

Social Services and Well-Being (Wales) Bill
Stage 1 consideration- Submission of Evidence

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Flintshire County Council (FCC) welcomes the opportunity to provide contributory evidence to the Stage 1 consideration of the Social Services and Well-being (Wales) Bill.

This response has been formulated by the FCC Community Services Directorate. Information focusing on areas of importance from the Flintshire perspective has been collated from various departments within the Directorate.

FCC is aware the evidence contributed may be made available for public scrutiny, published in a report or published as supplementary evidence to a report and may also be seen and discussed by Assembly Members at Committee meetings. FCC is supportive of these processes and would also be agreeable to providing oral evidence to the Committee if required.

FCC can clarify all evidence provided and comments made are suitable for public disclosure.

We would like to thank the Health and Social Care Committee for the opportunity to contribute to the consultation of this Bill, recognising its significance to social care, if the royal assent is obtained.

Question 1

Is there a need for a bill to provide for a single Act for Wales that brings together local authorities' and partners' duties and functions in relation to improving the well-being of people who need care and support and carers who need support?

Response:

FCC acknowledges there is a need for a Single Act for Wales. The Bill's integration and simplification of the existing law is welcomed by FCC. The inclusion of a legal framework for the protection of 'adults at risk' and the increased recognition there is a requirement to strengthen support for carers are acknowledged by FCC as positive developments.

FCC feels stronger collaboration and integration of key services in principle will contribute to improving the well-being of people who need care and support and carers who need support. However we are concerned the Bill in its current form appears to provide little clarity of how such collaborations will come to fruition. The Ministerial Regulations provided for by the Bill are yet to be outlined, as a result FCC feels greater clarity with regard to these regulations is required in order to decipher the potential impact and successes of the Bill.

FCC would like to further highlight its concerns regarding the apparent disproportionate emphasis of duties placed on local authorities to coordinate these collaborations and integrations on the face of the Bill. FCC feels in order to ensure the success of such collaborative provisions, local authority partners should be placed under similar duties and accountability, to further encourage and promote partnership and cooperation. (Part 9, Chapter 2, Section 143 – 151)

Question 2

Do you think the bill delivers the stated objectives as set out in Chapter 3 of the explanatory memorandum?

Response:

FCC welcomes the specified clarification of the core legislative framework for social services and social care in Wales. FCC would in fact encourage greater clarification on the wider legal implications of the Bill and the possible impact in areas of legislation beyond the statutory realms of social care law.

FCC would again highlight the difficulty in ascertaining whether the Bill has or is able to achieve its specified objectives, without further clarification on the many ministerial

regulations the Bill makes reference to.

FCC supports the Bill's intention to reduce the needs for long term care and support for people, via the introduction of enhanced duties afforded to local authorities and partners to provide preventative services. FCC recognises the benefits of such provision in preventing the deterioration of wellbeing and preventing/delaying the need for more costly intensive services.

FCC would request further clarity regarding preventative service initiatives and their capacity to link to the wider Public Health Agenda. Specifically we feel clarity is required on local authorities' duties towards the whole population and those who will be deemed eligible for care and support.

FCC does have concerns regarding the financial repercussions of such preventative provisions, feeling the Welsh Government needs to take account of budgetary implications when broadening provisions for preventative services.

FCC feels the Bill's introduction of a statutory framework for the protection of 'Adults at Risk' is a favourable progression, which provides greater legal clarity. FCC would advise there is a requirement to identify resources to support the implementation of this framework.

The simplification of Safeguarding Board arrangements are supported by FCC. However again FCC is concerned, the development and ability to sustain such boards may present significant financial challenges to local authorities. FCC is perturbed by the Bill's emphasis on local authorities to incur the financial cost of such boards, with no such emphasis being placed on non-devolved partners such as the Police, Probation Service and Health Board's. FCC would urge the creation of a national funding formula, in order to clarify how such boards will be sustained.

Whilst the Bill's intention to strengthen support for carers is welcomed by FCC, significant concerns have been raised that providing carers with equal rights to service users may lead to carers being subject to service charges, in the same manner as other service users. FCC feels this would be a negative development, as carers already face a substantial financial disadvantage, often having to give up work or reduce hours to care, which can lead to further penalties with regard to pensions. Carers are also valued partners of the local authority, assisting in the delivery of care. Charging carers could lead to a reduction in the number of carers, resulting in the loss of a vital social and economic resource. FCC would urge Welsh Ministers to consider these issues when they are devising their regulations.

As previously discussed FCC is supportive of the Bill's intention to strengthen collaboration and integration between local authorities and key partners, such as the NHS and private and voluntary sector organisations. However, FCC maintains without further clarification of the proposed ministerial regulations it is difficult to identify how such provisions will be developed. Consideration must be given to the practicalities, financial implications and impact on resources involved in integrating organisations which possess extensive differences in their operational and cultural working systems.

