



Llywodraeth Cymru  
Welsh Government

REPORT, DOCUMENT

# Micro-care services: engagement report

Summary of our engagement work about providing personal care through micro-care services.

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# Glossary of terms

## Care Inspectorate Wales

Care Inspectorate Wales (CIW) is the independent regulator of social care and childcare in Wales. Relevant to this report, CIW is responsible for registering and inspecting regulated social care services under the regulatory framework established by the Regulation and Inspection of Social Care (Wales) Act 2016.

## Direct payment(s)

Direct payments are monetary amounts made available by local authorities to individuals or their representative. Direct payments enable individuals to meet their care and support needs or the support needs of an unpaid carer.

## Personal care

Care relating to the day-to-day physical tasks and needs of the person cared for. For example, assistance with eating and washing.

The mental processes related to those tasks and needs. For example, assistance with remembering to eat and wash.

## Social Care Fair Work Forum

**A social partnership of trade unions, employer representatives, and the Welsh Government** to improve working conditions in social care.

# Social Care Wales

Social Care Wales (SCW) is responsible for regulating the social care workforce as defined by the Regulation and Inspection of Social Care (Wales) Act 2016.

## Section 1: Background

### Introduction

A domiciliary support service is the provision of personal care and support to an individual in their home. The **Regulation and Inspection of Social Care (Wales) Act 2016** (RISCA) defines regulated services, including domiciliary support services, and sets out the regulatory framework for social care in Wales.

There have been significant changes in the social care landscape since RISCA was introduced. There has been an increase in demand for domiciliary care services which has coincided with greater challenges in the recruitment and retention of social care workers. The coronavirus (COVID-19) pandemic has exacerbated these pressures. Local authorities and third sector bodies have sought to promote choice and voice and control of service users, and many local authorities have dedicated resources to develop 'micro-care services'. The lack of an agreed definition of such services is discussed in this report, but they may broadly be described as:

“ Individuals or small businesses providing care, support or well-being services. This can include personal care, respite, domestic tasks, companionship, etc. Micro-care services in respect of an individual's assessed care needs can be paid for through a direct payment, through people's own funds or commissioned by a local authority. ”

This report, and the work undertaken to inform it, focuses on services that provide personal care and are considered to be exempt from registration as domiciliary care services.

The growth and promotion of these services, reflected in most of the local authority market stability reports, was not envisioned when RISCA was conceived. Exemptions contained in RISCA were intended to provide a degree of flexibility for very small and informal types of care provision, balanced with the need to ensure a robust regulatory framework.

Statutory partners and membership bodies representing independent registered care providers have raised concerns with regard to perceived risks of unregulated care services and a belief that care workers from registered services are leaving in order to establish themselves as micro-care services.

Since the introduction of RISCA, there has been a strong professionalisation agenda, including the introduction of mandatory registration of domiciliary care workers with SCW. It is important that we consider if the regulatory position remains appropriate for, and fully understood by, the current social care sector.

Consequently, we undertook extensive engagement work between October 2022 and June 2023 to gain an understanding of services that provide personal care but are not registered as domiciliary support services.

This report sets out our key findings and themes, and recommended next steps. It is intended to provide a platform for further dialogue with stakeholders and to inform policy development in this area.

Our work was guided by the following overarching questions:

- what are the benefits and opportunities of micro-care?
- what are the challenges and barriers of micro-care?
- what are the drivers and inhibitors to the establishment of micro-care

services?

- how are micro-care services being promoted and supported across Wales?
- how is the quality and safety of micro-care services being monitored across Wales?
- how are local authorities taking into account fair work principles for micro-care workers?
- what are stakeholders' views on the different ways that micro-care services are (or could be) used by local authorities?
- what are the safeguarding considerations and risks associated with micro-care services and what is being done to mitigate these?

## Policy context

Welsh Ministers have pursued a professionalisation agenda, seeking increased registration and regulation of the social care workforce and service providers. People can be confident registered services are subject to inspection by CIW and can, ultimately, be forced to cease operating if the quality of care is of sufficient concern. People can also be confident that registered social care workers have undertaken minimum levels of training and ongoing professional development and must follow a code of professional practice. Public protection was a key driver for the prioritisation of domiciliary care worker registration in Wales during the passage of RISCA.

