

HEALTH AND SOCIAL CARE (QUALITY AND ENGAGEMENT) (WALES) ACT 2020

DRAFT CODE OF PRACTICE ON ACCESS TO PREMISES AND ENGAGEMENT WITH INDIVIDUALS

Introduction

1. This Code of practice has been prepared and is published pursuant to the duty within section 19(1) of the Health and Social Care (Quality and Engagement) (Wales) Act 2020 (the 2020 Act), which requires the Welsh Ministers to prepare and publish a code of practice about requests made by the Citizen Voice Body (CVB) for access to premises for the purpose of seeking the views of individuals¹ in respect of health services or social services² and, where access to those premises has been agreed, engagement with individuals at those premises for that purpose. The Citizen Voice Body, NHS bodies and local authorities in Wales must have regard to the Code, as explained in para.10 below. Furthermore, this Code of Practice is also issued as relevant guidance for the purposes of primary care legislation³ which means that there is a contractual duty placed on particular primary care providers⁴ to have regard to the Code.
2. The table and flowchart on pp.15-on is intended to assist in the application of the Code.
3. This document has been developed by Welsh Ministers having had regard to input from stakeholders, including representatives of the Board of Community Health Councils, [the Citizen Voice Body], local authorities, NHS bodies and service providers, and from public consultation. It is complemented by related but separate documentation touching on the operation of the Citizen Voice Body including the Guidance for Engagement and Consultation on Changes to Health

¹ “Individuals” includes children, young people and adults.

² ‘Health services’ and ‘social services’ are defined in [Section 21](#) of the 2020 Act.

³ Paragraph 123 of Schedule 6 to the National Health Service (General Medical Services Contracts) (Wales) Regulations 2004; Paragraph 84 of Schedule 3 to the National Health Service (General Dental Services Contracts) (Wales) Regulations 2006; Paragraph 82 of Schedule 3 to the National Health Service (Personal Dental Services Agreements) (Wales) Regulations 2006.

⁴ See further at paragraph 14 below.

Services and the Statutory Guidance on Representations made by the Citizen Voice Body.

4. The objective of the Code is to ensure that, with the rights of children, young people and adults at the centre of the process, the collective voice of individuals can inform the design and delivery of services to better fit their needs. This sits within the context of the CVB's statement of policy published under section 14 of the 2020 Act, setting out how it proposes to promote awareness of its functions and seek the views of the public for the purposes of its general objective, and stands alongside other functions and activities to seek views which may be taken forward under that policy.
5. Promoting and facilitating engagement between individuals and the Citizen Voice Body through access to relevant premises can help strengthen the public's voice and participation in shaping the design and delivery of services. This Code therefore sets out the expectation that bodies covered by the Code will agree to reasonable requests by the CVB for access to relevant premises. Ensuring that individuals can participate in shaping the design and delivery of services – including at the point of delivery – is one of the key aspirations of establishing the Citizen Voice Body. It fits with the principles of the Health and Care Standards⁵, the Social Services and Well-being (Wales) Act 2014 and the Wellbeing of Future Generations (Wales) Act 2015. In the context of the 2020 Act it relates to both the general objective of the Citizen Voice Body in section 13 and the cooperation duties in section 20 of the Act.
6. **In line with the rights-based approach to the provision of health and social care, in all decisions made with reference to this Code, the interests and wishes of persons who are receiving NHS services or social services, and who might be affected by the decision, should be treated as paramount, and communication with them in support of such decisions should be prioritised.** Welsh Ministers expect that processes around access/visiting settings will operate in a way that promotes collaboration toward improving health and social care services and facilitates the CVB in exercising its function to represent the interests of the public in respect of health services and social services by seeking the views of the public about these services. The CVB may undertake observation of the services themselves ancillary to that function, and this may inform any representations⁶ the CVB determines to make pursuant to a visit. The functions of the Citizen Voice Body do not extend to inspection of premises or services.

Purpose

7. The purpose of the code is to provide a framework for **access to premises and engagement across the variety of settings where health and social services are provided**, supporting the Citizen Voice Body to fulfil its general objective of

⁵ [Health and care standards | GOV.WALES](#)

⁶ See [Statutory Guidance on Representations made by the Citizen Voice Body](#)

representing the interests of the public (which includes children, young people and adults) in respect of health and social services, and to carry out relevant statutory functions in a way that recognises and respects the rights of individuals and service providers.

