

## Social Services and Well-Being (Wales) Bill – Summary

The message from Welsh Government is clear – **this is not a Social Services Bill**. It is intended to transform services to maintain and enhance the wellbeing of people in need, involving the whole Council and the National Health Service.

The proposed Social Services and Well-Being (Wales) Bill provides the legislative framework to take forward the change programme set out in *Sustainable Social Services for Wales: A Framework for Action*.

The Bill places little emphasis on the need for additional resources and places greater emphasis on the need for services to do things differently. Initial thoughts are that this will be a challenge for Local Authorities. A number of organisations during the stage 1 consideration of the Bill in the National Assembly for Wales have also expressed concerns regarding this matter.

The Bill comprises of 11 Parts. The key points are summarised below:

### **1. Introduction**

Provides a general overview of the bill and outlines a new, broader definition of the term 'well-being,' Defining the term to include; physical and mental health and emotional well-being, protection from abuse and neglect, education, training or recreation, domestic, family and personal relationships, contribution made to society, securing rights and entitlements and social and economic well-being.

The Bill will support the delivery of services in an integrated way to people of all ages; not separately to children and adults. It will enable an approach that sees people as members of their families, networks and communities along with a focus on the development of early intervention & preventative services.

The Bill will provide a duty to maintain and enhance the wellbeing of people in need.

### **2. General functions**

The Bill provides that any person carrying out the functions of this Bill will be placed under an overarching duty to promote the well-being of people in need of care and support and carers in need of support.

The Bill will impose general and strategic duties on Local Authorities and Local Authority partners to gain a better understanding of the needs and characteristics of their local populations, in order to ensure organisations are targeting support in the right areas of need.

There will be new duties placed on Local Authorities to promote social enterprises, co-operatives and user led/third sector services. This change is hoped to encourage the growth of sustainable, cost effect, social care services.

The Bill also introduces new duties for Local Authorities and the NHS to promote the availability of preventative services and provide information and

advice to help people understand how care and support works. This change is intended to provide greater clarity for service users.

### **3. Assessing the Needs of Individuals**

The Bill provides individuals with a single statutory right to have their needs assessed, regardless of age and will require those assessments to be undertaken in a way that focuses on the outcomes people are seeking to achieve. This change is intended to give more control and power to service users. IT systems may require updating, which could lead to considerable cost implications.

The Bill also creates a single duty for Local Authorities to undertake carer's assessments. This will apply to young carers and parent carers. The Bill will replace existing law, removing the requirement that the carer must be providing "a substantial amount of care on a regular basis". This will place carers on a similar legal footing to those they care for and will mean more carers are able to access assessments. This change may increase demand on services, which will consequently result in the need for increased financial provision.

The Bill makes a distinction between child and adult carers, in an attempt to take into account the considerable issues faced by child carers.

### **4. Meeting Needs**

Local Authorities will be required to carry out eligibility assessments to determine whether there is an 'eligible need' and therefore whether there is a duty on the Authority to meet that need. Local Authorities will be required to meet the needs of any persons who are at risk of harm, irrespective of eligibility. Authorities will also be able to respond to urgent need, without any duty to first complete an eligibility assessment.

Welsh Ministers will have the powers to establish a national eligibility framework via regulations. These regulations will provide clarity on what will constitute as 'eligible need.' The framework will create more consistency in access to/delivery of services, though potentially a threat to local democracy.

The Bill outlines a framework which clarifies which Local Authorities may be allowed/required to make direct payments. Welsh Ministers will provide guidance in relation to the amounts and conditions etc, which will be attached to provisions for providing direct payments.

Local Authorities will have a duty to provide and review support plans for those who are eligible. Regulations will provide further detail in relation to support plans e.g. how they are to be prepared etc.

Support Plans for people (Not Carers) will be portable across Welsh Authorities. Authorities will be placed under a duty to inform other Authorities when a person is moving into their area of jurisdiction. Transitional arrangements and continued support will be provided by the receiving authority, until a needs review/re-assessment can be completed. This change will ensure continued care and support is provided to people in need, leading to a reduction in waiting times and bureaucracy.