The Social Services and Well-being (Wales) Act 2014 (SSWBA) places a duty on local authorities to promote social enterprises, co-operatives, user led services and the third sector. Welsh Government provides funding to promote the development of social enterprises and social value models of delivery.

There is also a duty on local authorities to promote direct payments in the SSWBA, increasing people's choice and voice and control.

## Legal position

RISCA and its associated regulations outlines the circumstances under which services providing personal care may claim exemption from registration as a domiciliary support service.

The legislation pertaining to the registration of micro-care services, and their relevant sections:

### Regulation and Inspection of Social Care (Wales) Act 2016

#### Schedule 1.

8 (2) But the provision of care and support does not constitute a domiciliary support service if -

(a) it is provided by an individual without the involvement of an undertaking acting as an employment agency or employment business (within the meaning given to those expressions by section 13 of the Employment Agencies Act 1973 (c.35)), and who works wholly under the direction and control of the person receiving the care and support.

8 (3) A person who introduces individuals who provide a domiciliary support service to individuals who may wish to receive it but has no ongoing role in the direction or control of the care and support provided is not to be treated as providing a domiciliary support service (regardless of whether or not the introduction is for profit).

# The Regulated Services (Service Providers and Responsible Individuals) (Wales) Regulations 2017

## Part 2, Regulation 3.

3 (1) The following things are not to be treated as a domiciliary support service, despite paragraph 8 of Schedule 1 to the Act (regulated services: definitions, domiciliary support services) -

(a) the provision of support only;

(b) the provision of care and support to four or fewer individuals at any one time.

## Explanation

Schedule 1, sub paragraph 8 (2) can be claimed as an exemption in respect of each individual where the micro-care worker can be said to work wholly under the direction and control of the person receiving care - i.e. there is no limit on the number of persons a worker may care for where this qualification is met. There is no statutory definition of what constitutes "wholly under the direction and control of".

Personal assistants, employed directly by the person in receipt of care, operate under this exemption. Additionally, there are individuals describing themselves as "self-employed personal assistants". These individuals could be providing care to a number of individuals and also cite this exemption.

There is no specification in legislation that the worker needs to be employed by the person in receipt of care in order to be considered to be working wholly under the direction and control of the person receiving care.

Where the above RISCA exemption is not regarded as applicable, a worker is



limited to providing personal care to a maximum of four people before they are required to register as a domiciliary support service with CIW.

Where a micro-care worker makes arrangements for cover during temporary absences, careful consideration needs to be given to determine whether these amount to the activity of an employment business, or ongoing involvement in the direction or control of the care and support. If they do, the activity will fall outside the exemptions in paragraph 8 (2) (a) and 8 (3) of Schedule 1.

## Terminology

Key terms such as micro-care worker/ service, personal assistant and self-employed personal assistant are being used interchangeably with no standard or legal definition. Agreement on shared terminology and definitions will be important to address in the next stage of work.

For the purposes of this report, we have used the term micro-care worker/ service throughout.

## Scope

Micro-care workers may be providing support only, rather than personal care and support. This report focuses on people and services providing personal care. If a service provides support only this does not meet the definition of a domiciliary support service and is not subject to regulation under RISCA. For more information on what constitutes personal care and support, see Annex 1 in [CIW's Guide to Registration](#).

Most micro-care services that are provided to meet needs identified in local authority care and support plans are paid for through direct payments, with only two local authorities directly commissioning micro-care services at the time of

writing. No health boards are currently commissioning micro-care services.

Micro-care is also purchased by people on an entirely private basis. We have not considered self-funding in this report. This sits outside of local authority statutory duties, and we cannot estimate the size of the micro-care market for self-funded services. However, services that provide personal care to self-funders are still subject to RISCA requirements.

## Process

The work was undertaken in two phases. In phase 1, a survey was completed by all 22 local authorities on their use of micro-care services.

