

Appendix 2

Social Services (Wales) Bill – Consultation Response Form

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Responses to consultations may be made public – on the internet or in a report. If you would prefer your response to be kept confidential, please tick here:

If you are responding on behalf of your organisation, please tick here:



This consultation runs from 12 March until 1 June 2012. Please send your responses to us by the deadline of the **1 June 2012**.

You can send your completed response forms to us by e-mail, to socialservicesbill@wales.gsi.gov.uk, or by post, to Social Services Bill Team, Social Services Directorate, 4 Floor, Cathays Park, Cardiff, CF10 3NQ.

Responses can come from individuals or groups. The form is set out in the order of the consultation document and the questions are grouped into sections. You do not have to answer **all** of the questions if you do not wish to; you are welcome to only answer the questions that are relevant to you, and to continue your answers on additional sheets if required. There is however, a final question, (number 98), where you can feed back any other views you have on the Social Services (Wales) Bill, that are not covered by the other questions asked in the consultation document.

Flintshire County Council welcomes the opportunity to contribute to the consultation on the Social Services (Wales) Bill.

We are aware that numerous responses are being submitted in relation to this consultation and that our individual Local Authority response will form part of a wider perspective.

This Flintshire County Council response is a corporate response from a service strategy, delivery, commissioner and partner perspective combined as a Council with multi-roles. The focus is on areas of specific importance to Flintshire, in the context that senior managers are involved in many other responses being prepared in other arenas.

Thank you for the opportunity to contribute to this important piece of legislation.

1. Maintaining and enhancing the wellbeing of people in need

1.1 Wellbeing of people in need

Question 1 – Do you agree with our proposals to base this legislation on the concept of maintaining and enhancing the wellbeing of people in need?

Question 2 – Do you agree with our working definitions of “wellbeing” and “people in need”? Do you wish to suggest alternatives?

Question 3 – What are your views on the proposed general duty on local authorities and their partners to maintain and enhance the wellbeing of people in need in their local areas?

Question 4 – What are your views on the proposals to provide guidance on this area through the Code of Practice?

Response:

Question 1 - Maintaining and enhancing the well being of the population, with a focus on those currently experiencing poorest health and/or additional barriers to maintaining a health promoting lifestyle, is an ongoing commitment of Flintshire County Council and our partners, as demonstrated through strategic priorities within statutory plans including the Health, Social Care and Well being Strategy and the Children and Young People’s Plan.

In the Local Government Act 2000 there is a requirement already placed on local authorities to promote and protect the well being of its population. As an alternative to developing further legislation, one option would be to seek ways to ensure that existing legal requirements are met and opportunities within local authorities to enhance the well being of residents are maximised.

Question 2 – The working definition of “wellbeing” contains a number of key components but some of the bullet points relate to things that need to be in place (as wider determinants of health) e.g. education, training and recreation.

The definition of “people in need” should be more aspirational. Rather than:

*“a person is considered to be in need if they are **unlikely to achieve or maintain**a reasonable standard of health or wellbeing”* it could be rephrased: *“a person is considered to be in need if they **require support to achieve or maintain** their potential independence”.*

The definition of people in need should be phrased positively and refer to both physical and mental health. The working definition also uses the wording “reasonable standard of health or wellbeing.” It is not clear what this would mean in practice. Clearly, with such a broad definition there would be significant financial implications.

A further point to highlight is that the draft definition of people in need (1.1.9 - section iii) only refers to disabled children. Consideration should be given to rephrasing this to cover children, young people and adults or removing the reference completely as those with a disability may fall within the definition outlined in sections i & ii.

Guidance will also be needed on how to identify, make links and track people in need who are often listed as hard to reach and who are not known to mainstream services, for example:

- New arrivals from other countries
- People who may be trafficked
- Gypsy Travellers

Question 3 - It is not clear how the definition of “people in need” would be compatible with current eligibility criteria for social services. Could this definition be tested in law?

As previously noted, with such a broad definition there would be significant financial implications.

Paragraph 1.1.11 (ii)

“The proposed duty on local authorities and their partners would require them to:

(ii) encourage the provision of what appears to them to be a suitable range of services in their area.”

This sentence is ambiguous and open to a significant level of subjective interpretation. For example, who would define suitable?

Question 4 – Guidance is welcomed via a Code of Practice.

1.2 Defining social care services

Question 5 – What are your views on the proposed broad power for local authorities in Wales to provide or make arrangements for the provision of social care services?

