

## Health and Social Care Committee

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Meeting Venue:  
**Committee Room 4 – Tŷ Hywel**

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Meeting date:  
**Wednesday, 17 June 2015**

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Meeting time:  
**09.00**

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Cynulliad  
Cenedlaethol  
Cymru

National  
Assembly for  
Wales



For further information please contact:

**Llinos Madeley**

Committee Clerk

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### Agenda

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At its meeting on 11 June 2015 the Committee resolved under Standing Order 17.42(vi) to exclude the public for items 1 and 2 of the meeting on 17 June 2015

**1 Regulation and Inspection of Social Care (Wales) Bill: consideration of draft report (09.00 – 09.45) (Pages 1 – 147)**

**2 General and financial scrutiny of the Minister for Health and Social Services and the Deputy Minister for Health: discussion of approach (09.45 – 10.00) (Page 148)**

**3 Introductions, apologies and substitutions (10.00)**

**4 General and financial scrutiny of the Minister for Health and Social Services and the Deputy Minister for Health (10.00 – 11.00) (Pages 149 – 183)**

Mark Drakeford AM, Minister for Health and Social Services

Vaughan Gething AM, Deputy Minister for Health

Andrew Goodall, Director General for Health and Social Services and NHS Wales Chief Executive

Ruth Hussey, Chief Medical Officer

Albert Heaney, Director of Social Services & Integration

Martin Sollis, Director of Finance

**5 P-04-625 Support for Safe Nurse Staffing Levels (Wales) Bill: proposal to close the petition (11.00 – 11.05) (Pages 184 – 185)**

**6 Papers to note (11.05) (Pages 186 – 187)**

**Minutes of the meetings held on 21 May and 3 June (Pages 188 – 193)**

**Regulation and Inspection of Social Care (Wales) Bill: additional information (Pages 194 – 214)**

Additional information from the Fostering Network

Additional information from the Older People's Commissioner

Correspondence from the Minister for Health and Social Services – 3 June 2015

Correspondence from the Minister for Health and Social Services – 10 June 2015

Additional information from Children in Wales

Additional information from the NSPCC

Correspondence from the Finance Committee – 11 June 2015

**7 Motion under Standing Order 17.42(vi) to resolve to exclude the public from the remainder of the meeting and for the meeting on 25 June 2015 (11.05)**

**8 General and financial scrutiny of the Minister for Health and Social Services and the Deputy Minister for Health: consideration of evidence (11.05 – 11.20)**

**9 Public Health (Wales) Bill: consideration of approach to Stage 1 scrutiny (11.20 – 11.55) (Pages 215 – 251)**

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# Agenda Item 4

By virtue of paragraph(s) vi of Standing Order 17.42

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**SCRUTINY SESSION WITH THE HEALTH AND SOCIAL CARE COMMITTEE – 17 JUNE 2015**

**NATIONAL ASSEMBLY FOR WALES: HEALTH AND SOCIAL CARE COMMITTEE**

**Date: 17 June 2015**

**Venue: Senedd, National Assembly for Wales**

**Purpose**

1. This paper provides an update on those areas of interest identified by the Committee in its letter of 5 May.

**2014-15 END YEAR PROVISIONAL FINANCIAL OUTTURN OF LOCAL HEALTH BOARDS AND TRUSTS**

2. The audited year-end accounts for local health boards and NHS trusts are expected to be laid before the National Assembly for Wales by 14 June. The following table sets out the provisional year-end position reported by each LHB and Trust in their draft unaudited 2014-15 accounts:

<b>NHS organisation</b>	<b>End of Year Provisional Outturn Surplus / (Deficit) £m</b>
<b>Local health board</b>	
Abertawe Bro Morgannwg	0.1
Aneurin Bevan	0.5
Betsi Cadwaladr	(26.6)
Cardiff and Vale	(21.4)
Cwm Taf	0.0
Hywel Dda	(7.5)
Powys	0.0
<b>Trust</b>	
Public Health Wales	0.0
Velindre	0.0
Welsh Ambulance	0.1
<b>Total NHS Wales provisional outturn</b>	<b>(54.8)</b>

3. As I indicated in the scrutiny session on 19 March, I anticipated that three health boards - Betsi Cadwaladr, Cardiff and Vale, and Hywel Dda University Health Board, would not be able to manage within their allocation in 2014-15. The draft accounts confirm that position. I am disappointed by the provisional outturn for these three organisations, particularly as they have received their resource allocation share of the extra £200m that the Nuffield Foundation said was needed to achieve a satisfactory outcome in 2014-15.