8. In line with the parameters set out in section 19 of the 2020 Act, this code provides information on requests made by the CVB for access to premises for the purpose of seeking the views of individuals in respect of health services or social services and, where access to those premises is agreed, engagement with individuals at those premises for that purpose. “Premises” means **any premises at which health services or social services⁷ are being provided in Wales or otherwise,⁸** which could include where those services are commissioned from a third-party provider or provided in people’s own homes / private dwellings⁹. This code sets out a process for making requests, factors local authorities and NHS bodies and their commissioned providers should take into account when considering requests for access, and factors which the CVB should take into account when seeking to visit people in their own homes and also when undertaking visits generally.
9. The expected outcomes of the Code are that it will help strengthen individuals’ voice; support the Citizen Voice Body to fulfil its general objective and statutory functions effectively; assist NHS bodies, local authorities and service providers with planning/monitoring/reviewing and delivery of treatment/care/support through supporting the gathering and dissemination of the views of individuals; and fit with or amplify existing methods of seeking feedback, with a view to improving services.

To whom does the code apply?

10. The Citizen Voice Body must always have regard to the code (section 19(3)), and NHS bodies¹⁰ and local authorities in Wales must have regard to the code (so far as the code is relevant) in exercising any function that relates to the provision of health or social services (sections 19(3) and (4) of the 2020 Act refer), such as when commissioning a third party to provide such services. As the Citizen Voice Body may make requests for access to any premises at which health services or social services (as defined in the 2020 Act) are being provided, bodies that provide health and social care services on behalf of NHS bodies and local authorities may also receive requests for access and should take account of this Code in considering these. This should be reinforced within the providers’ relevant contractual arrangements. The code also considers circumstances in

⁷ As defined in the 2020 Act.

⁸ Provided the provision of those services relates to the exercise of relevant health or social services functions in relation to Wales.

⁹ Some premises will provide other health and wellbeing or social care services alongside services which are ‘health services’ or ‘social services’ within the meaning of the 2020 Act; this does not affect the ability of the CVB to request access to those premises. Conversely, this Code does not apply in situations where premises/settings exclusively provide services which do not come under the definitions within 2020 Act, although providers and the CVB may wish to use it as good practice.

¹⁰ Local Health Boards, NHS Trusts and Special Health Authorities

which the CVB may wish to visit people in their private dwellings; in this case it sets out specific factors for the CVB to take into account.

11. Generally speaking, to ‘have regard’¹¹ means that those to whom the code applies will have to be familiar with it and demonstrably take its principles into account when making any relevant decisions. For example, for the Citizen Voice Body, a relevant decision would be the decision to request access to premises and for NHS bodies or local authorities or providers, a relevant decision would be the decision whether to agree to the access request. Should bodies to whom the code applies decide to depart from the guidance set out in the code, any such departure should be properly reasoned and rational.
12. Promoting and facilitating engagement between individuals and the Citizen Voice Body can help strengthen their voice and participation in shaping the design and delivery of services. This will help NHS bodies and local authorities to demonstrate they are meeting existing requirements to encourage this, such as those set out within the Health and Social Care (Community Health and Standards) Act 2003 and Social Services and Well-being (Wales) Act 2014 (SSWB(W)A 2014). Such an approach also fits with other duties placed upon NHS bodies and local authorities by the 2020 Act: to make arrangements to bring the activities of the Citizen Voice Body to the attention of people who are receiving or may receive health or social services (section 17(1)) and to make arrangements to support each other in raising awareness of those activities, and supporting the Citizen Voice Body to seek people’s views on health and social services (section 20).

How does the code relate to commissioned services?

13. Welsh Ministers expect that NHS bodies and local authorities will ensure that those who provide services on their behalf will have regard to the code, through their contractual commissioning arrangements.
14. Primary care providers who provide medical, ¹² dental, ¹³ ophthalmic ¹⁴ or pharmaceutical ¹⁵ services on behalf of a Local Health Board have a contractual duty to have regard to the Code through their respective terms of contract with Local Health Boards.
15. In social care, this approach aligns with the Part 2 (General Functions) Code of Practice, issued under the Social Services and Well-Being (Wales) Act 2014, which requires local authorities to ensure that providers of commissioned

¹¹ The term to “have regard” to published guidance has been subject to considerable discussion in case law and relevant bodies should seek independent legal advice about how they comply with the duty in their particular circumstances.

¹² The National Health Service (General Medical Services Contracts) (Wales) Regulations 2004

¹³ The National Health Service (General Dental Services Contracts) (Wales) Regulations 2006 and the National Health Service (Personal Dental Services Agreements) (Wales) Regulations 2006

¹⁴ The National Health Service (General Ophthalmic Services) Regulations 1986

¹⁵ The National Health Service (Pharmaceutical Services) (Wales) Regulations 2020

services encourage and enable the involvement of all people in designing services and how they operate to deliver personal outcomes. This would include facilitating access by the Citizen Voice Body to seek their views¹⁶.

When does the code apply?