In phase 2, we engaged with a wider range of stakeholders and built on the responses to the phase 1 survey through follow up conversations with local authority colleagues.

Between March and May 2023, we spoke to 60 stakeholders via 26 meetings. These were a mixture of one-to-one and group meetings. These were mostly online, with in person meetings with micro-care workers carried out in Flintshire, Pembrokeshire and Swansea.

Over the two phases we heard from the following individuals and groups to inform this work:

- over 50 micro-care workers
- 2 people receiving support through micro-care services and 2 family members
- 3 development organisations supporting micro-care workers
- 5 social care membership organisations/ professional bodies, including Trade Union representatives
- all 22 local authorities, including 11 direct payment leads

- representatives from the National Independent Safeguarding Board, Care Inspectorate Wales and Social Care Wales
- representatives from the Regional Safeguarding Chairs Group and Social Care Fair Work Forum

## Section 2: Findings

### Findings from phase 1 local authority survey

Based on the responses we were able to build a clear picture of the extent to which local authorities are working with micro-care services, plan to work with micro-care services in the future, and how they view them overall.

Two local authorities were directly commissioning micro-care services: Flintshire and Swansea. Micro-care services in these areas were also engaged via direct payments.

In 8 local authorities, micro-care services were being engaged by direct payment recipients and local authorities had ambitions to increase the number of providers, but no direct commissioning was taking place: Bridgend, Carmarthenshire, Conwy, Denbighshire, Monmouthshire, Pembrokeshire, Powys and Wrexham.

Five local authorities were in the early stage of developing their work with micro-care services: Cardiff, Ceredigion, Gwynedd, Rhondda Cynon Taf and Vale of Glamorgan.

At the time of the survey, 7 local authorities stated they did not have plans in place to develop their work with micro-care services: Blaenau Gwent, Caerphilly, Isle of Anglesey, Merthyr Tydfil, Neath Port Talbot, Newport and Torfaen.

Broadly, but not exclusively, the more rural local authorities in Wales were working more closely with micro-care services than in densely populated areas. When one local authority had undertaken substantial work to develop micro-care services, they may support their neighbouring local authority, which could partly account for the spread of activity. For example, Pembrokeshire were working closely with Carmarthenshire and Ceredigion.

There was a mix of views towards the role of micro-care services amongst local authorities. Those already working closely with micro-care services and with development organisations were generally positive about the work they were doing. These local authorities wanted to see the offer grow further and saw micro-care provision as a way to create more choice and control, localised support and increase the availability of care in rural areas.

Some local authorities voiced concerns at the lack of regulation and means to ensure quality assurance of micro-care services. Some suggested making changes to allow or require micro-care workers to register with SCW, where the service is not required to register with CIW. Others suggested micro-care services could be made subject to a reduced level of service registration with CIW. These suggestions would require changes to the existing legislation.

To mitigate and minimise risks they perceived due to the absence of regulation of services and workers, some local authorities have put in place their own quality assurance frameworks. Others have worked with development organisations to adopt their standards. In some areas, regional approaches have been supported by the Regional Integration Fund.

There is no legal requirement for training and checks, such as references and Disclosure and Barring Service (DBS) for micro-care workers. Some local authorities have introduced a framework of training and access to continuous professional development that they expect micro-care workers in their area to complete.

Local authorities who have had little engagement with micro-care services and do not have plans to develop this told us there was little demand for micro-care services. Some had clear concerns around the lack of regulation and perceived associated risks.

The survey highlighted there is not a shared understanding of the regulatory framework, discussed in more detail below.

## Findings from phase 2 engagement

### Benefits of micro-care services

Benefits to people receiving and delivering care through micro-care services were consistently emphasised by nearly all micro-care providers, development organisations and those local authorities working closely with micro-care services.

Thirty-eight out of the 47 survey respondents had prior experience of working in social care. The most common perceived benefit of micro-care service arrangements was flexibility, for both the provider and the person receiving care, and choice over work patterns. Many providers also stated they could spend longer with individuals than when employed in registered domiciliary care services. They linked this to greater job satisfaction.