4. During the year, I made it clear to all NHS bodies that, following the additional allocation, they needed to achieve a balanced position without compromising quality or patient safety. The combined deficits in the three health boards detailed above have been covered within the overall Welsh Government health and social services budget.
5. Thus, in overall terms, the health and social services budget is expected to break even in 2014-15 despite the NHS overspend. I will make a formal announcement of this in due course when the audited position is further progressed.

#### **ADDITIONAL RESOURCE FOR WINTER PRESSURES 2014-15**

6. On 15 January, the Finance Minister allocated an extra £40m to the NHS in 2014-15 to support winter pressures. This extra investment, which comes from the Welsh Government's reserves, followed the announcement that an additional £700m was being allocated to the NHS in England without any consequential funding being provided to Wales.
7. Further to the allocation of £8m to the Welsh Ambulance Services NHS Trust, I indicated in the scrutiny session on 19 March that I would use the remaining £32m as follows:
  - to recover some ground on planned care performance that had been adversely affected;
  - to cover additional costs caused by winter pressures for those health boards who were delivering to their approved plans; and
  - to hold some funding back as a central contingency to help cover the significant deficits outlined earlier.
8. This was supplemented by ongoing discussions and monitoring of the position with the three bodies that had reported deficits by my officials, to ensure that these bodies did not have to take adverse decisions on quality or performance in order to balance their books.

The funding has been issued as outlined in the table below:

<b>Description</b>	<b>Amount £m</b>
WAST	8.0
Planned Care performance	6.8
Health Board Winter pressures	6.8
Total allocated to NHS organisations	21.6
Funding held back as central contingency	18.4
<b>Total</b>	<b>40.0</b>

9. The total additional allocations from central department of health and social services funds issued to health boards in the last two months of the financial year are detailed in the table below. This includes adjustments to resource limits

after the end of the financial year but before the completion of the annual accounts.

<b>Description</b>	<b>Amount £m</b>
Winter pressure funding (as outlined above)	21.7
2014-15 Pay award funding	18.9
Funded Nursing Care	2.2
Final tranche of diagnostic waiting times funding	2.3
Clinical excellence awards (Qtrs 3 & 4)	2.6
Additional pharmacy allocations	1.9
Substance misuse funding (final LHB allocations)	2.9
Other routine allocations	0.6
Technical adjustments (impairments and depreciation)	6.0
<b>Total allocations in February and March</b>	<b>59.1</b>

## **INVESTMENT IN PREVENTATIVE HEALTH**

10. Identifying the resources attached to preventative spend is complex, and conclusions will vary depending on definitions and criteria used. Broadly, prevention can be divided in three aspects:
- i. **Primary prevention** aims to stop diseases before they start. Approaches to help people to achieve good health and maintain their wellbeing, such as good housing, educational attainment, safe workplaces, crime reduction, and so on, are all part of primary prevention. A large part of primary prevention is about providing education and environmental change to help people help themselves. However, immunisation is also an example of this approach, and one which involves a healthcare intervention.
  - ii. **Secondary prevention** aims to identify health problems at an early and treatable stage, prompting the necessary treatment. Most secondary prevention involves some kind of healthcare intervention, such as a screening test.
  - iii. **Tertiary prevention** is focused on people who already have a longstanding health condition, such as diabetes, and can pick up any predictable complications and manage them as effectively as possible. Diabetic retinopathy screening is an example of this approach. A great deal of tertiary prevention takes place in primary care, as part of looking after people with chronic health problems.

11. Caution is needed when considering the implications of preventative spend. Prevention has sometimes been promoted as simultaneously improving public health and saving money, but no linear relationship of that sort is likely. Preventing preventable harms releases money for other health and social care purposes. An important distinction, therefore, needs to be drawn between possible savings within a particular disease area and reducing the NHS and social care budget overall. The former are important and worth pursuing even if the overall effect on the latter is more complex.