FCC has further concerns regarding the disproportionate emphasis placed on local authorities to coordinate these collaborations and integrations. As previously mentioned FCC feels local authority partners should be placed under similar duties and accountabilities.

There are also fears the Bill does not place a strong enough duty on key partners to cooperate and assist the local authority. FCC would advise the reconsideration of Part 9, Section 145 (1) (a) and (b) of the Bill.

The adoption of an outcome focussed approach will help local authorities to deliver better outcomes for service users. Using the concept of Results Based Accountability could be successful, but it requires clarity about what outcomes local authorities want to achieve and further plans on how these will be measured. There is also a need for further clarity on how such changes will impact at a national level, there may be a requirement to review performance indicators and CSSIW inspection areas. As a local authority, FCC has responded to National Outcomes Framework Consultation and can confirm our position remains consistent with that response.

Question 3

Do you feel that the bill will enable the delivery of social services that are sustainable?

Response:

Whilst supportive and pleased the Social Services and Well-being (Wales) Bill is being developed, FCC would again highlight the difficulty in assessing if the Bill will enable the delivery of sustainable services, without further clarification of the Ministerial Regulations.

FCC considers a foreseeable draw back with regard to the sustainability of services, will be the lack of financial resources available for implementation and maintenance. A current decrease to Welsh Government funding has lead to a contagion effect for local authorities, which is further compounded by recent welfare reforms. These financial cuts mean local authorities are currently working with reduced resources and burdened with increased financial pressures. With these factors in mind it is difficult to comprehend how local authorities will be able to enforce the proposed changes of the Bill as they are intended, without any further funding or long term financial provision.

The Bill makes provisions for charging for social services, preventative services and information and advice. FCC would like to assert our concerns regarding these provisions. We feel provisions for charging will only assist with the sustainability of services if enough revenue is generated to cover costs. We must therefore consider if given the small number of people who will incur such charges, will these charges realistically provide sufficient income to sustain services.

FCC has further concerns regarding the Bill's provisions to charge for information and

advice. We feel this is an unrealistic expectation on services users and carers within Flintshire, considering the need for people to be well informed as part of an enabling approach that also encourages self responsibility. The impact welfare reforms will have on our population should also be considered, we feel expecting payment for information seems naïve and may prevent people from becoming aware of care and support available to them, which appears to contradict the preventative ethos of this Bill and the ethos provided for in 'The Refreshed Carers Strategy for Wales'.

Workforce training is another essential component of creating sustainable services. FCC welcomes budgetary provisions for workforce grant funding, however we do feel there is a need for clarification with regard to how such funding will be allocated and utilised. Further clarity is also required with regard to longer term funding provisions.

FCC would also take this opportunity to raise, the Bill makes no reference to Social Services functions within the wider public health agenda. We feel further provisions in this area would be useful considering current political and legislative aims to establish collaborative approaches between local authorities, the NHS and health boards to tackle health inequalities.

In order to assist with sustainability FCC would advise local authorities be given flexibility in how we deliver the Bill, in order to be responsive to local need. FCC feel this is something Welsh Ministers should keep in mind when formulating proposed regulations.

Question 4

How will the Bill change existing social services provisions and what impact will such changes have?

Response:

Whilst it will probably not be felt that the Bill immediately makes matters clearer, once in practice FCC feels that it will make a difference to certain areas for example leaving care provisions by making them more "user friendly", as it will hopefully provide a "one stop shop" point of reference. It also seems that it will clarify the duties local authorities are under in relation to looked after children by taking a more holistic view of their well-being and drawing together elements of the existing provisions. To this end the Bill is likely provide a more convenient legal document than we have at present, where provisions are scattered between regulations and legislation. In FCC's view, the Bill does not necessarily make the law clearer or simpler, but does allow a more convenient way of accessing it.

FCC supports the view that information, advice and assistance is fundamental for existing and potential service users. Although Flintshire has been praised by inspectors for good practice in provision of public information on Social Services we recognise that there is always room for improvement. FCC also supports the Welsh Governments commitment to providing bilingual formats and languages (as is provided for by 'More than Just Words').

FCC feels it is appropriate for the Welsh Government to state what is needed. However, each area, jointly with health and other partners should be in a position to identify how to do this in order to address local needs. Also the Welsh Government need to keep in mind to deliver a high standard public information service and to publicise / market the availability of services requires adequate funding, as it is FCC's view these services should be free to the public.

Again FCC is keen the Legislation should specify more clearly how the NHS will work more closely with local government. We feel there is a need for regulations to specify in practical terms what actions will be required of the NHS.

FCC supports the view carers in need should have the right to an assessment. It is our view there is little evidence to suggest that those in need cannot access an assessment currently. We would highlight there could be risks in the proposed widening of eligibility, as this may divert resources from services, into providing an assessment. FCC welcomes proposals to avoid bureaucracy and provide an assessment appropriate to the need.

