

(min)

MINUTES

Date: Wednesday, 12 March 2003

Time: 9.00am to 12.20pm

Venue: Committee Rooms 3 & 4, National Assembly for Wales

Attendance: **Members of Health & Social Services Committee**

Kirsty Williams (**Chair**) Brecon and Radnorshire

Geraint Davies Rhondda

Jocelyn Davies South Wales East

Brian Gibbons Aberavon

Jane Hutt (Minister) Vale of Glamorgan

Ann Jones Vale of Clwyd

Dai Lloyd South Wales West

David Melding South Wales Central

Lynne Neagle Torfaen

Members of Local Government and Housing Committee (Item2)

Gwenda Thomas Neath

Pauline Jarman South Wales Central

In Attendance

Mallory Armstrong Welsh Health Estates

Neil Davies Welsh Health Estates

Tony Garthwaite Association of Directors of Social Services

Officials In Attendance

Ken Alexander	NHS Quality Division
Stuart Fletcher	NHS Wales Department
Therese Gray	Office of the Counsel General
Dr Ruth Hall	Chief Medical Officer
Keith Ingham	Children & Families Division
Ann Lloyd	Director, NHS in Wales
Maria Michael	Social Services Inspectorate Wales
Steve Milsom	Social Care Policy Division
Mike Shanahan	Social Care Policy Division
Bob Woodward	Social Services Inspectorate Wales

Secretariat:

Jane Westlake	Committee Clerk
Claire Morris	Deputy Committee Clerk
Peter Jones	Counsel to the Committee

Item 1: Apologies and Substitutions and Declarations of Interest

1.1 There were no apologies.

1.2 There were no declarations of interest.

Item 2: "Lost in Care" – Report on the Tribunal of Inquiry into the Abuse of Children in Care in North Wales (The Waterhouse Report) (9.05 - 10.10am)

Paper: HSS-04-03(p.1)

2.1 The Chair welcomed Tony Garthwaite, who was representing the Association of Directors of Social Services. Members were disappointed that representatives of the Welsh Local Government Association (WLGA) had been unable to attend. The Committee considered that it was important to hear how the recommendations were implemented by local government. It was agreed that an hour would be made

available at the meeting on 26 March for further discussion of this item and the Chair would invite the WLGA to attend.

2.2 The Minister introduced the paper, which provided an update on progress made in implementing the 72 recommendations made in "Lost in Care" (the Waterhouse Report). In response, Members made the following points:

- Concern was expressed that only seven of the fifteen local authorities had appointed a dedicated children's complaints officer, and there was no assurance that the complaints officers in place were not managers of staff who may be the subject of a complaint, as recommended by Waterhouse. The Children's Commissioner had also raised concern about this issue in his report "Telling Concerns".
- Whilst the document detailed the legislation and procedures put in place following Waterhouse, there was no evidence that changes had been made at local authority level and that care was improving.
- There was an apparent lack of uniformity in local authorities' approach to their responsibilities for corporate parenting and this lack of uniformity posed problems when there was cross boundary care. There was a need for clarification on the responsibilities of opposition party members under the cabinet system of local government.
- The needs of staff who were falsely accused were not addressed adequately.

2.3 In response to Members' comments and questions, Tony Garthwaite made the following points:

- Waterhouse recommended dedicated children's complaints officers because children needed a simple process to make their concerns known, rather than the bureaucratic system associated with adult complaints procedures. For smaller authorities the appointment of a dedicated children's complaints officer was not feasible, and there was still some discussion within the ADSS whether a full time appointment was necessary. The real issue was about enabling children to voice their concerns easily and safely to someone who was child-sensitive and not involved in the line of management.
- No other service within local government was as rigorously monitored as Social Services and there were a variety of systems in place that would satisfy the Assembly that changes were being made on the ground, e.g. Social Services Inspectorate for Wales inspections and joint reviews.
- Local government needed to adapt within the modernisation agenda to carry out its statutory duties and some authorities were showing great imagination in doing so. The corporate responsibility had implications for staff as well as members.
- The balance of care was shifting to fostering, which was more difficult to manage and monitor. It was difficult to attract enough foster parents.
- The mechanism and infrastructure was now in place to overcome recruitment and retention problems, although this would not happen overnight.
- Some authorities may not be providing adoption services because of pressure on staffing, but this was not common practice.
- Whistle-blowing was an integral and accepted part of the culture within local authorities and staff

were expected now to raise issues that previously may have gone unreported.

- Setting pay levels was now the responsibility of each local authority and this was causing some difficulty with staff being offered higher salaries in other authorities. A Pay Commission was looking at pay across the board and Directors of Social Services might make representation to that Commission.
- A regime for safe care of children was now in place and there was evidence to support this.