Question 6 – What are your views on our proposed definition of “social care services”?

Response:

Question 5 – The proposal to clarify services and who can receive them is welcomed, alongside the proposal to define Social Care Services. However, with these raised expectations would be additional demand which would require additional financial resources to support quality service provision.

Question 6 – A clear definition has the potential to offer service users clarity about what help and support is available. The principle of defining ‘social care services’ is a sensible one. However, any definition must be viable and deliverable; there could be a risk that the remit of social services will be significantly extended which will have significant implications on resources.

2. A stronger voice and real control

2.1 Information, advice and assistance

Question 7 – Do you agree that we need to make a significant step forward in making information, advice and assistance accessible?

Question 8 – Do you think that the legislation should specify any particular organisational form for this, such as an information hub?

Question 9 – Do you think that the legislation should specify more clearly how local government and the NHS should work more closely together in the provision of information, advice and assistance?

Response:

Question 7 – We support 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. At this point we are unclear from the proposals what the “significant” step forward will involve. It is important that information is available in appropriate formats and languages.

Question 8 - 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.

One point to note is that it is unclear from the proposals what the concept of an ‘information hub’ will entail.

From our involvement with Social Care Communicators Wales (supported by SSIA) we recognise that the practice of providing an information service varies across Wales. Some Councils have specialist communication staff dedicated to producing public information whilst others utilise non-designated roles to deliver on this. This would need to be taken into account in any future prescribed model to set up an ‘information hub’ as there will be different implications for different authorities. One potential advantage of specifying an organisational structure model for information provision is that it could be a way to secure the resources, including specialist staff, to deliver a consistent service across Wales. Giving Local Authorities the flexibility to deliver the hub in the most appropriate manner for their area will be important to their success. For example, in some areas the hub may need to be located in one central geographic area whilst other local authorities may find it proves more effective to have a several hubs to offer equality of access to all service users.

In establishing an information hub, consideration should be given to ensuring that potential service users (who’s first language is not English or Welsh) know where / how to access information.

To deliver a high standard public information service and to publicise / market the availability of services requires adequate funding.

Question 9 - Legislation should specify more clearly that local government and the NHS should work closely together (but not how). The value of a legislative directive to work more closely with the NHS could ensure prioritisation is given to the production of jointly produced information.

2.2 Assessment of need

Question 10 – Do you agree there should be a single right of assessment?

Question 11 – Do you agree the new system will benefit service users and their carers, as well as professionals in understanding their duties of assessment? If not, why?

Question 12 – Do you agree that law and policy should provide for proportionate assessments i.e. a formal prescribed assessment for people who have social care needs?

Question 13 – Is it helpful to prescribe the assessment process and who should be involved?

Question 14 – What information do you think should be included within the “common core” of a new integrated assessment?

Question 15 – Will the new system be more efficient and provide local authorities with greater flexibility?

Question 16 – Do you see a role for self assessment and if so, how would this work?

Response:

Question 10 – We support the view that everyone should have the right to an assessment. There is little evidence to suggest that those in need cannot access an assessment currently. There could be risks in that the proposed reforms may divert resources from services, into providing an assessment. This point links to the definition of ‘people in need.’

Question 11 – Yes, but recognising the issues raised in questions 12 – 15.

Question 12 - There is a need to avoid bureaucracy and provide an assessment appropriate to the need. Therefore it is welcomed that proportionate assessments could be implemented. The principle of UA is good, but in reality the assessments are often too complicated for the need.

Question 13 – There is concern that if the assessment process is too prescriptive it will be unrealistic in operational terms, divert resources and cause delays if the assessment process is overly complex.

A risk is that if it is too prescriptive in terms of who should be involved and what has to be covered it could lead to waiting times for an assessment. Empirical evidence and professional best practice will change over time so 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.

Consideration should be given to allowing the organisation to determine the most appropriate person to undertake the assessment. Any new process will require a review of the UAP and IT systems which support the assessment. Hence, there is likely to be a significant cost to this proposal.

Question 14 - The common core of the integrated assessment should cover basic information as well as outcome focused recommendations and a service user agreement to demonstrate their understanding of the assessment outcomes. It is suggested that people developing the new assessment processes should have systems thinking and front line operational knowledge across the range of assessments.

2.3 Portability of assessments

Question 17 – Should the Bill impose a general duty on local authorities and their partners to provide social care services to a person in need who resides in their area?

