector wants to inspect a person’s home, the occupier must consent to an inspector entering the home for the purpose of an inspection.
89. **Section 35** sets out the inspector’s powers to interview and medically examine persons. Subsection (1) provides a power to the inspector to require anyone to be interviewed in private. This could be the service provider, manager or employee of a service but it could also include a parent, relative or carer of the service user if they consent to be interviewed. An inspector may carry out a medical examination of a service user but only if the inspector is a registered doctor or nurse and the person consents to being examined (subsection (4)). Subsection (5) makes provision for third parties to be present during an interview or examination if the person being interviewed or examined wants a third party to be present and the inspector does not object or if the inspector wants a third party to be present and the person being interviewed or examined does not object.
90. **Section 36** requires the Welsh Ministers to prepare an inspection report as soon as is practicable after an inspection has been carried out. Subsection (2) sets out the matters that must be included in that report. While that report must contain an assessment of the quality of care measured against the standards set out in regulations made under section 27(1) there is also a requirement for the inspector to report on the effect of the care and support that is being provided by the service on the well being of service users

*These notes refer to the Regulation and Inspection of Social Care
(Wales) Act 2016 (c.2) which received Royal Assent on 18 January 2016*

(see sub paragraph (b)). The inspector is also required to undertake an assessment and report upon the organisation and co-ordination of all services provided by the service provider (see sub paragraph (c)).

91. [Section 37](#) provides a regulation making power to enable the Welsh Ministers to establish a ratings system in respect of the quality of care provided by regulated services. In the event that such a system is introduced then section 36(2)(d) requires the inspector to put that rating in the inspection report which must be published. Section 187(2) provides that regulations made under this section must be made using the affirmative procedure.