

## **Consultation – Social Services and Well-being (Wales) Bill. The response of Cardiff Council.**

The following response is that of Cardiff Council .

### **General**

- 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? Please explain your answer.**

#### **Response:**

The principles and intentions of the Bill are a positive move towards meeting the challenges of the changing demographics and societal expectations of a modern social services. The Bill will challenge Local Authorities to look at different ways of service provision that will enable outcomes for people in a person centred approach so it will no longer be about making people fit services.

The Bill calls for Care and Support Services to be made available within the community as part of a spectrum of universal provision for well-being.

We have significant concerns re the practicality and affordability of this provision. More detail is provided in the Point 9 of this pro forma. However, Local Authorities are struggling to sustain services given the budget pressures and increased demand, the introduction of a potentially open ended commitment to well-being is not sustainable. The Bill does go onto to reference prevention which is currently being used as a way of increasing independence whilst reducing the need for care. This extension beyond strict eligibility has been carefully piloted and evaluated, and consideration of well-being needs to be similarly robust. In **Section 3, point 15** of the **Explanatory Memorandum** there is reference to the potential Well-being population being 3 million people.

It is welcomed that the Bill recognises that responsibility for well-being doesn't rest with social services and places duties on Local Authorities generally and partner agencies.

It is considered that by providing a single Act that brings together the Local Authorities and their Partners' duties, this should lead to clarification on issues that previously caused disagreements. This can only enhance the outcomes of joint initiatives between organisations.

**2. Do you think the Bill, as drafted, delivers the stated objectives as set out in Chapter 3 of the Explanatory Memorandum? Please explain your answer.**

**Response:**

Part 1 – Introduction and Part 2 - General Functions

*Well-being*

We welcome inclusion of improving Well-being as an objective but there is a lack of clarity as to how the legislation will enable this and we have identified that this is unsustainable in its current form.

Part 3 – Assessing the needs of individuals

The Bill's provision for single right to assessment for children and adults where it appears that they have a need for care or support is positive. It is good that assessments will be required to focus on outcomes and the streamlining of assessments for carers and people with care needs is positive, but it isn't clear how this will work in practice.

There is concern that there might be an over-emphasis on assessment which could take vital resources away from direct service provision so it will be important to get the balance right. The assessments themselves should be proportionate and focussed on what is needed.

Part 4 – Meeting needs

*Eligibility*

Without the clear understanding of what will be developed through Regulations, it is difficult to comment further as to whether this objective can be achieved through the Bill or not.

*Portability of prescribed care and support plans*

The portability of support plans is a good idea but again it is difficult to see how this will work in practice when every Local Authority area will have different structures and different resources that are available to meet needs. It will be important that there is some flexibility built into the portability to reflect different service structures. Whilst the introduction of a higher level of consistency into proceedings is welcomed, there is a risk that the local democratic function which more closely customises services to local need and culture is eroded. It may also erode local political accountability.

There is also a lack of clarity regarding whether this also covers portability of equipment between LA areas to support home care support.

## Part 7 – Safeguarding

### *Safeguarding and Protection Boards*

The ADSS Cymru has already raised concerns about the proposed creation of regional safeguarding boards – and it has commissioned work to review the benefits and risks and we would wish to await the outcome of this before passing comment on this element of the Bill.

There is a more detailed consideration of the Safeguarding of Adults contained in Section 9 of this pro forma.

- 3. The Bill aims to enable Local Authorities, together with Partners, to meet the challenges that face social services and to begin the process of change through a shared responsibility to promote the well-being of people. Do you feel that the Bill will enable the delivery of social services that are sustainable? Please explain your answer.**

#### **Response:**

As described in 1. above the extension of those who might be eligible for assistance with Well-being is absolutely unsustainable.

There is a need for more clarity and explanation within the Memorandum.

It is important that the Bill seeks to address the “post code lottery” of eligibility for services but it will be important that Local Authorities can retain responsibility to determine how services are provided in order that they continue to reflect local need, priorities etc.

There will also be a need for additional resources to facilitate the Partnership working, so there is a question mark over sustainability.