16. The code applies **when the Citizen Voice Body makes a request for access to premises at which health services or social services are being provided, for the purpose of seeking the views of individuals in respect of those services and, where access is agreed, engagement with individuals at those premises for that purpose.** As set out in section 19(2) of the 2020 Act, the code applies to any premises at which health services or social services (as defined in the Act) are being provided. This access does not extend to inspection or formal observation of service provision.
17. No request for access is required, nor does the Code apply, in cases where an individual who is receiving health services or social services whilst on the premises of an accommodation-based service (such as a hospital or care home) **has contacted the Citizen Voice Body as they wish to share with it their views; or if the Citizen Voice Body is providing assistance (by way of representation or otherwise) to an individual making, or intending to make, a complaint to which section 16 of the 2020 Act applies.** However, all parties can take account of the good practice set out in this Code. In these circumstances, the individual will have a reasonable expectation of support and assistance from the CVB, within the CVB's discretion, and this would include, where appropriate, face-to-face contact. Therefore, the Citizen Voice Body representative should be treated as a visitor or advocate of the individual, and the Welsh Ministers would expect settings to facilitate access, within the context of their own visiting procedures. This is in line with the requirement in s.16(8) of the 2020 Act for the CVB, in exercising its functions in relation to assistance related to complaints, to "have regard to the importance of ensuring, where appropriate, face-to-face engagement between its staff, or any other persons acting on its behalf, and any individuals to whom any assistance under this section is being or may be provided". An extension to a visit to allow for engagement with others in the setting, who have not previously asked to share views with the CVB, should be requested, to accord with the general intention of this Code.

Key principles

¹⁶The Part 2 Code also emphasises the importance of qualitative data informing joint local authority and health board Population Needs Assessments, this will include listening to the views of individuals regarding their experiences of care and support and whether this has contributed to improving their well-being. This would extend to views collectively expressed via representations made and reports published by the Citizen Voice Body.

18. The Code recognises the Citizen Voice Body’s general objective of representing the interests of the public in respect of health and social services, and its function in seeking the views of the public in respect of health services and social services; NHS bodies and local authorities’ duties to promote awareness of the CVB and make arrangements to co-operate with it; and the need to respect the privacy/rights of individuals and service providers.
19. It is a key principle of the Code that it is in the interests of people to have the opportunity to engage with the Citizen Voice Body. NHS Bodies and local authorities which receive a request for access should consider the interests and well-being of users or residents of the service or premises when considering the request. It follows that under almost all circumstances it will be in the interests of service users or setting residents to have the opportunity to engage with the Citizen Voice Body through the medium of a visit. This creates a presumption in favour of granting access, and provided visits are requested in a way appropriate to the nature of the setting (for example, with notice in sensitive settings, such as those with controlled access or limited public facilities), are appropriately timed within the day and week, suitably spaced out and to be undertaken by appropriately-trained and supported volunteers or personnel, it is expected that access should be agreed. In line with s.17 of the 2020 Act, appropriate arrangements should also be made to publicise (or support the CVB in publicising) the visit within the setting and with those who use the service, their families and people with an interest in their care and support, to give the widest opportunity for people to share views about health and social care services.
20. A further key principle is that the Citizen Voice Body should be mindful of the reasonableness (as set out below) of requests for access, having regard to any statement of policy published under section 14 of the 2020 Act, setting out how it proposes to promote awareness of its functions and seek the views of the public for the purposes of its general objective, and consider the feasibility of other methods of seeking views whenever a request for access may not be reasonable. Respect for the rights of individuals in receipt of care and support, including in relation to controlling access to their homes and equivalent private spaces is a third key principle of the Code.
21. The following paragraphs set out how these key principles should be applied in practice, subject to any local protocols or agreements which may be developed between the CVB, NHS bodies, local authorities and/or providers, for example in relation to on-the-day visiting.

Making a request for access to premises (things to consider and how to make a request)

22. Subject to any local arrangements the CVB may make, to make a reasonable request for access – including for on-the-day access - to certain premises, such as those which are non-residential settings or have open public access¹⁷, the Citizen Voice Body should:

¹⁷ General hospitals, for example

- Make requests verbally or in person (introducing the lead person, advising of the proposed duration and establishing if there are any circumstances which would suggest against a visit at this time),
- Present itself for, or request, access during the working hours of the setting,
- Briefly discuss and agree any practical considerations which might affect the visit¹⁸; and
- ensure that those conducting visits have appropriate training and checks¹⁹

23. Some types of setting are more sensitive than others and would require a different approach to requests for access. These would be settings such as those in which people live²⁰, or to which access is controlled²¹, for example. (For considerations specific to requests for access to people's homes, see para.27 below, and para.28 below for requests for access to people's private spaces within other residential settings.) Subject to any local arrangements the CVB and partners may make, to make a reasonable request for access, the Citizen Voice Body should:

- Make requests in a form appropriate to the setting (for example, discussed verbally with the setting, with written confirmation following if needed), and outline the proposed date, approximate time, and (where possible) name of lead person (for some settings, especially those with limited public areas of facilities, it may also be appropriate to share the estimated duration, and number of people attending),
- provide a period of notice where this is appropriate to the nature of the setting (for example five working days for residential settings²²),
- request access during the operating hours of the setting to be visited and at a time of day appropriate to the circumstances of the setting,
- discuss and agree with the setting arrangements to accommodate practical considerations such as mealtimes in residential settings, planned activities, etc,
- propose visits at a reasonable interval of time between any previous visit or planned future visit for equivalent purposes,
- (where relevant) agree with the setting a number of proposed visitors which is proportionate to the size of the setting and its ability to accommodate visitors, and
- ensure that those conducting visits have appropriate training²³ and checks.

¹⁸ For example, protected meal-times in ward areas, physical constraints which would impact upon the number of visitors, etc

¹⁹ Except where participation in the visit is in itself a part of that person's training

²⁰ For example, care homes, long term mental health wards, in patient wards, etc. There may be some large residential settings with multiple public spaces and open access to which the provisions at para.22 may be more appropriate

²¹ For example, 999 clinical contact centres and Hazardous Area Response Team (HART) facilities

²² In settings catering for people who may require longer to process information pertaining to proposed visits, for example with learning disabilities, longer periods may be appropriate

²³ Except where participation in the visit is in itself a part of that person's training

24. It is important to note that access to premises, in respect of which this Code applies, includes “any” premises at which health or social services (as defined in the 2020 Act) are being provided. This may include premises which are not open to the public, but which could still be described as providing health or social services. However, we would not expect it to include premises which are used solely for living accommodation for employees, or for the undertaking of purely administrative tasks, and which are therefore not used for the provision of health and social services, or to include access to any premises outside the hours at which health and social care services are provided at those premises.
25. Requests to access premises operated by a third party, commissioned to provide health services or social services on behalf of an NHS body or local authority, should be discussed with and made directly to the provider²⁴ and drawn to the attention of or copied to the relevant commissioning body or bodies (i.e. local health board or local authority) if this can be identified, and to the local health board and/or local authority in which the premises are located, if this is different. It is good practice for outline plans of visits to be shared on a regular (quarterly) basis with local health boards, local authorities, Healthcare Inspectorate Wales and Care Inspectorate Wales²⁵ to inform their planning and facilitate the sharing of information (for example, contract monitoring activity planned to be undertaken by NHS bodies or local authorities which would entail premises visiting). Similarly, it would be good practice for the CVB to be advised, where visiting plans are known, of any change or disruption in settings which would affect those plans.
26. Where a planned request appears unlikely to meet the above criteria, as noted above, the Citizen Voice Body and provider/setting should work together to identify or assess the feasibility of other methods of seeking views on that occasion (having regard to any statement of policy published under section 14 of the 2020 Act).
27. Where health services or social services are being provided at an **individual's private residence** e.g. district nursing; health visiting; domiciliary support; adult placements; and foster care, and the Citizen Voice Body, having considered the engagement options available to it, is of the view that it would be desirable to speak to the individual in their own home (perhaps because the individual is unlikely to be able to access alternative methods of engagement), access to those premises must be agreed with the individual (as well as the owner-occupier of the residence, if that is a different person). This should be done in a trauma-informed²⁶ manner, with the rights of the individual as the central consideration, and it must be made clear in making the request that they are under no pressure to agree. Where people are supported by their families or a representative/advocate, these should be included in the process of gaining agreement. Appropriate arrangements should also be made in relation to consent

²⁴ For example, a pharmacy contractor, in the case of pharmacies, or Responsible Individual in the case of social care providers

²⁵ Also potentially the Care Quality Commission and Healthwatch England in relation to cross-border visits

²⁶ See: [Trauma-Informed Wales \(traumainformed.wales\)](https://traumainformed.wales)

where people lack capacity²⁷. In such cases the CVB should satisfy itself that it is undertaking its functions in accordance with the relevant legislation such as the Mental Capacity Act 2005. The CVB may seek details from the service providers of any service users who have consented for their data to be shared for the purposes of being contacted by the Body. In doing so, the Body and providers will need to satisfy themselves they are complying with relevant legislation in relation to capacity and data protection. Alternatively, the service provider could share contact information for the CVB with their service users to facilitate approaches to be made to the CVB directly. CVB representatives should reconfirm consent to be contacted with the individual to be visited (or relevant representative) directly, and then arrange the proposed visit with the individual to be visited (or relevant representative), and also with the owner/occupier (if a different person). In arranging the visit, account can also be taken of the need for the individual to have support, if this is relevant, and other practical requirements, in liaison with the provider where necessary. When in the private residence, the 'principles for engagement with individuals where access is agreed', as set out on p.9 below, should be observed and visits conducted with respect for the individual's Article 8 rights to respect for private and family life.