The potential of micro-care workers to create new capacity in a very stretched system was emphasised by local authorities, leading to reduced waiting lists. Local authorities and development organisations also highlighted the flexibility and localised nature of micro-care services as a strength, allowing for tailored packages of care that would be challenging for the more traditional market to meet.

For people receiving care, a benefit of using micro-care services outlined by one of the development organisations was having the control element of engaging services via a direct payment without the need to be an employer. In their view, this appeals to many people, especially older people. Micro-care workers also saw themselves as having local knowledge and providing additional choice, which aligned well to taking a very localised approach and increasing voice and control.

However, many also acknowledged the need for micro-care workers has been driven in part by the pressures on the domiciliary care sector unable to meet demand, particularly in rural areas. In this case micro-care services might not be an additional choice, they might be the only option available. We do not currently know to what extent micro-care may be significantly reducing waiting lists.

Professional bodies representing the regulated social care sector predominantly highlighted concerns and challenges, outlined in further detail below. The few benefits mentioned by these stakeholders included lesser administrative burden on the micro-care worker or service. Some agreed micro-care services could be beneficial for the individual receiving care if this meant greater continuity of worker, and greater choice and flexibility in approach compared with traditional domiciliary care. However, they considered many of the benefits outlined should be achievable within the regulated domiciliary care sector, through delivery models such as outcomes focused and locality-based commissioning.

## **Challenges to running micro-care services**

The challenge most frequently mentioned by micro-care workers was managing the level of demand. In areas where micro-care services were well established and there was an up-to-date directory that people could access, workers were managing more demand than they could meet. However, in areas where this infrastructure was not in place, finding work could be difficult.

Many micro-care workers told us they were prompted to set up as a service by recruitment drives facilitated by the local authority or development organisation. In areas where there wasn't much support available to establish micro-care services, the challenges reported by micro-care workers to getting set up and being sustainable were significant. This suggests that micro-care requires the support of the local authority, a development organisation, or both working together, in order to establish and succeed.

Micro-care workers themselves and other stakeholders raised concerns about the availability of support in place for micro-care workers. This was related to wellbeing, as it may be an isolated role, and to cover for absences such as sickness and holidays. Lack of holiday pay and occupational sick pay was also cited (a situation mirrored across the social care workforce).

A small number of micro-care workers raised challenges around working with other professionals such as social workers and allied healthcare professionals. In some cases, trust had been established and this was working well. However, in other cases micro-care workers felt they were not treated as fellow professionals and communication with these colleagues was limited, which impacted their ability to give the right care and support.

The administrative work associated with setting up and running a business, support needed to set appropriate payment rates, and in some cases delayed payments from local authorities were outlined as barriers to growth and running a smooth service.

Access to training was also raised as a challenge. Most micro-care providers we spoke to cited the inaccessible times and location of local authority training offers as particular challenges. Many expressed a desire to do more training, and in some cases had been unable to complete quality assurance that would mean they could provide personal care as they had not had time to do this.

Local authorities are not required to provide training to micro-care workers, or to

have a quality assurance framework in place. Some local authorities that are actively developing micro-care have put in place quality assurance frameworks to try and mitigate the risks of unregulated care provision.

To ensure greater consistency, access to and requirements around training and quality assurance should be considered in the next stage of work.

## **Concerns with micro-care services**

Stakeholders expressed mixed views on micro-care services that included substantial benefits balanced with caution about potential risks. However, these views were not shared by all. We heard significant concerns about a lack of regulation leading to potential risks around safety, safeguarding, training and support. A concern was expressed that registered workers could move into unregulated services due to concerns about competency or conduct. We were not made aware of any actual examples.