Question 18 – Do you agree that portability of assessment will bring greater consistency of care for services users? Do you agree that it will lead to savings?

Question 19 – When someone moves into a new local authority area, what do you think is an acceptable period for which to require that the new authority must maintain the assessment of a service user before it reviews the case?

Question 20 – Do you agree with our proposals for notification and transfer of information?

Response:

Question 17 & 18 – 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. Portable assessments would benefit some groups such as gypsy travellers or migrant workers.

Question 19 – Once Local Authorities have had the opportunity and support to invest in infrastructure to support portable assessments, 3 months would seem a reasonable timeframe.

Question 20 – We agree with the proposals for the notification and transfer of information.

2.4 Management and review of care plans

Question 21 – Do you agree that the statutory duty changes we have outlined above are the right ones to improve care and support plan and review systems?

Question 22 – Do you agree that it will be important to prescribe, in the regulations and guidance, the different arrangements for the different needs?

Response:

Question 21 – The development of a common approach to unified care and support planning would be welcomed. A point to highlight is that latterly care and assessment processes, such as UA, have involved overly bureaucratic processes that do not promote outcomes. For any new prescribed common approach efforts should concentrate on outcomes as opposed to processes.

Question 22 – The definition of ‘people in need’ is diverse so care and support plans will need to apply to different categories of people (e.g. adults and children) in different ways. Legislation which sets out the arrangements for care and support plans and their review should focus on outcomes as opposed to process.

2.5 National eligibility framework

Question 23 – Do you think that a new national eligibility framework will be beneficial?

Question 24 – What do you see as the local authority's role in setting criteria for eligibility and what do you see as the Welsh Government's responsibilities?

Question 25 – Do you believe that the current four-level definition of eligibility: "critical, substantial, moderate and low" is a helpful way of categorising eligible needs?

Question 26 – Do you agree the new framework should extend to all categories of people in need – both children and adults?

Question 27 – Do you envisage any particular barriers in operating a single eligibility threshold? How would you overcome these barriers?

Question 28 – Should people be able to self assess for access to services? If so, how would you see this working?

Response:

Question 23 – The proposal for a national eligibility criteria would take away the discretion that Local Authorities currently have in setting their criteria and may have significant cost / resource impact. It is fundamental that local authorities have discretion on setting priorities in response to variable local need. We would want core national eligibility rights for an assessment with local decision making powers.

The reference in 2.5.3 to the development of Families First and the Integrated Family Support Service, for example, does not clarify whether these services sit outside the assessment process for social services, as a preventative service or whether they are within. The broad definition of 'people in need' draws more people into entitlement which will have serious implications for staffing and resources. Like other Councils in Wales we are dealing with finite and reducing budgets alongside increasing demand as a result of changing demographics. Any extension of the definition of 'people in need' and therefore those deemed eligible for a service will place an additional pressure on limited resources.

Question 24 - It seems appropriate for Welsh Government to develop the criteria for eligibility, the local authority should have the flexibility of service design. The balance of a prescribed eligibility criteria against a flexible eligibility criteria is a difficult one.

Question 26 - Welsh Government needs to take account of budget implications in the broadening of the definition

2.6 Rights of carers

Question 29 – Do you agree that the proposed definition of a carer should be based on the one referred to in paragraph 2.6.8?

Question 30 – Should we allow local authorities to include some carers who receive payments or have a contract for the care they provide within the definition of a carer, where the relationship is not a commercial or ordinary volunteering one? (In order that carers can receive an assessment and benefit from other support provided to unpaid carers.)

Question 31 – Are there other groups of carers that are not covered but should be included?

Question 32 – Should local authorities be allowed discretion to consider requests from Foster Carers or Adult Placement / Shared Lives Carers to be classified as a 'carer' and be entitled to request a carers' needs assessment?

Question 33 – Do you agree that there should be a duty placed on local authorities to publish information on carers' rights and the services offered to carers in their local areas?

Question 34 – Do you agree that local authorities should be required to offer a carer's assessment to anyone who appears to the authority to be a carer with substantial caring responsibilities?

Response:

Relating to all responses is the need to fully consult with all carers groups and the carers' organisations that support them.

Question 29 - No objection to the definition proposed, but question whether it really gets across both the physical and/ or the emotional 'nature' the caring role can take. There is a tendency to associate caring with the more physical tasks, such as washing and lifting etc, whereas for some groups of carers such as people caring for someone with a mental health problem / drug and alcohol problems the role is more emotional in nature and can fluctuate. Therefore to conclude would the carer groups alluded to or identify themselves with the proposed definition? Feedback will hopefully be forthcoming from carers via this consultation process.