28. Similarly, in visiting residential settings other than private residences (for example, care homes or residential family centres), access to **residents' individual private spaces** must be agreed with the individual. This should be done in a trauma-informed manner with the rights of the individual as the central consideration, and it must be made clear in making the request that they are under no pressure to agree. Where people are supported by their families or a representative/advocate, these should be included in the process of gaining agreement. As set out in paragraph 27 above, appropriate arrangements should also be made in relation to consent where people lack capacity. When in the private space, the 'principles for engagement with individuals where access is agreed', as set out on p.10 below, should be observed and visits conducted with respect for the individual's Article 8 rights to respect for private and family life.
29. Where health services or social services are being provided for **individuals within the secure estate**; access must be agreed by the service provider and by the HM Prison or local authority approved premises concerned. This includes situations in which practice premises such as mobile surgeries are used. Agreement by the HM Prison or local authority approved premises concerned is essential to the proposed visit going ahead. Should access be agreed, the 'principles for engagement with individuals where access is agreed', as set out below, should be observed as far as possible whilst also adhering to relevant visiting requirements/policies of the particular setting.
30. With **accommodation-based services** that are exclusively for children and/or young people under 18 (e.g. care homes for children), the general provisions set out above apply. In line with the general expectation that engagement with children will be undertaken with due regard for their rights, consent whilst on the premises to engage with the children should be sought from the child, if they have the requisite legal competence to consent, or from a responsible adult.

²⁷ See: [Mental Capacity Act Code of Practice - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

Appropriate arrangements should also be made to engage with any existing advocacy provision for the child or young person.

Considering and engaging with a request for access to premises

31. NHS bodies and local authorities must have regard to this Code in responding to requests for access, and should provide through contractual arrangements that their commissioned bodies (each of which may be in receipt of requests to provide access to premises for the purpose of seeking the views of individuals in respect of health services or social services) do the same. For the avoidance of doubt, responsibility for requirements relating to CVB requests for access, including the determination of such requests and the facilitation of agreed access rest with the relevant bodies²⁸, rather than with individual staff/practitioners. Bodies may wish to agree local protocols with the CVB to streamline the handling of requests for access.
32. As noted at para.19 above, bodies which receive a request for access should consider the wishes, interests and well-being of users or residents of the service or premises when considering the request. The human rights of the individual(s) concerned (for example, their Article 8 rights to respect for private and family life), whether their consent has been provided, and the dignity of individuals should be the paramount consideration, and bodies should work with the CVB to try and organise visits to manage or avoid any issues in this regard. It is in the general interest of people to have the opportunity to engage with the CVB and under almost all circumstances it will be in the interests of users or residents to have the opportunity to do so through the medium of a visit, should they so choose. Reasonable requests therefore should normally be agreed, and there should be a focus on working with the CVB (and sharing relevant information with it) to find ways forward where requests cannot immediately be agreed.
33. When considering any request for access, the effective provision and running of services will also be important, working with the CVB to avoid unacceptable levels of disruption where possible.
34. Consideration of requests for access should include taking into account any circumstances relevant to access to that type of setting (e.g. whether there are suitable communal areas that could be used, any likely issues in protecting the confidentiality or privacy of others, if the premises have secure status and the associated access requirements, etc) and sharing these in discussion with the CVB so they can be taken account of and if possible overcome in visit planning. Questions of privacy, for example, would not be a reason for refusing a visit if all those concerned had given their consent. Consideration should also be given to health and safety and environmental health factors, including the infectious/closed status of residential settings, and of other settings where this may be relevant. Where any of these factors might pose problems for a visit, bodies should take steps, in discussion with the CVB, to identify if these can be overcome in preference to refusal of a visit. Reasons relating to the

²⁸ For example, in relation to pharmacies, the pharmacy contractor

circumstances of the setting which might justify refusal of access include, but are not limited to, an active infection control issue, a recent or imminent death of an individual, or immediate risk to service user, staff or CVB representative safety.

35. The criteria for reasonable requests given above are intended to help the CVB and providers/settings to work together to achieve visiting arrangements that promote the rights of individuals (e.g. to receive a visit or not, as is their choice), whilst taking into account the effective provision of services. In the event that the criteria cannot be met, even with discussion to overcome them, a refusal of the access request may be reasonable. If an access request is refused, then a reason should always be given. The body should respond promptly (for example within five working days for a straightforward request, and certainly before the proposed visit is due to take place, in the case of visits with notice), outlining the reasons for refusal and offering an alternative to the proposed visit (for example a different time or date, or an alternative method of engagement). In the case of a commissioned provider it may be appropriate to copy or draw this to the attention of the relevant commissioning body.