## **5. Charging and Financial assessments**

Local Authorities can impose charges for providing or arranging services. The Bill makes separate provisions for charging for preventative services and for information, advice and assistance. Concerns have been raised with regard to whether this is a realistic expectation of service users.

Regulations will provide a framework for charges and for any matters to be taken into account when local authorities undertake financial assessments.

## **6. Looked after and accommodated children**

The Bill simplifies but does not alter the effect of the complex provisions within Part 3 of The Children Act 1989.

The Bill is not to be interpreted as a sole piece of legislation, it coexists with other statutes. Therefore Local Authorities will still be subject to duties provided in The Children Act 1989 and The Adoption Act 2002.

## **7. Safeguarding and Protection**

The Bill provides that safeguarding is a shared priority of many public services and a key responsibility of Local Authorities.

The Bill provides a new legal framework for adults at risk. Protecting adults from abuse and neglect has been prioritised by local authorities for a prolonged period of time. A legal framework around this area has never previously been created. This lack of formal guidance has led to much confusion with regard to the roles and responsibilities of those working in adult safeguarding. The Bill aims to provide clarity with regard to this issue and will provide local authorities with further duties to ensure enquires and investigations can be undertaken when it suspects an adult is at risk. Duties are also placed on Local Authority Partners to cooperate and provide information in relation to safeguarding.

The Bill will establish a National Independent Safeguarding Board – national remit; expert membership; cover protection of adults and children. Its precise structure and remit will be developed during 2014 -15. The purpose of the Board will be to improve standards, strengthen existing policy / guidance and provide strong national direction.

Provisions also provide for the creation of new Children's Safeguarding Boards and the establishment of new Safeguarding Adults Boards. These Boards are intended to promote partnership working, regulations will specify which organisations will be identified as lead partners. The Bill does include powers which extend the duties of these Boards and also will allow the Boards to merge. These Boards will also link with the new National Board.

## **8. Social Services Functions**

The Bill repeals schedule 1 of The Local Authority Social Services Act 1970, providing a new schedule of social services functions.

Welsh Ministers will issue and consult on a Code of Practice. This code will provide guidance for social services on the exercise of their functions. Welsh Ministers may give directions to Local Authorities when compliance with this

code is required. The Bill also sets out circumstances in which Local Authorities may depart from the requirements of this code.

The Bill includes a duty on Local Authorities to appoint a Director of Social Services to lead and manage family-focused social services. Ministers will have powers to specify the competences that a Director must have.

The Bill provides powers for Welsh Government Ministers to intervene in the exercise of social service functions on specified grounds.

### **9. Well-being outcomes, co-operation and partnership**

The Bill includes powers to establish a National Outcomes Statement , which will be supported by a code provided by ministerial regulations and will provide high level, measurable indicators. The aim of this change is to achieve greater transparency and continuity.

The Bill promotes partnership working, cooperation and integration. Duties will be placed on Local Authorities and Local Authority Partners to make arrangements to promote these areas of working.

Ministers will make regulations to strengthen partnership working between Local Authorities and Health Boards. Budgets will be pooled in certain areas of working to create more integrated models of service provision. A belief that potential savings from LA / NHS integrated working far exceeds those from regional collaboration.

The Bill will simplify arrangements in relation to adoption by placing a duty on the 22 local authorities to establish a National Adoption Service, which will discharge certain functions. The Bill identifies the need to prevent unnecessary delays and duplication in the adoption process. Heads of Children's Services remain unconvinced that this national agency will achieve the intended outcome.

### **10. Complaints and representations**

A new framework is provided for Local Authority duties in relation to their consideration of representations and complaints from people about social services functions. This framework will strengthen the complaints procedure and extend the Public Services Ombudsman's powers, allowing the consideration of complaints about private care home providers, private domiciliary care agencies and private palliative care services.

### **11. Supplementary and general**

Implementation of this Bill is intended to be phased and carefully planned in an attempt to ensure the smooth transition of the new arrangements. Some arrangements will require further consultation with stakeholders, to ensure the desired outcomes are achieved.

The Welsh Government has expressed its intention to proceed with the majority of implementation in 2015-16.

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