

FLINTSHIRE COUNTY COUNCIL

REPORT TO: **SOCIAL AND HEALTH OVERVIEW COMMITTEE**

DATE: **5TH MARCH 2015**

REPORT BY: **CHIEF OFFICER (SOCIAL SERVICES)**

SUBJECT: **SOCIAL SERVICES WELLBEING ACT 2015 UPDATE**
 AND RESPONSE TO CODE OF PRACTICE

1.00 PURPOSE OF REPORT

- 1.01 In January 2015 the Welsh Government began consultation with regard to the regulations, guidance & codes of practice for parts 2, 3, 4, 7 and 11 of the Social Services and Wellbeing Act. The intention of this report is to provide a summary of those aspects of the Act.

2.00 BACKGROUND

- 2.01 The Social Services and Wellbeing (Wales) Act received Royal Assent on 1st May 2014 and will be implemented in April 2016. Until then the existing legislation remains in place, whilst the Welsh Government drafts the Regulations, Guidance and Code of Practice for the new Act.
- 2.02 The Care Act 2014, covers England and is expected to come into force in 2015. This will mean for the first time there will be completely separate social care legislation for Wales and England and this itself will have an impact on current practice and procedure, specifically with regard to cross border care for children and adults.
- 2.03 Mental Health legislation is to remain in place and run alongside the Act and is not repealed.

3.00 CONSIDERATIONS

3.01 Understanding need

A duty will be placed on Local Authorities and Health Boards to better understand the needs of the local population. This will involve a collaborative assessment undertaken jointly by Health Boards and Local Authorities. This assessment should determine the level of needs within the local population and how needs can be met. This assessment must also identify:

- the extent to which those needs are not being met;
- the range and level of services required to meet those needs;

- the range and level of services required to deliver the preventative (section 15) of the Act; and
- How these services will be delivered through the medium of Welsh.

3.02 The Act provides that Welsh Ministers can make specified partnership arrangements for carrying out social services or Local Health Board functions with regard to covering areas of need.

3.03 Local Authorities and Local Health Boards are required to be proactive in identifying local data sources, research and statistics that could contribute to an assessment. Once the assessment is complete a report must be constructed per local government electoral cycle and review arrangements also put in place. The report should be drafted using accessible language so that it can be considered by members of the public, providers and the third sector/voluntary sector. It is important that the assessment report explains clearly how the Local Authorities and the Local Health Board have arrived at their decision in relation to the needs identified and the level of services required to meet those needs. From this assessment partners will be able to identify the range and level of services necessary to meet need

3.04 **Key Implications:**

- **Cost** – There will be cost implications regarding research and new data analysis methods and systems, and a need to reconfigure or commission services that reflect the outcomes of the assessments.
- **Timescales** – The process is likely to take a considerable amount which will be further extended due to the requirement for consultation and review mechanisms.
- **Capacity** – There will be an impact on staff capacity, due to the scale of this project and current position of the local authority.
- **Future Need** – The consideration of future need can be difficult to predict and should be considered in line with broader economic, social and environmental implications.
- **Qualative Data** – The structure and nature of questions asked and conceptual frameworks used will be key to gaining accurate findings.
- **Increase pressure on local services** – Increased ministerial powers may lead to local services being required to cater for increasing needs.
- **Minority Groups/ Children** – organisations undertaking such a large scale population assessments, do so with fairness and equality in mind, in order to ensure the needs of minority groups are still reflected within service provision. This includes children.

3.05 Enhancing Wellbeing

The Act states there is a shared legal duty on all services and organisations to promote the well-being of service users.

“Well-being” is defined as: Physical and mental health and emotional well-being; Protection from abuse and neglect; Education, training and recreation; Domestic, family and personal relationships; Contribution made to society; Securing rights and entitlements; Social and economic well-being; Suitability of living accommodation.

This overarching duty to promote well-being applies to all persons and bodies exercising functions under this Act, including Welsh Ministers, Local Authorities, Local Health Boards and other statutory agencies.

“Promoting well-being means that local authorities must be proactive in seeking to improve those aspects of well-being relevant to people”.