Question 30 – We do not feel it is advisable to include carers who receive payment or who are contracted to deliver a service e.g. foster carers and adult placement/ shared lives carers, for a number of reasons:

- Unpaid carers have campaigned for years to have their role recognised, such a step would dilute the definition and confuse the public yet again with the difference between the role of paid and unpaid

carers. How in essence would this aid self-identification?

- Unique to unpaid carers is the financial penalty they face, having to give up work or reduce hours, and a problem that can get worse if caring continues / intensifies and a further penalty is experienced when they draw their pension. Therefore priority of limited services / support needs to be allocated to this group. Unless of course this proposal was going hand in hand with increased funding.
- Paid / contracted individuals have been assessed as capable of delivering a service and offered a network of support around them as part of a contractual arrangement. They have a legal recourse if there are complaints and must satisfy agreed performance measures. These groups are fundamentally different from individual informal carers where there is no contractual obligation, service standard or mechanism for redress. Arguably if the potential penalties formal carers face in relation to their health, their social inclusion and their finances become too much they can opt out (not negating the emotional attachments formed, just considering the issues on the face of it and working on the assumption that in the main an unpaid carer is a family member).

Question 31 – The definition does appear broad so as to capture everyone. A point to highlight is to ensure that those family relatives who care and are in receipt of a direct payment (i.e. where the person they are caring for has employed them as a personal assistant) are not excluded from the definition.

Question 32 - Flintshire County Council believe that some discretion should be available to Local Authorities to consider requests from some foster parents of long term placements / shared lives carers. This will enable those carers to request a carers need assessment in the same way as any other carer of a disabled child or adult. Experience shows after many years of placement the formal network of support fades yet the parenting responsibilities remain or indeed increase. However, this would increase demand on already finite resources i.e. the staff who undertake carers assessments and the carer support services

The census in 2001 identified 148, 594 unpaid carers in Flintshire (this number has increased and is set to increase further. By 2014 it is projected that we will have 1,117 more people over 65 who will be unable to manage one self care activity). Note our local authorities carers grant settlement for 2010-2011 was £434,813. Despite the development of a robust carers commissioning strategy and the subsequent allocation of funding to a number of carer support organisations in Flintshire only 2,567 unpaid carers benefited. This should help to demonstrate that with the available funding we are currently allocated we are only reaching a fraction of the unpaid carers in Flintshire, so therefore there would be increased demand if Foster Carers etc requests to be classified as 'carers' are accepted.

Question 33 & 34 – Yes to both, Flintshire County Council agree promoting information on rights and available services and offering assessments should be standard practice in all Local Authorities. We agree that there must be access to published information and are happy that this will be strengthened. However, this needs to be in the context of the Carers Measure for which the NHS has the lead.

2.7 Direct Payments

Question 35 – Do you agree with the proposal to use this Bill to bring together legislation regarding the provision of Direct Payments in Wales?

Question 36 – Do you agree with the proposals to allow Welsh Ministers broad powers to extend the existing Direct Payments arrangements so that they can introduce an effective model of self-directed support and control that also encourages a greater uptake of Direct Payments arrangements in Wales?

Question 37 – Do you have views on other ways in which Direct Payments could be extended beyond the current scheme? For example, should they be extended to allow the purchase of residential accommodation or to allow a local authority or independent organisation to be an agent or a broker for services and hold a budget on the service user's behalf?

Response:

We support the response made by the North Wales Social Services Improvement Collaborative in this area.

Questions 35 – 37 – When considering direct payments, thought must be given to any changes there may be in eligibility criteria. Whilst supportive of direct payments and citizen directed support, Local Authorities must identify that this is viable in terms of budget and such arrangements do in fact lead to better outcomes and greater control for individuals.

2.8 Complaints and the Public Services Ombudsman

Question 38 – Do you agree with the proposal that people funding their own social care should have their complaints considered by the Public Services Ombudsman for Wales (PSOW)?

Question 39 – Do you agree that the PSOW’s remit should be extended to care homes and domiciliary care agencies only, or that a wider extension to his remit should be considered?

Question 40 – Do you agree that the PSOW’s remit should be extended to independent palliative care services?