Engagement with individuals when access is agreed

36. Engagement with individuals, including staff, in situations where access has been agreed should be subject to the following principles.

37. Where access is agreed to premises other than private dwellings, the body or bodies responsible for the premises should take reasonable measures to facilitate individuals to engage with the Citizen Voice Body. These could include:

- Where notice is provided, publicising the intended visit (and its purpose) within the setting,
- hosting explanatory material provided by the CVB regarding the body and the purpose of any visiting²⁹,
- Where notice is provided, providing information to the visiting CVB lead person ahead of the visit on access, infection prevention and control and dress requirements for the setting,
- having an appropriate member of staff greet the CVB visitors and provide them with an introduction to the premises and any relevant considerations,
- providing appropriate space/facilities for CVB visitors' use whilst in the premises,
- providing a member of staff or volunteer to take the CVB visitors around and make relevant introductions - if this is appropriate,
- assisting, where possible, people in the setting who have additional communication or other needs to engage with CVB visitors, if that is that person's wish.

38. In accessing such premises, CVB visitors may find it useful to note how people experience the service through watching and listening and understanding the setting environment, to provide context for the views which are subsequently

²⁹ If possible, such material should be in a range of appropriate formats, including Easy Read where relevant

expressed and inform the CVB's representation function. Any observation of the services themselves is ancillary to the purpose of CVB visits to seek (and then represent, as needed) the views of individuals in respect of health and social services. As noted above, the CVB does not have an inspection function.

39. The Citizen Voice Body should ensure that those conducting the visit (staff/members/volunteers) are suitably authorised and carry and present (when requested) evidence of their authorisation to visit on behalf of the CVB. It may be appropriate to wear a badge or similar visible form of identification, and any identification provided should set out any restrictions on the visiting role such as the duration of their appointment to the role, any geographical limitations, etc. In settings other than private dwellings, CVB visitors should present themselves to the staff member(s) in charge before commencing their visit. As noted under para.33 above, information such as dress code or considerations around access should be shared by the setting where possible to inform visit planning; it may also be good practice to contact the premises in advance of the visit to confirm whether there are any unforeseen issues which might need to be accounted for in final visit planning.
40. The Citizen Voice Body should ensure that those undertaking visits are appropriately trained³⁰ for any setting they visit, and for the needs of the individuals they wish to speak to, that they are DBS checked to the level appropriate, and that they are appropriately supported and led in their visiting activity. Provision should also be made to support individuals to express their views through the medium of Welsh, or other language of choice where possible, and consideration given to accessibility of communication for others, such as those who are unable to communicate verbally.
41. When in the setting or private dwelling, CVB visitors should introduce themselves and explain to individuals present what they want to speak to them about and how they intend to use the information provided, such as that it may be shared with or inform a representation made to an NHS body or local authority. This should include how the person's personal data will be protected. It would be good practice to have this information available in leaflet form also, for distribution prior to or during the visit.
42. The CVB will set standards for its visiting activities, reflecting that they should be undertaken sensitively and with care, and with courtesy to those involved. This will entail respecting, upholding and promoting the dignity, privacy, human rights (such as protecting the person's Article 8 rights to respect for private and family life) and wishes of service users and of others the visitors engage with, including relevant members of staff. It will involve taking all appropriate measures to ensure the health and wellbeing of those visiting and those in the setting. It will also involve taking action to avoid disrupting the provision of service, which will

³⁰ Except where participation in the visit is in itself a part of that person's training

include considering discontinuing and rescheduling a visit (or arranging an alternative method of engagement) in the event of an unexpected incident.