3.06 Key Implications:

- **Whole Council Approach** – The local authorities have a strong collaborative arrangements. However further action is required to build on these collaborations to ensure arrangements are in line with the Act. There associated financial costs and additional strain on resources, which is concerning within the context of the current financial climate.
- **Cost** - This definition clearly extends the role of Local Authorities in Wales. However there is no sign of any additional funding from Welsh Government.
- **Performance Measures** – It is currently unclear as to whether current social services performance measures will be extended to other council departments.
- **Practice** - Social Services departments are implementing number practice initiatives such as the ‘what matters conversation assessment’ and the ‘integrated assessment framework.’ These assessments support the principles of the Act. However it is unclear whether these should be utilised in other parts of the authority.

3.07 Early Intervention and prevention

The Act provides a greater focus on the importance of preventative and early intervention services. Local Authorities will be required to promote the availability of preventative services from the third sector.

Prevention is at the heart of the Welsh Government’s programme to transform social services. WAG have highlighted there is a need to focus on prevention and early intervention in order to make social services sustainable into the future. Stating it is vital that care and support services do not wait to respond until people reach a crisis

point.

The Code of Practice provides that preventative services can be:

- universally provided to help people avoid developing needs for care and support
- targeted at individuals who have an increased risk of developing care and support needs
- Aimed at minimising the effect of an existing care.

3.08 **Key Implications:**

Reliance on third sector - The national eligibility framework relies on the expectation that preventative services will be provided by the third and independent sector organisations.

Collaborative duties - FCC feels at present there appears to be significant duties placed on local authorities to lead on joint arrangements, which Local Authorities would be keen to assert, However there is no increased jurisdiction for local authorities to ensure collaborative arrangements can be made successfully.

3.09 **Social Enterprise**

There will be a duty on Local Authorities to promote the development of new models of delivery through social enterprises, co-operatives, user led and third sector services.

The Act introduces a duty on local authorities to promote:

- The development of social enterprises and co-operatives,
- The involvement of service users in the design and operation of care and support and preventative services, and
- The availability of care and support and preventative services from third sector organisations (referred to in this code as “the section 16 general duty”).

3.10 **Key Implications:**

Cost – Further Funding is likely to be needed to support the environment referenced above.

Cultural change – Whilst Flintshire has already taken steps to establishing such an environment, further work is required, which will require resources or capacity.

Commissioning – Coproduction will play a vital part in developing a new and innovative third sector market and steps to embed this principle will need to be taken by all local authority departments.

Funding to Third Sector – As mentioned above current social enterprises will also be impacted upon by the current financial climate and this may lead to difficulties in developing the environment

referenced above

3.11 Next Steps for Flintshire

We have made sound progress in transforming and modernising our services. Delivering the Act within the context of growing demand for care and support, increasing complexity of need, and significant budgetary pressures requires us to build on our strengths to deliver an ambitious programme of service redesign and reform. The scale and pace of the change that is required should not be underestimated.

The Act requires transformational change in the way we manage and commission services for vulnerable people. We need to ensure that vulnerable people have access to high quality services whilst at the same time we need to remodel more traditional models of care, and empower people and communities to take responsibility for their own wellbeing. This change agenda cannot be delivered in isolation. The council, the NHS, independent and voluntary providers of care and support and local communities will need to work together to turn the Act's ambitious plans and principles into an everyday reality.

4.00 RECOMMENDATIONS

4.01 Committee is asked to note and comment on the report.

5.00 FINANCIAL IMPLICATIONS

5.01 The Act does not provide the detail of how additional legal requirements, underpinned by regulations and guidance, can be funded and clarity has been called for nationally.

6.00 ANTI POVERTY IMPACT

6.01 Greater clarity with regard to Ministerial Regulations is required in order to ascertain the potential impact and successes of the Act.

7.00 ENVIRONMENTAL IMPACT

7.01 None arising from this report.

8.00 EQUALITIES IMPACT

8.01 The intention of this Act is to promote Equality. If the Act is successful, then a number of provisions (see above) when implemented will have a positive impact on equalities

9.00 PERSONNEL IMPLICATIONS

9.01 Our staff will need training to equip them with proper knowledge about new legal responsibilities arising from the Act and the associated

expectations and processes relating to their role.

10.00 CONSULTATION REQUIRED

10.01 Consultation has been undertaken by Welsh Government.

11.00 CONSULTATION UNDERTAKEN

11.01 Ongoing consultation with staff, partners and stakeholders.

12.00 APPENDICES

12.01 None.

**LOCAL GOVERNMENT (ACCESS TO INFORMATION ACT) 1985
BACKGROUND DOCUMENTS**

None.

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