- 4. How will the Bill change existing social services provision and what impact will such changes have, if any?**

#### **Response:**

## Part 1 – Introduction

### *Social enterprises*

The Bill will give opportunities to change existing social service provision, especially in relation the way that social care is externally secured. This is really positive and welcomed. In Cardiff there are current considerations, in the light of the forthcoming Bill, to make recommendations for the most appropriate way for the Council to modernise and reshape Adult social care. The promotion of new models of delivery is welcomed and will be developed alongside other successful approaches already in practice, such as the use of direct payments. This will inevitably lead to the exploration of new sources of funding e.g. social impact bonds. Without the legislation this creative exploration of service models would occur at a much slower pace.

Part 3 – Assessing the needs of individuals and Part 4 – Meeting need  
*Individual right to assessment, Duties to meet needs – carers, and Right to a care and support plan and review of plans*

The Bill will have positive impacts on carers which will also accelerate the development of enhanced service provision from Local Authorities. However, there needs to be a consideration of the NHS responsibility to resource carers services.

Part 9 – Well-being outcomes, co-operation and Partnership  
*Adoption*

There is a political commitment to establishing a national adoption support service but there is concern that powers set out in the Bill might be used to require Local Authorities to collaborate at a national level. ADSS Cymru has developed an operational model that takes into account and builds on regional collaborations that already exist across Wales as well as making provision for a national gateway.

Cardiff is also exploring the opportunities of developing a voluntary sector Partnership for adoption and would welcome the opportunity to discuss this further with the deputy minister given that it currently sits outside of the model that ADSS Cymru has put forward – although does not necessarily mean that it cannot be considered as part of a regional approach.

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

**Response:**

The main barrier will be in terms of finance. It is unclear what level of resource will be required to fund the universal provision for Well-being and it is likely to require transformational change that will result in a remodelling of existing services. It will be a significant challenge to undertake this remodelling alongside continuing to meet the needs of the most vulnerable people at a time when the demand for social services is increasing.

Another barrier will be if the effect of the Bill is to prevent a Local Authority from planning its services in a local context. A one size fits all approach is not always the right approach.

## Financial Implications

### 6. What are your views on the financial implications of the Bill?

**In answering this question you may wish to consider Chapter 8 of the Explanatory Memorandum (the Regulatory Impact Assessment), which estimates the costs and benefits of implementation of the Bill.**

**Response:**

It is considered that the duties imposed to meet Well-being will inevitably put considerable financial pressures on other services at a time when councils are generally reducing investment on services that do not have a statutory requirement. We also consider that the implications of the Adult Safeguarding approach as described in the Bill will have a significant cost as the responsibilities are all concentrated in the Local Authority.

### 7. 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? Please explain your answer.

**Response:** It is very difficult to answer this question as a lot of the elements that might be specified in the regulations are not clear in the Bill. There needs to be a bridging document that draws all the elements together.

## Powers to make subordinate legislation

### 8. What are your views on powers in the Bill for Welsh Ministers to make subordinate legislation (i.e. statutory instruments, including regulations, orders and directions)?

**In answering this question, you may wish to consider Chapter 5 of the Explanatory Memorandum, which contains a table summarising the powers delegated to Welsh Ministers in the Bill to make orders and regulation, etc.**

**Response:**

Our response to 7 also applies here. The Explanatory Memorandum indicates the impact of the provision, to indicate that it can be safely devolved to subordinate legislation, there is no detail of what might be covered by that legislation.

## **Other Comments**

### **9. Are there any other comments you wish to make about specific sections of the Bill?**

**Response:**

#### **Section 7 (Part 2)**

We very much support the promotion of social enterprise, co-operative, user led services and the third sector.

#### **Section 26 (Part 4) – Duty to meet support needs of an adult carer**

The rationalisation of responses to carers in the Bill is very much welcomed.

Whilst under the carers measure the NHS also have a responsibility to identify carers. There is no responsibility on the NHS to meet carer's needs or provide resources to assist in meeting needs.

In 1987, a survey undertaken by Carers UK identified that the carers saved the NHS £87bn per year and whilst this figure may apply to health and social care it is clear that the health services significant benefit from carer's contribution.

#### **Part 9 (Section 137) – Outcomes.**

Giving the criticality of outcomes to the entire process and content of the Bill, the specification of outcomes should be more explicit.

Experience in health & social care indicates that to achieve the citizen outcomes requires a joined up approach between Local Authorities and the health service.

This further requires a joined up policy and performance framework across the Partners.

#### **Explanatory Memorandum - Section 113.**

Sustainable Social Services for Wales Framework for Action is referenced in point 113 and it is absolutely critical that the precise wording around Well-being is recognised.