43. Reciprocally, CVB visitors should likewise expect to be treated in the settings that they visit with courtesy, accommodated in line with the agreed arrangements and any relevant health and safety precautions, and supported to carry out their statutory functions.
44. Consent should always be sought from individuals by CVB visitors before starting each episode of engagement. In engaging with individuals, CVB visitors should apply the relevant CVB visiting standards, including:
 - setting aside their own personal views and opinions,
 - treating with respect those they engage with,
 - supporting those they engage with to express their views,
 - enabling them to use their chosen method of communication, and
 - carefully listening to, taking seriously and recording impartially and accurately the views expressed.
45. Should individuals decline to participate, or to withdraw their consent to participate, this should be respected, and the engagement with that individual discontinued at once. Where individuals have provided information in the course of an episode of engagement which they then break off, their wishes with regard to that information should be adhered to. Similarly, an individual may indicate that they would prefer to engage with the CVB outside of their current setting; in such cases it would be in accordance with the objectives of the CVB to consider (with the provider/setting as needed) ways to facilitate this where possible.
46. In relation to residential settings, such as care homes, the care home as a whole constitutes a home for the people living there, and this should be borne in mind in visit planning. In particular, residents' individual private spaces in residential premises (such as care homes) are equivalent to private residences. CVB visitors should only enter such spaces where the individual invites or has invited them. The Citizen Voice Body should ensure that when Citizen Voice Body visitors are in such spaces, they are aware that these are equivalent to private residences and should conduct themselves as they would in someone's home. In agreeing to enter a resident's private space, it will be important for the CVB visitor to do so in compliance with the CVB's own safeguarding procedures and subject to appropriate risk assessment and always respecting the individual's Article 8 rights to respect for private and family life.
47. As noted above, seeking the views of individuals in respect of health services or social services will entail an element of observation but does not extend to inspection of service delivery, which is the function of the relevant Inspectorates. However, it is possible that in the course of a visit, issues may be observed which should be drawn to the attention of other bodies such as the commissioning local authority or NHS body, or the relevant Inspectorate(s); if so the CVB should arrange to refer these appropriately and promptly in line with the relevant

memoranda of understanding or other agreements or protocols. Safeguarding concerns (if a CVB visitor is concerned someone, a child or adult, may be at risk of harm, abuse or neglect) should be referred by the CVB to the relevant local authority social services department in line with Welsh Government guidance, and copied to the relevant inspectorate. The Welsh Government website hosts the relevant contact details:

[Reporting suspected abuse, harm or neglect \(safeguarding\) | GOV.WALES](#)

48. Where the Citizen Voice Body wishes proactively to seek the views of members of staff at the premises, requests to do so should be made at the same time as discussing any general access request, to enable (if relevant) the agreement of members of staff to be obtained in advance, and/or to ensure that appropriate arrangements are in place for those views to be provided (to avoid disruption to service provision). Should members of staff choose to provide their views spontaneously and of their own volition, without disrupting the provision of the service, the general principles for engagement with individuals apply.

How having regard to the code can be demonstrated

49. NHS bodies and local authorities may reference the extent to which they have had regard to the code (for example, how they have supported and raised awareness of agreed visits, or how they have handled access requests which were not agreed) in other reports which show how they are engaging with/strengthening the voice of individuals. This would be relevant to NHS bodies' annual report in respect of the duty of quality, required under Part 2 of the 2020 Act, and could be relevant to the 'how are people shaping our services?' chapter within annual reports by Directors of Social Services.
50. The Citizen Voice Body may build this in to its annual report, to be sent to the Welsh Ministers and laid before the Senedd, under Schedule 1 of the 2020 Act.

Where access is not agreed

51. The Citizen Voice Body must always have regard to this Code (section 19(3)), and NHS bodies³¹ and local authorities in Wales must have regard to this Code (so far as the code is relevant) in exercising any function that relates to the provision of health or social services (sections 19(3) and (4) of the 2020 Act refer). If an NHS body or local authority or other body, having had regard to this code, does not agree access, such access will not be permitted.
52. However, as noted above, in refusing access the NHS body or local authority or other body, having considered the guidance in paragraphs 32-34 above, must explain the reason for the decision. The body should respond promptly (for

³¹ Local Health Boards, NHS Trusts and Special Health Authorities

example, within five working days for a straightforward request, and certainly before the proposed date of the visit, in the case of visits with notice), and in addition to outlining the reasons for refusal, in a spirit of working helpfully and constructively with the Citizen voice Body, offer an alternative to the proposed visit (for example a different time or date, or an alternative method of engagement). If no response is received within this time then the CVB may raise the matter directly with the service provider or contractor, and then with the service commissioner.

Where access is not agreed: Potential consequences of failure to have regard to the Code

53. If access is not agreed and the relevant body has failed to have regard to the Code in reaching that decision, this may give rise to the following:
- i As public authorities, NHS bodies and local authorities may, in certain circumstances, be subject to a claim by way of judicial review if they have not had regard to the Code when making their decision regarding requests for access.
 - ii If persons from whom NHS bodies or local authorities commission services do not agree access, they may be in breach of their contractual obligations if they do not properly apply the principles within the Code (where these requirements have been made contractual such as is the case for primary care providers). The CVB may raise repeated refusals of access with the commissioning bodies.
 - iii Although neither Healthcare Inspectorate Wales nor Care Inspectorate Wales have a role in enforcing the duty to have regard to the Code, if a service provider acts in a way that compromises the well-being of individuals and this amounts to a regulatory breach, then the inspectorates may act.
 - iv In addition, the Citizen Voice Body has the facility to raise repeated refusals of access with the relevant inspectorates and should do so. Sharing this information with the inspectorates under partnership agreements would provide additional intelligence to form part of the risk-based approach adopted by the inspectorates when deciding their programme of inspection and related activities.
 - v The CVB can also share information with Welsh Ministers to inform discussions between Welsh Ministers and NHS bodies and local authorities in relation to the discharge of their duties around access to premises for the CVB. The Welsh Ministers have powers to direct NHS bodies and to intervene under the National Health Service (Wales) Act 2006, which may be appropriate in certain circumstances.