2.4 The Minister and her officials made the following points:

- The national minimum standards, performance indicators and legislation that were now in place underpinned the work being done at local level.
- A report would be provided for the meeting on 26 March on the outcomes from Children First, as this was the main vehicle for implementing the Waterhouse recommendations.
- The Welsh Assembly Government would be responding to the Children's Commissioner report "Telling Concerns".
- A Task and Finish Group had reviewed existing provision of advocacy following the withdrawal of the Children's Society. The national standards for provision of children's advocacy had been published in February so were still very new but had been developed in consultation with Department of Health and refined for use in Wales and provided a framework for local authorities and the voluntary sector to develop and strengthen services.
- There were still workforce issues, not just about people, but the skills and experience, which related to how complaints and advocacy services were developed. Local government needed the training, knowledge and expertise to appropriately commission complaint and advocacy services.
- The Welsh Assembly had now received the recommendations of the report into the death of Victoria Climbié. The Minister would be writing to all Chief Executives of local authorities about the recommendations that applied to them, and the Chief Inspector of Social Services would be providing an audit framework for them to respond to, which would be carefully monitored.
- It had never been a statutory requirement that elected members of local authorities should carry out visits to children's homes. However, it had been practice in some local authorities for the visits to be carried out by elected members and that had been the case in the former counties of Gwynedd and Clwyd. Waterhouse had concluded that in the cases he had examined elected members had not been trained in the purpose of the visits. Where elected members were carrying out the statutory visits they should be aware of the need to comply with the statutory requirements on the frequency of the visits and to check the home's compliance with statutory requirements, such as record keeping.
- It was suggested that statutory visits were best carried out by officers, but that elected members may, subject to appropriate safeguards, carry out non statutory visits to care settings.
- The work of the Care Council and the Care Standards Inspectorate for Wales in monitoring local authorities was important.

Action

- The minutes of the Local Government and Housing Committee's discussion on corporate parenting with the Welsh Local Government Association would be circulated.
- Paper to be provided on the outcomes from Children First.

Item 3: The Estate of the National Health Service (10.20 - 11.10am)

Paper: HSS-04-03(p.2)

3.1 The Chair welcomed Neil Davies and Mallory Armstrong from Welsh Health Estates.

3.2 Mallory Armstrong said that an all Wales survey of GP practice premises had been completed. Whilst services were more important than buildings, buildings could have a significant impact on service provision and the results of the survey could now be used to strategically plan how the estate could support delivery of services.

3.3 In Rhondda Cynon Taf a pilot scheme had been run to develop a pathfinder primary care estates strategy. Representatives of all stakeholder groups had been involved in the decision-making process to ensure ownership. A hub and spoke model had been agreed as the most appropriate way forward. This would mean a significant rationalisation of existing estate from 64 premises to 40, 50% of which would be new buildings. The estimated capital expenditure would be £20m over the next 10 years.

3.4 In response to Members' comments, the Minister and her officials made the following points:

- The National Estates Strategic Framework had been produced in October 2002. This set out the way forward and the requirements on health authorities and trusts for more proactive management of the estate.
- The framework and plans coming from trusts and local health boards would be rigorously scrutinised.
- Stuart Fletcher had been appointed to head up the Estates Division within the Assembly.
- There were pockets where compliance with fire regulations was a problem and £6m had been allocated in the previous year to improve this.
- Annual estate reviews were carried out with trusts. These gave a clearer picture of exactly what the problems were in each trust.
- The full business case for the second Rhondda hospital had been approved on 4 February. Work on the hospital should commence shortly.
- A strategic approach had been developed which offered greater incentive to trusts to dispose of redundant premises.
- The Ambulance Trust had a relatively high need for capital because it had so many small premises and a large fleet of vehicles. There was a need to re-examine the way in which the

estate was funded and managed.

3.5 Mallory Armstrong and Neil Davies made the following additional points:

- In the past, GPs had made the decision about where they wanted set up practice rather than health authorities taking a strategic view. Now, Local Health Boards (LHBs) would be in control, ensuring practices were located in the areas of greatest need.
- Networking arrangements would be put in place to ensure most effective use was made of the Primary Care Resource Centre at Llwynypia.
- The consultation process on the Rhondda Cynon Taf scheme had included other primary care contractors and members of the public.
- Management of the estate was the responsibility of trusts, whilst the Assembly was responsible for directing trusts in an appropriate strategic way. Welsh Health Estates had the expertise and knowledge to support both organisations.
- The estimated need for capital was around £170million a year for the next decade. There is currently a shortfall of around £40million a year and while this figure is significant, it is doubtful that there would be the capacity to spend more at present.
- The mechanisms for change were in place but there was still a long way to go. As well as strategic review meetings, Welsh Health Estates met regularly with trusts.
- Having smaller schemes would not preclude the Ambulance Trust from seeking assistance from the Assembly, but they might have to package together a number of schemes, perhaps on a regional basis.
- The estimated cost of meeting the requirements of the Disability Discrimination Act 2004 was £32m. Trusts were working with disability groups to overcome difficulties and determine appropriate action, and Welsh Health Estates was monitoring the work in progress.