Question 41 – Do you agree with the proposal to allow the PSOW to consider complaints about matters arising, prior to the PSOW’s powers being extended?

Question 42 – We are not proposing that “information sharing powers” between CSSIW and the PSOW be included in the proposal, and expect that a protocol between the two bodies will be established. Do you agree that this is sufficient, or should information sharing powers be considered?

Question 43 – Do you agree that individuals who have complaints about independent palliative care services should also be able to access advocacy services?

Response:

Question 38 – People funding their own social care should have equitable rights with those who have services directly commissioned or provided for them by the Local Authority. We believe it is important that for those funding their own care they have an opportunity to have their complaint considered by the Public Services Ombudsman for Wales if they remain dissatisfied with the response from the Provider. It is important that the provider should have the opportunity to respond in the first instance.

Question 39 – We agree with this proposal and agree that the Public Services Ombudsman for Wales’ remit be extended. There are a group of providers, usually in the voluntary sector, that are often funded through a variety of income sources including local authority grants, lottery monies etc. If a service user has a complaint about this provider the arrangements are not clear. Through contract monitoring we stipulate the provider must have a complaints procedure but there is nowhere independent to take this complaint after investigation at Stage 1.

Question 40 – We agree with the proposal that the Public Services Ombudsman for Wales’ remit should be extended to independent palliative care services.

Question 41 – We agree with the proposal to allow the Public Services Ombudsman for Wales to consider complaints about matters arising, prior to his / her powers being extended.

Question 42 – We agree with the proposal that a protocol between CSSIW and PSOW re: information sharing is sufficient. This protocol would sit outside the Social Services Bill.

Question 43 – We agree with the proposal that individuals who have complaints about independent palliative care services should also be able to access advocacy services. One query raised is that independent palliative care services would predominantly be commissioned through Health so would they be part of this legislation.

3. Strong national direction and local accountability for delivery

3.1 National Outcomes Framework and Standards for Social Services

Question 44 – Do you agree that there should be a duty on Welsh Ministers to encourage improvement in social services and social care services (as defined in this Bill) in Wales?

Question 45 – Do you agree that Welsh Ministers should have a duty to publish (from time to time) and review (periodically) a statement of national outcomes for social services and social care services?

Question 46 – Should there be a power to specify performance standards to be met by local authorities and social care service providers to sit beneath the national outcomes framework?

Question 47 – Should the standards be measured through performance indicators?

Response:

General

Any proposal that reduces the burden of providing information and reporting is welcomed. To reiterate a point made elsewhere in our response, a move to an outcome focus rather than a process driven approach is a real positive and must be applied in practice.

A point to highlight is that prescribing a set of standards should be carefully considered alongside the regulatory requirements already in place via CSSIW. We should seek to avoid another layer but seek a clear alignment with existing PIs and regulatory requirements already in existence.

Question 46 – We would welcome a consistent framework with the move to an outcomes focus and the need to identify performance standards that will measure progress. Local Authorities need to be involved in the development of these.

Question 47 - It is essential that the new measurements replace the existing PI's and are not an additional requirement.

3.2 Code of Practice

Question 48 – Should there be a duty on Welsh Ministers to prepare a Code of Practice to bring together statutory guidance on social services matters?

Question 49 – Should Welsh Ministers be required to consult on the contents of the Code of Practice before it is introduced?

Question 50 – Should Welsh Minister be required to consult in advance on any substantial amendments that they propose to make to the Code of Practice?

Question 51 – Should the Bill specify that the Code of Practice must be followed by authorities acting under the legislation and can only be deviated from where there are good reasons to do so (although this proviso would not give the freedom to take a substantially different course)?

Question 52 – In addition to the Code of Practice, should Welsh Ministers retain their existing power to issue directions on certain matters, such as policy or practice guidance?

Response:

Question 48 – We support the proposal for a Code of Practice to bring together statutory guidance on social services matters.

Question 49 – We agree that Welsh Ministers should consult on a draft Code of Practice before it is introduced. Budget implications would need to be taken into account

Question 50 – We agree that consultation would be necessary in the future prior to any substantial amendments to the Code of Practice.

3.3 Directors of Social Services

Question 53 – Do you agree that we should place the requirement to appoint a Director of Social Services on the face of the Bill and have powers to specify the competencies that a Director of Social Services should have?

Question 54 – Do you agree that the local authorities should be able to share a Director of Social Services?

Response:

Question 53 – We support this proposal.