Requests for access to premises by the Citizen Voice Body

| What is the status or nature of the premises the CVB wishes to access? | | | |
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| <p>The premises do not offer either health services or social services as defined in the 2020 Act</p> <p>(e.g. the services cater exclusively for private clients and there is no provision of services on behalf of the NHS or local authorities)</p> <p>The Code does not apply. The CVB and provider may use the Code as good practice guidance if they so wish.</p> | <p>Health services or social services within the meaning of the 2020 Act are provided, but are not being provided on the premises</p> <p>(e.g. the premises are purely administrative or used for staff living accommodation)</p> <p>The Code does not apply. Since relevant services are not provided on the premises, they are not in scope for visiting.</p> | <p>Health services or social services within the meaning of the 2020 Act are provided on the premises.</p> <p>The premises are not a private dwelling.</p> <p>The Code applies.</p> | <p>Health services or social services within the meaning of the 2020 Act are provided on the premises.</p> <p>The premises are a private dwelling.</p> <p>The Code applies, but particular reference should be made to para.27 of the code.</p> |



| What is the purpose and context of the intended visit? | | | |
|---|--|---|---|
| <p>To seek the views of an individual who has approached the CVB (or, for individuals who lack capacity, on whose behalf a request has been made)</p> <p>Here there is an invitation from an individual, so the CVB should be treated as their guest i.e. a visitor</p> <p>No request required; The Code does not apply.</p> | <p>To seek the views of individuals following an approach to the CVB</p> <p>If the approach is made by an individual in receipt of services at the premises, there is an invitation but only from the individual. If the CVB intends to seek the views of multiple individuals whilst on the premises, this wider access</p> | <p>To seek the views of individuals with no invitation.</p> <ol style="list-style-type: none"> 1. An approach is made by a person not an individual in receipt of services at the premises. 2. The CVB independently intends to visit the premises. <p>The Code applies.</p> | <p>To provide advice and assistance to an individual making, or intending to make, a complaint, within section 16 of the 2020 Act.</p> <p>The purpose is for the provision of complaints advocacy. No request required. The Code does not apply.</p> <p>In practice arrangements may need to be made in advance e.g. if the service contacts the</p> |

| | | | |
|--|--|--|--|
| <p>However relevant bodies should still have regard to the principles around engagement with individuals</p> | <p>should be requested.</p> <p><i>(It may be reasonable to make this request while on the premises as an individual's visitor)</i></p> <p>The Code applies.</p> | | <p>CVB on behalf of an individual. In any case the CVB should be treated as an independent advocate.</p> |
|--|--|--|--|



The CVB considers whether a request (for access to premises for the purpose of seeking the views of individuals in respect of health services or social services) should be made. In doing so it must have regard to the code of practice, as well as its own functions and objectives.

Considerations will include the timing of the visit(s), the frequency of visits and any applicable period of notice for the visit(s), availability of suitably-trained and supported personnel, etc.

In accommodation-based services, if an individual (service user) has made a request to speak to the CVB or the CVB is providing an individual with advocacy services in respect of complaints about services, then the code does not apply. In these circumstances the individual will have a reasonable expectation of support and assistance from the CVB, within the CVB's discretion, and this would include, where appropriate, face-to-face contact.



If the CVB considers it appropriate, it should make a request for access to premises to the relevant NHS body or local authority in Wales, having regard to the code.

If the premises are owned or controlled by a third party service provider (e.g. a GP, Dentistry practice or residential care home) then the request must be made directly to them, having regard to the code (e.g. copying or drawing to the attention of the relevant NHS body or local authority)



On receipt of a request for access to premises, an NHS body, local authority or service provider must consider whether access should be agreed, having regard to the code.

Considerations will include the interests of service users or setting residents in having the opportunity to engage with the Citizen Voice Body through the medium of a visit, and any circumstances relevant to access to that type of setting, taking into account its sensitivity (e.g. whether there are suitable communal areas that could be used), human rights considerations (e.g. consent, privacy, dignity), provision of care services, and the closed/infectious status of the setting.



Where access to those premises has been agreed, the CVB, NHS bodies, and local authorities must, and, subject to any specific contractual requirements, service providers should, have regard to the code in relation to engagement by the CVB with individuals at those premises for the purpose of seeking their views in respect of health services or social services.



Where access to those premises is not agreed a refusal, giving reasons, should be provided promptly, and give alternatives to the refused visit.