*“3.22.....The answer is not a return to the “prevention role” for social services, but recognition that the whole Local Authority has a responsibility for leading community services and promoting community Well-being and that it should galvanize the communities’ own commitment to enable its citizens to play a full part.”*

*Ref: Page 17, Sustainable Social Services*

It is clear that Well-being should not be a social services responsibility it should be the Local Authority and wider coalition.

In the Bill and Explanation Memorandum the Well-being agenda is linked to the social services budget e.g. In the **Explanatory Memorandum on page 77 point 165**. The Well-being agenda can “prevent or delay the need for more costly interventions”. The Bill appears to confuse Well-being with its potentially open ended context with preventative services which need to be very clearly targeted.

The risk of becoming open ended is exemplified by the inclusion of ‘economic Well-being’ in the definition.

Does this effectively mean that the Local Authority has to take steps to guarantee the income of individuals? This would be a significant extension of responsibilities.

In addition it is not sufficiently clear within the Bill whether the over arching Well-being duty definition of people who need care and support is the same as the definition in **Section 19 of the Bill – Determination of eligibility**.

This needs to be absolutely clear because one can read the Bill in one of two ways:

1. That the Well-being duty applies only to people who are eligible for care services
2. That there is a wider group of people who need care and support as a result of being at risk through the Well-being criteria and a smaller group who are eligible for social care.

### **Social Services and Well-being Bill –**

#### **Section 31 Exception for provision of health services**

This section of the Bill highlights the need for joined up outcome measures across health and social care. This section specifies that Local Authorities may not secure health services.

We know from many examples as a result of continuing health care determination, there is a significant change in the type, content and outcomes of service purely as a result of a change of organisation arranging those services. This has led to differing outcomes for service users at that point of transition.

The solution is that there needs to be the outcomes for care that need to have common purchase across health and social care organisations to ensure that

just because someone transfers from the care of an organisation to another these outcomes are not compromised.

Another potential solution would be to amend **Section 31** to enable pooled budget arrangements to allow the lead purchase of continuing health care and related services as a Partnership between health and social services.

#### **Section 54 – Charging for preventative services and information advice and assistance.**

This section could do with some clarification. Does the wording mean that someone receiving care and who is being charged for that can not be charged for additional preventative services.

If care and preventative services are separate issues what is the rationale for only being able to charge for one?

#### **Section 104 (Part 7) – Adults at risk.**

The introduction of adult protection and support orders is welcomed as is the formal duty to report adults at risk. However the proposals in the Bill make no reference to the incorporation of the wide and well established Wales wide policy and practice framework into the legislation framework.

Considerable work and development has gone on across Wales between a number of organisations establishing a robust workable adult protection framework which does not rely purely on Local Authorities for its discharge and does recognise the essential contribution of the health services particularly in investigating concerns in clinically related areas.

There is further a significant resource implication because if the Local Authority were to be the lead organisation in all adult protection matters, work undertaken by the NHS and other bodies would fall on the Local Authority with significant additional costs.

We support the duty to investigate as detailed in **Section 104 (2)**, however we also note that in **Section 38**, there is no reciprocal cross reference or statement that reflects the need to consider adults at risk in terms of care and support plans.

We are also concerned that the duty of report **Section 106** does not reflect the increase and expansive number of provider agencies in commissioned services. In the code of practice for social workers is applicable to these services this and also the health care support workers need to be registered and have a duty of the code of practice we need to ensure that both are unable to report as a matter of duty and not personal decision.



### **Section 137 & 138 (Part 9) – Outcomes.**

If we are to become outcome driven then service arrangements should reflect those outcomes and should apply across the whole public sector. If we do not flag outcomes as the principal driver the capacity to deliver these outcomes could become constrained and compromised. This will be exacerbated by the creation of separate expectations by different legislation and performance frameworks across the public sector agencies.

### **Section 152 – Complaints about Social Services.**

The amendments to the complaints process to recognise the need to integrate health & social care processes for complaints about both is very much welcomed.

### **Point 160 – Investigations into complaints about privately arranged or funded social and palliative care system.**

We recognise the importance of a structure to investigate complaints into privately arranged or funded social care and the appropriacy of the role of the Ombudsman in investigating these matters. There also needs to be references within the Bill to the need to link the investigations undertaken by the Ombudsman to adult protection and safe guarding procedures. In Local Authorities complaints information is one of the key components of managing poor performance in providers.