Question 54 - At the present time there are example of local authorities taking forward the option to share a Director of Social Services. Such approaches have developed from careful planning and partnership working between local authorities. We are not convinced that this arrangement would require a legislative change.

3.4 Collaboration in integrated Social Services

Question 55 – Do you agree with the proposal to introduce a single consistent set of powers relating to the creation of formal partnerships in Wales, for the purpose of delivering integrated services?

Question 56 – Do you agree with our proposal to introduce powers to define in Regulations and guidance the parameters for developing formal partnerships and pooled budgets and to set out how and when these will be used?

Response:

Question 55 & 56 – We are supportive of partnership working and the associated benefits. A key point we wish to highlight is that Local Authorities should not be tied to a prescriptive format but the legislation should support practice led improvement and development.

It would be helpful to have a range of templates (with full governance arrangements) that organisations can use to develop partnership arrangements that are not as complicated as the current section 33 agreements.

Consideration on how Wales measure the existence of partnership arrangements outside the formal section 33 agreements should be developed. It is the quality of partnership agreements that make a difference not the formality of them.

One reservation is how will increased powers for Ministers resolve the practical issues and challenges in achieving successful collaboration?

4. Safeguarding and protection

4.1 A National Independent Safeguarding Board

Question 57 – Do you agree with the view of the Welsh Safeguarding Children Forum on the role and function of the National Independent Safeguarding Board?

Question 58 – What type of organisation do you think the Board should be? How would the relationship and accountabilities with Welsh Ministers and Safeguarding and Protection Boards be constructed (see section 4.2 – Safeguarding and Protection Boards)?

Question 59 – How should the Welsh Government achieve service user representation on the Board?

Response:

We support the North Wales Social Services Improvement Collaborative response in this area.

4.2 – Safeguarding and Protection Boards

Question 60 – What do you think the functions of the Adult Protection Boards and Safeguarding Children Boards should be?

Question 61 – Do you agree that a funding formula is needed? What approach should be taken to devising this formula?

Question 62 – Do you think that the existing statutory membership of LSCBs is sufficient for Safeguarding Children Boards? What additional members should be included within the membership of Adult Protection Boards?

Question 63 – Should there be a requirement that all Safeguarding and Protection Boards have independent Chairs? Please explain your rationale.

Response:

We support the North Wales Social Services Improvement Collaborative response in this area.

4.3 Adult Protection – a new legal framework

Question 64 – Is the scope of what would constitute an ‘adult at risk’ reasonable?

Question 65 – Should the duties on agencies to protect adults at risk be based on someone being the victim, or potentially the victim of ‘harm’?

Question 66 – Should the definition of an ‘adult at risk’ also take account of where, or in what circumstances, the abuse has taken place and whether someone is unable to safeguard themselves as a result of their health and social care needs (paragraph 4.3.9)?

Question 67 – Is the range of agencies that the Bill will place duties on appropriate? Are there any other agencies that should be considered for inclusion in this framework, and if so why?

Question 68 – Should a duty to report apply to all the agencies encompassed by other duties? If not, why not? Who should the duty apply to?

Question 69 – Should the legislation include powers of intervention? If so, what should be the nature of these powers?

Response:

We support the North Wales Social Services Improvement Collaborative response in this area.

5. Regulation and Inspection

5.1 Workforce registration

Question 70 – Do you believe that the current definitions of social care workers in the Care Standards Act 2000 are broad enough to capture workers in new models of service delivery?

Question 71 – Do you agree that the Care Council should have powers to regulate the training of all social care workers, not only social workers?

Question 72 – Do you agree that Welsh Ministers should have powers to make regulations that reserve certain activities to staff with certain specified qualifications?

Question 73 – Do you have views about what activities should be reserved to staff with certain specified qualifications?

Response:

Question 70: It is unclear which new models of service delivery the Bill refers to, but any clarification of definitions would be welcomed.

One issue raised during our consultation process is that it would be helpful for the Care Council for Wales to give a directive about whether domiciliary care workers need to be registered as opposed to the current practice of voluntary registration.

The consultation document refers to 'social care services' as: residential, non residential care services, information, advice, counselling / advocacy services, financial or other assistance, social work. These categories are broad enough to cover all social care staff. The risk is that not everyone will necessarily see themselves included in these lists e.g. personal assistants, support workers, reablement staff, other professional staff (e.g. OT, physio)

Question 71: Agree, but any additional requirements on local authorities and the independent sector would need to be supported financially. Also, there would need to be a period from the first date of employment in which the worker would have time to achieve the qualifications - possibly 3/6 months.