Item 4: Domiciliary Care Agencies (Wales) Regulations 2003 (11.25 – 12.10pm)

Paper: HSS-04-03(p.3)

4.1 The Minister introduced the paper, which set out the proposals for regulation of personal domiciliary care services. She said that the timetable for introducing the regulations would be extended to autumn 2003.

4.2 Members raised a number of issues that they considered needed to be addressed in finalising the standards and regulations:

- The cost implications of training staff in the appropriate qualifications needed to be considered and a cost analysis of the impact on implementing the regulations and standards was requested.
- The variation in management models in the voluntary sector should be recognised.
- There needed to be flexibility in the level of service based upon the care needs of the individual.
- If implemented properly, the regulations would mean that commissioners would have to take into account the quality of service, not just lowest price.

- Greater emphasis was needed on informal care and the interface between that and the more formal care agencies.
- It was suggested that the requirement in the standards that "...home care or support workers must never seek to profit from the care they provide to service users by the acceptance of significant gifts or bequests" was excessive and could possibly be subject to challenge under the Human Rights Act. The real issue should be to ensure a mechanism was in place to record and monitor gifts.
- Concern was expressed that individuals who provided care to a number of people were not covered by the regulations. It was suggested that a limit be set on the number of individuals a single care worker could look after in an attempt to minimise the opportunity for abuse of the system.
- Standard 16.4 as drafted was ambiguous and needed clarification..
- Informal carers were not given enough prominence and no definition of a carer was included in the Glossary of Terms.
- Standard 12.10 - Clarification of the responsibility for the maintenance and safety of manual handling equipment was needed.
- Standard 12.12 – "A responsible and competent person" would normally be the manager of the service but many voluntary organisations delegated this responsibility to a trustee. Whilst it was important that timely access to care staff was available, the effect this had on small providers needed to be recognised.
- Standard 20.2 - clarification was sought on whether this was 6 months from satisfactory completion of probation or 6 months from starting work. If the latter, this could have significant cost implications in training staff who may not complete their probation.
- Standard 20.5 – details of a management qualification equivalent to NVQ level 4 were requested.
- Standard 25.1 – it could be a burden to review all policies and procedures annually. It might be more appropriate to review specific areas on an annual basis.
- Paragraph 21 of the regulations should be amended to read "The registered person shall establish a procedure for considering complaints made to the registered person by a service user *or their representative*" as not all service users were capable of making a complaint themselves.
- Concern was expressed that the regulations as currently drafted did not adequately address the needs of individuals, mainly with a learning disability, who received accommodation and domiciliary care in the context of supported housing organisations.

4.3 The Minister and her officials made the following points of clarification:

- The additional costs, particularly in relation to training, were recognised.
- Consideration would be given to a reduced regulatory fee for small providers.
- The standard regarding acceptance of gifts was intended to protect vulnerable people from coercion. The point would be fed back to the Task and Finish Group.
- The Task and Finish Group felt it would be helpful to produce supplementary guidance to help users and providers find their way through the new regime.
- The points raised by Committee members, including lone care providers, trustees in voluntary organisations and the other issues raised would be taken back to the Task and Finish Group.

4.4. The Chair suggested that the appropriate Committee might want to look at the regulations when the draft was finalised.

Item 5: Commission for Health Improvement (Amendment) (Wales) Regulations

Paper: HSS-04-03(p.4)

5.1 No amendments to the regulations had been submitted.

5.2 Ken Alexander confirmed that CHI would carry out an initial assessment of any complaint before embarking on a full-scale investigation.

5.3 The Minister said that in the past she had included updates on the work programme in her monthly report, and she could see no reason why it could not be published in the future.

Item 6: Minutes of 26 February 2003

Paper: HSS-03-03(min)

6.1 The minutes of 26 February were agreed. There were no matters arising.

Item 7: Any Other Business

7.1 The Chair advised that the Business Committee had agreed that the Fostering Services (Wales) (Amendment) Regulations 2003 should proceed under the Standard procedure for debate in Plenary. The intended effect of the Regulations was to substitute different transitional arrangements for those contained in the Fostering Services (Wales) Regulations 2003, made on 6 February 2003. The purpose was to allow existing fostering agencies to be able to submit an application for interim registration before 1 July 2003 and to disapply the offence provisions for those who make such applications. That would allow existing agencies to continue to provide fostering services pending a decision on formal registration by the Care Standards Inspectorate for Wales.