Some stakeholders were concerned that micro-care has the potential to destabilise the already very fragile domiciliary care sector. Local authorities may be drawn to use micro-care services if they could be obtained quickly and at a lower cost, but this could undermine regulated domiciliary care (the phase 1 survey showed a wide range of payment rates for micro-care services, it is not always a lower cost option). In their view, many of the cited benefits of micro-care services such as flexibility and a hyper-local approach could be provided by a well-resourced domiciliary support sector. There was a concern that domiciliary care workers were receiving training from a registered provider and then leaving or reducing hours to establish themselves as micro-carers. Given the problems in recruiting and the cost of training, this was a major concern. We are not able to ascertain the extent of this.

Many of the concerns raised also related to personal assistants, and there was not always a clear distinction drawn between micro-care workers and personal



assistants. The term self-employed personal assistant and micro-care worker appears to be used interchangeably, with neither worker directly employed by the individual receiving care. These are not protected professional terms, with clarification on terminology needed.

## **Discussions with safeguarding representatives**

Engagement sessions with representative from both the National Independent Safeguarding Board (NISB) and the Regional Safeguarding Board Chairs (RSBC) group were also held as part of this work to see if there were particular areas of concern with regards to safeguarding.

The NISB had concerns about the lack of regulation and implications for safeguarding, but no specific safeguarding concerns had been raised with them.

The representatives from the RSBC group that we spoke to felt they had mitigated the risks by putting in place additional governance.

## **Role of health boards**

None of the health boards are commissioning micro-care services under Continuing Health Care arrangements. The reason given was the complexity of the needs of individuals requiring care. The very localised nature of micro-care provision made it ineffective at scale from a commissioning perspective for the health board, who often block book with providers. There were also concerns raised around the lack of regulation and where the responsibility for overseeing services would sit.

## **The view from people receiving care and support through micro-care services**

We spoke to 2 family members and 2 people directly receiving care and support through micro-care services. All were very satisfied with the support they and their family members received, including social and emotional support.

For both people we spoke to directly the reasons given for using micro-care services were that it was the only option available to them. In one case registered domiciliary care did become available but they remained with the micro-care worker as they had formed a good relationship, and the times of calls suited them better. This person also had a delayed discharge from hospital, which would have been longer had they waited for domiciliary care to become available. The main concern that individuals and family members had was how they would be able to access ongoing care and support if the micro-care worker was no longer available.

## **Different understandings of the regulatory framework pertaining to exemptions**

The key themes that came through this engagement work were a lack of clarity around which exemption to being considered a domiciliary support service applies and in what circumstances, and confusion over the employment status of micro-care workers.

All but one of the micro-care providers who responded to the survey said they were self-employed (45), with 1 stating they were a micro-enterprise.

The majority of providers said they were aware of the exemption regarding the provision of personal care to no more than 4 individuals.

Only 1 micro-care worker told us they provided personal care to more than 4 people. However, we cannot be confident the relatively small number of survey respondents was representative of micro-care services across Wales. As we know from the local authority survey, the number of micro-care services is increasing. Clarification and consideration of the regulatory position is therefore required.

The view of stakeholders from 2 of the development organisations we spoke to was that where micro-care workers work alone, they are under the same regulations as personal assistants (and many call themselves self-employed personal assistants). The guidance they are giving micro-care workers is that an individual working wholly under the direction and control of the person receiving care can deliver personal care to more than four people and be exempt.

The understanding of the development organisations is that if micro-carers work in partnership, employ others or are a limited company, they are subject to exemption under the Regulated Services (Service Providers and Responsible Individuals) (Wales) Regulations 2017, Part 2, Regulation 3 (1) (b). In these circumstances, they understand they can only provide personal care to a maximum of 4 people, before needing to register as a domiciliary support service.

This perception of very limited circumstances in which micro-care workers can work with others creates barriers to resilience in the care provided. Holidays and cover are one of the most challenging aspects raised by providers, as many think if they get cover, they are subject to regulation, but wouldn't be otherwise. Alongside this, direct payment leads and others were aware of micro-care workers creating informal arrangements, for example via WhatsApp groups, to provide cover during absences. Local authorities were encouraging and supporting direct payment recipients to formalise and record cover as part of contingency planning arrangements within their statutory plans.