Question 72: Agree, provided that the activities are very clearly defined and that further consultation is undertaken with local authorities and the professional organisations representing social workers. Please note the creation of more specialist role will increase pressure on training budgets and capacity. Workforce implications should be considered when specifying a qualification – any decision made in relation to this should contain some

flexibility to allow for appropriate training and career development.

Question 73: Activities that could be explored are safeguarding roles for children and vulnerable adults (including DOLS). Also statutory and specialist roles in mental health, learning disabilities, substance misuse and for looked after children.

5.2 Service Regulation

5.2a Extending regulation to new service categories

Question 74 – Do you agree that Welsh Ministers should be able to bring appropriate new service delivery models into the scope of the regulator?

Question 75 – Do you agree that social work services should become a regulated service?

Question 76 – Do you agree that the registered manager of the service must be registered in the social work register of the Care Council for Wales?

Response:

Question 74 – Yes this would be welcomed as more innovative and modern service delivery models are implemented.

Question 75 – Yes this would be welcomed.

Question 76 – Yes, agree registered managers of a social work service should be registered in the social work register of the Care Council for Wales. However, often registered managers in other areas (e.g. care homes) take a vocational and management route to managing services in social care and not the social work route.

5.2b Revising the registration model for social care services

Question 77 – Do you agree that there should be powers to make registration time limited? If so, should this be introduced in a staged way?

Question 78 – Should certain services, as a matter of principle, be exempt from this provision? If so, why?

Question 79 – What sectors/services do you believe would be particularly suited to this model?

Question 80 – What issues do you think this model would raise?

Response:

Question 77 – Time limited registration would be welcomed. This will ensure that providers are compliant with particular standards. There would need to be a staged approach, otherwise we may destabilise an already fragile market.

Question 79 – The Residential and Nursing home sector would be particularly suited to this model.

Question 80 – Issues we feel this model would raise:

- (a) The timescale for registration / how long would an application to register last for?
- (b) Agreement and consensus that Standards have been breached to a level which may result in not being registered in the future.
- (c) Service users and families already placed with a failing provider would be anxious.
- (d) Commissioners may have to have robust contingency plans – for example if there were a lack of local EMH nursing placements.

5.2c The Register

Question 81 – Do you agree that the register should contain specified information?

Question 82 – Do you think that this approach will enable service users and their carers to make decisions about services they use or may wish to use?

Question 83 – Do you agree that there should be information sharing powers afforded to the regulator?

Question 84 – Do you agree that this approach will drive up improvement?

Response:

Question 81 – Yes this would drive up standards and would assist in transparent information sharing with the public.

Question 82 - We agree that this proposal will enable service users and carers to make decisions about services they use.

Question 83 - We agree that information sharing powers should be afforded to the regulator.

Question 84 - We agree that this approach will drive up improvement.

5.2d Organisational governance and quality assurance mechanisms

Question 85 – Do you agree that these reports should be publically available?

Question 86 – Do you agree that we should specify matters for public reporting?

Response:

Question 85 & 86 – We support the proposal that all regulated services should be required to publish a report which is publically available. However, this may not be cost neutral and there may be an associated cost to these reports. If the reports are similar to what regulated services already produce there should be no cost implication for those purchasing the service.

5.2e National Minimum Standards

Question 87 – Do you agree that we should remove the word ‘minimum’ from sections 23 and 49 of the Care Standards Act 2000

Response:

Question 87 - We agree with this proposal.

6. Services

6.1 Adoption

Question 88 – Do you agree the functions that a National Adoption Service will be responsible for, as set out in paragraph bb?

Question 89 – Do you suggest any additional functions that should be included?

Question 90 – Are there any other barriers to the current arrangements that should be considered in the development of the Social Services (Wales) Bill?

Question 91 – Do you have any other comments that you wish to make about our proposals for a National Adoption Service?

Response:

Questions 88 – 91 – We recognise the objective for a national adoption service in Wales is well established and has potential benefits. The North Wales region took the initiative in terms of developing the North Wales Adoption Service. We support the need to build on the strengths of this strong regional service in terms of any national adoption service.

6.2 Transitions for disabled children and young people

Question 92 – Are there any key, identifiable entitlements that disabled children receive that would be of continued benefit beyond age 18 for those with the most complex needs? Please provide details and rationale.