There are further concerns regarding the assessment process being too prescriptive. It is difficult to ascertain whether this will be the case without further clarity on ministerial regulations. However if the assessment process does emerge as being overly prescriptive, we feel it will be unrealistic in operational terms, divert resources and cause delays if the assessment process is overly complex.

There is also a risk if too prescriptive in terms of who should be involved and what has to be covered within assessments, it could lead to increases in waiting times. Further more empirical evidence and professional best practice will change over time, if an assessment process is too prescriptive there is a risk it may become outdated. Allowing some flexibility will enable Local Authorities to make any appropriate changes in service response over time.

As previously stated FCC does support the development of assessments, which reduce levels of bureaucracy and are outcome focused for service users. However it is also recognised developing assessments which successfully do so is a difficult task, as is evidenced by 'Unified Assessments', which increased levels of bureaucracy and work demands for social services staff.

The Welsh Government will also need to consider that any new process will require a review of UAP and IT systems which support the assessment. Hence, there is likely to be a significant cost to this proposal.

FCC would suggest people developing these new assessment processes should have systems thinking and front line operational knowledge across the range of assessments.

Whilst portable assessments may reduce the 'postcode lottery' of services, Local Authorities must be able to retain sufficient flexibility and autonomy over the planning and delivery of services. FCC does recognise portable assessments would benefit some groups such as travellers, migrant workers and those who move for personal reasons.

FCC supports the expansion of Direct Payments to promote independence and further promote the personalisation agenda. However there are concerns regarding the additional cost, particularly with reference to the expansions to meet the needs of carers through this model.

We support the Bill's provisions, which assist the creation of a national adoption service for Wales. However we share the Welsh Local Government Association's concerns that these provisions may require local authorities to collaborate at a national level. FCC feels local authorities are currently working collaboratively to deliver strong regional adoption services. We would therefore suggest an appropriate way forward would be to build on the current strengths of these services and allow for the continuation of the planning and delivery of adoption services to be a function retained by local authorities.

Question 5

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

Response:

FCC concludes there are a number of potential barriers to the implementation of the provisions of this Bill. In addition to concerns raised in prior sections, FCC would also like to draw attention to the potential costs to IT infrastructure for new assessments and information services.

Concerns are also present within FCC that the Bill refers to the duties placed on Social Services a great deal, which appears disproportionate in relation to the duties placed on key partners and other local authority services, such as housing etc. FCC strongly contends the Bill should demonstrate recognition of what should be joint responsibilities and of the limited jurisdiction Social Services possesses to realistically carryout the prescribed duties. If we are in deed working on the premise of the Bill's stated definition of 'welfare,' then it is clear the Bill is not just Social Services' responsibility.

FCC would further recommend Welsh Ministers consider in their creation of regulations, local authorities require autonomy to plan and deliver local services that meet local needs.

Question 6

In your view does the Bill contain a reasonable balance between the powers on the face of the Bill and the powers conferred by regulations?

Response:

FCC considers the powers conferred by regulations to be positive, as Welsh Government Ministers are afforded the flexibility to ensure the provisions are implemented in a manner which is appropriate to Wales/Welsh Government legislation. However it is difficult to establish whether the balance of powers will result in successful outcomes, as the ministerial regulations are yet to be outlined.

Question 7

What are your views on powers in the Bill for Welsh Ministers to make subordinate legislation?

Response:

Powers afforded to Welsh Ministers to make subordinate legislation allow for flexibility with regard to the implementation of the Bill in Wales. This should ease the process of implementation and ensure the Bill's provisions can be interpreted in line with current Welsh Government Legislation. However, FCC does advise that such legislation should not be overly prescriptive and should allow local authorities the autonomy to plan and deliver local services, which meet local needs.

FCC also feels further clarification is required regarding Section 138 of the Bill. This section provides ministers with seemingly broad powers, which are open to wide interpretation. FCC would advise that guidance be issued regarding this section to prevent misinterpretation.

Question 8

What are your views on the financial implications of the Bill?

Response:

The financial implications of the Bill are discussed throughout this response, as FCC has major concerns regarding this issue. In addition to these previous discussions FCC would like to add its concerns regarding the Bill's lack of reference to long term financial provision and also its lack of clarity with regard to the redirection of grant funding (will other areas of service be affected?). FCC feels the ambiguity surrounding these matters makes it difficult to establish the true financial implications of the Bill. We feel further explanation and guidance is required as to how local authorities will be able to fund the extensive costs of implementation etc.

Question 9**Any other comments?****Response:**

FCC would also like to add the following comments:

The bill and explanatory memorandum does not however provide clarity in relation to:

- The added valued or additional responsibilities placed on a local authority beyond those already in place.
- Links with the wider Public Health agenda and responsibilities for such held by them.
- The requirements on the local authority (beyond those held by Social Services).
- The financial implications of the preventative agenda. Linked to this point is a general question concerning the intended population group for this Bill; many of the people to whom this Bill refers (from a well being/preventative perspective) are unlikely to meet the criteria for Social Services