The view from local authorities on the regulatory framework around exemptions

was mixed. Some local authorities reported they are not applying the exemption around providing personal care to a maximum of 4 people. Instead, that micro-care services are exempt from registration as a domiciliary care agency if individuals are working wholly under the direction and control of the person receiving care and support. Others are of the view that whether micro-care services are exempt from registration is solely aligned to the number of people to whom personal care is being delivered.

Where there is a limit to providing personal care to more than 4 people some local authorities suggested that changing this to a rule based on hours would provide greater flexibility and be more appropriate for different circumstances, as there is a significant difference between the levels of support that people require.

Many local authorities do not recognise the term "self-employed" in relation to personal assistants, limiting the role of personal assistants to those directly employed by the direct payment recipient.

In summary, there were two distinct views that we heard regarding when a micro-care service is exempt from registration. This is either based on the number of people personal care is provided to, or whether the person delivering care is wholly under the direction and control of the person receiving care and support. It appears from our discussions that organisations are applying one of these tests, whereas the legal position is that either could potentially apply. As stated earlier in this report, there is no definition of "wholly under the direction and control".

## **Section 3: Conclusions and next steps**

### **Main findings**

#### **There is confusion over exemptions to registration**

The circumstances in which personal care can be provided without needing to register as a domiciliary support service are being interpreted differently across the sector and requires clarification.

The lack of a shared understanding of key terms needs to be addressed, particularly for the following:

- micro-care worker, personal assistant, self-employed personal assistant
- wholly under the direction and control of the person receiving the care and support

Arranging cover and employing others is another key area that needs to be considered in terms of any potential implications for requirements to register.

#### **There is a need to consider the appropriateness of the current regulations and exemptions**

Given the changes to the social care landscape described in this report since the introduction of the RISCA, the appropriateness of the current situation should be considered.

## **There is inconsistency regarding quality assurance and oversight of micro-care services by local authorities across Wales**

There is no statutory requirement for local authorities to monitor micro-care services where they do not directly commission these services. Some local authorities have developed systems to engage in quality assurance exercises. Consideration should be given to whether there should be an agreed national framework.

Concerns around risk and safeguarding due to the unregulated status of micro-care services were raised by many stakeholders, including some micro-care workers themselves. Local authorities that have some form of quality assurance in place felt confident safeguarding was being managed appropriately and in line with regulated services.

## **There are fundamentally different views on the development of micro-care in Wales**

There are a range of complexities and challenges outlined in this report. However, we also heard about the flexible (for individuals receiving care and providers), local, person centred and tailored approach that micro-care can deliver. Equally, we have heard this is available through outcomes focused, locality-based domiciliary care. Provider organisations voiced their concerns that the requirement for registration for domiciliary care workers impedes recruitment and retention and do not consider the current situation with micro-care to be a level playing field.

## **Next steps**

We have an improved understanding of micro-care services in Wales as a result

of the extensive engagement we have undertaken, as well as areas where further work and exploration is required.

The social care landscape has changed dramatically in the last seven years since RISCA was passed. The domiciliary care sector is particularly fragile, and we have heard concerns that the proliferation of services exempt from regulation may destabilise this further. We do not have unequivocal evidence to support these concerns but must consider them carefully within any future policy work.

Equally, micro-care services have been presented as providing additional choice to people, providing services where registered domiciliary care does not have capacity or is uneconomic.

Ensuring that everyone who is eligible in Wales can receive high quality and safe social care provision is paramount. Based on the engagement we have undertaken it is clear there is a need for Welsh Government to produce policy and good practice principles on working with micro-care services.

We will co-produce this policy with local authorities and in collaboration with stakeholders across the sector in the following stages.

## **Stage 1: information gathering**

This represents the work we have done to date. This includes initial engagement with a wide range of stakeholders to establish the position of micro-care in Wales, culminating in the publication of this report.

## **Stage 2: shaping draft policy**

We will engage with stakeholders through a series of workshops to reflect on the findings of this report and to help shape draft policy.

## Stage 3: engaging on proposals

Once we have a draft policy, we will set out our proposals for next steps and seek further engagement with stakeholders.

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