Question 93 – Do you have any suggestions for how we might define “complex needs”?

Response:

General - One of the recommendations in the NSF for Children, Young People and Maternity Services is the development of a Single Plan for disabled young people going through transition into adulthood, across a range of service areas. Whilst this plan is complex to develop due to the vast number of plans that currently exist for these young people, and is much broader than would be contained within a Social Services bill, it is a model for care planning to aspire to.

Question 92 - Local research undertaken with users and families in Flintshire demonstrate their needs include:-

- Information on services, options, pathways and support available.
- Services during college breaks / holidays. This is currently provided in Flintshire by Social Services for Adults and can continue up to leaving college.
- Key Worker - In Flintshire, transition support is being reconfigured (resources from Social Services for Children and Social Services for Adults are being consolidated) to provide a consistent key worker from the age of 16 - 25 to cover all aspects of transition.
- Transitional support up to the age or point where the service user returns from school / residential college and needs meaningful work and somewhere supported to live.
- Continuation of funding to meet needs which are static.
- Continued Health input / funding. People on their 18th birthday risk reduction, even where needs have not changed.

The "transfer / transition," regardless of what age it comes, needs to be managed carefully. Delaying the age from 18 to 21 goes some way to ensuring stability as many changes are taking place at this time in a young person's life. It will be important to ensure all agencies are working to this principle not just social care (eg health agencies / funding agreements).

For those with the most complex needs, their needs will not change in many instances from 18 to 21 to later in adulthood - how far do you extend the benefits they may have attracted as a child, but not as an adult?

Question 93 - It works in Flintshire to use a broad 'assessment' of needs to determine complexity rather than single agency, single process.

Assessment of complex needs is undertaken over time (for most people) with multi agency contribution (Education and Health and Social Services for Children) and is added to over a period to determine eligibility nearer 18 years. This process commences at annual identification panel, attended by Health Consultants, Specialists and Nurses, Education Co-ordinators, Social Services for Children and Social Services for Adults. This forms the basis of a referral which is added to, toward making a decision on eligibility / complexity after multi agency consideration and updates.

Whilst supporting a social model definition of complex needs, we need to be aware that this would increase the numbers of young people eligible in this increasing demographic cohort with subsequent financial implications

7. Implementation of proposed legislation

7. Implementation of proposed legislation

Question 94 – Throughout this document we have identified the impacts of the proposals we would like to include in the Bill. Do you have any comments on the impacts that we have identified?

Question 95 – Do you agree with our analysis of the impacts? If not, why?

Question 96 – What do you think the potential cost implications are for the new proposals? Could the new duties be met through minor changes to current arrangements etc?

Question 97 – Are there other areas of impacts we should be considering?

Response:

Question 94 & 95 – It is essential that local authorities have a reasonable degree of local discretion to deliver services. There are financial risks and concerns that creativity would be limited as a result of legislative prescription.

The impact statements have not fully considered the funding of transformational change or the possible increase in demand on services that changing the definition of 'people in need' and setting a national eligibility criteria could have. There is genuine concern about how Local Authorities will fund this transformational change.

Question 96 – There are clear new duties in the proposed legislation, most notably the extension of the definition of people in need, the portability of assessments and regulatory changes. It is argued that these will have additional resource implications and not be met by minor changes to current arrangements.

Question 97 – IT infrastructure costs for any new assessments and information services. There must be some recognition of joint responsibility within the Bill that this is not just social services' responsibility. Local authorities must have the autonomy to plan and deliver local services that meet local needs.

Final Consultation Question

Question 98 – We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please let us know.

Response:

- We wish to highlight a general query as to whether the introduction of this Social Services (Wales) Bill will involve the repeal of any other acts.
- As a local authority we would like a degree of flexibility in how we deliver on the Bill to be responsive to local need.
- Whilst supportive and pleased that a Social Services (Wales) Bill is being developed the proposals in this Bill cannot be achieved by Social Services alone. Commitment by all statutory partners will be needed to fully take forward and implement the change programme.
- The Welsh Government has recently consulted local authorities on the proposals to remove the duty to produce a range of statutory plans, and to encompass those duties into one "single plan". There would be a benefit to ensuring that these developments are appropriately linked.
- Clearly the Social Services (Wales) Bill is a fundamental development for the Welsh public sector but it does not exist in isolation from other key major strategies. We would argue that the connections with the similar paper on Youth Justice are very strong and a single integrated approach concerning both policy directions is needed.