### Primary prevention

12. As noted from the definitions above, primary prevention activity takes a variety of forms and will be funded from budgets across the Welsh Government. Even within the Health and Social Services MEG a range of primary prevention activities will be funded, though it is difficult to disaggregate them from broader activity. For instance, a significant amount of time will be spent by primary and community care professionals providing health promotion advice and support (e.g. health visitors supporting new mothers, fathers and their babies or GPs considering taking into account the holistic needs and circumstances of individual patients presenting for consultations). This Government's policies, such as the plan for primary care services for Wales, are aimed at ensuring these approaches of supporting population health are deeply rooted in the Welsh NHS, but quantifying the discrete spend on them is highly complex.
13. Public Health Wales (PHW) is funded by the Welsh Government to provide a range of primary prevention measures aimed at preventing ill health, alongside a number of other public health functions. £81.7m core funding was allocated to Public Health Wales for 2015/16. The funding allocation is not ring fenced for any particular activity to allow maximum flexibility for PHW in managing their resources to meet a wide range of priorities and commitments. It covers a number of programmes such as smoking cessation services and the Welsh network of healthy school schemes.
14. £17.6m will be allocated in 2015/16 for immunisation programmes – including expansion of the flu programme to include for the first time children in primary school reception classes and school years 1 and 2; a new Meningitis B programme for infants which will commence in the autumn and the continuation of the shingles vaccination of 70 year olds along with a catch up programme for 78 year olds. These programmes will build upon the existing routine immunisation schedule to protect against preventable diseases.
15. The impact of immunisation programmes can be demonstrated by recent research into the rotavirus vaccine for infants. Since its introduction in 2013, there has been an 88% reduction in confirmed cases in children aged younger than one year and a 19% reduction in GP consultations for the infection in the same age group. Apart from the obvious health benefits to individuals, immunisation programmes contribute towards improving the general health of the population and reduce pressures on NHS services.

16. £8.5m is set aside to support the Welfare Food Budget, including the *Healthy Start* and *Nursery Milk* schemes, which are UK-wide statutory schemes providing a nutritional safety net to vulnerable pregnant women, new mothers and children in families in receipt of benefits.
17. The *Healthy Start* scheme is administered by the Department of Health on behalf of England, Wales, Scotland and Northern Ireland. Healthy Start provides vouchers for money off fruit, vegetables, milk and formula and free vitamin coupons for pregnant women and children in families in receipt of benefits (all pregnant women under 18 are also eligible). Around 27,000 have registered for the scheme, which represents around three quarters of those who would be eligible. 2014/15 actual spend stands at £4.41m.
18. The *Nursery Milk* scheme entitles all children under five, attending approved day care facilities for two hours or more, to 1/3 pint of milk (including babies aged less than 12 months - who can receive dried baby milk). 2014/15 actual spend stands at £3.44m.
19. The Welsh Government's *Healthy Working Wales* work and health programme provides employers with access to advice and support to develop policies and practices to improve the health and well-being of their staff, reduce the impact of ill-health at work, and encourage early intervention to rehabilitation. More than 2,400 organisations have received support and advice through the *Healthy Working Wales* programme, supporting almost 31% of the working population of Wales. The programme is jointly funded with the Department for the Economy, Science and Transport, with a contribution of £0.280m from the Health and Social Services MEG.
20. The *Change4Life* social marketing campaign is focussed on, and addresses obesity, healthy eating, physical activity and alcohol and has over 76,000 people signed up to receive information. Our social marketing campaign has become a recognisable brand amongst professionals and families who are seeking to improve their lifestyles; as well as supporting those working in the field of population health improvement.
21. A campaign was launched earlier this year that focused on "sugar swaps" and was aimed at families with children between four and 11 years of age, suggesting simple swaps that could reduce sugar in the diet. The advertising and PR work supporting the Welsh campaign focused on Communities First areas, as levels of overweight and obese children in deprived areas is higher. During the four week campaign, over 6,500 new families registered for Change4Life. To date, over 72,000 people are signed up to the programme and many more have accessed advice from the website, Facebook and Twitter. Funding of £0.3m has been agreed for 2015-16 to take forward the *Change4Life* programme.
22. £1.0m is allocated to support investment in high quality data at both national and local level such as the Welsh Health Survey and Health Behaviour in School-aged Children survey to support investment decisions and track the impact of policies.

23. £0.07m has been allocated to *Add to your Life*, the health and well-being check for people aged 50 or over in Wales and which was rolled out nationally in April 2014. The £0.07m is funding a 4-month extension period (April – July 2015), during which we are developing a range of firmer proposals for the sustainable development of *Add to Your Life*, working with PHW, NWIS and other potential partners.
24. £0.1m is allocated to support the provision and delivery of Long Acting Reversible Contraception (LARC) within substance misuse services in Wales. The aim of the intervention is to reduce unintended pregnancies by using LARC as a way of delaying conception in drug dependent women until such time as their recovery has progressed to allow them to parent effectively. Substance abusing parents are at a high risk of unplanned pregnancy. Greater proportions of substance misusers fail to use contraception than non-users and report unplanned pregnancies. Parental substance misuse is well established as a major factor in care proceedings leading to the removal of children from their parents. The expenditure per annum equates to the cost of one child being cared for in a local authority home for six months.
25. The voluntary sector plays an important role in primary prevention, given its areas of expertise, its trusted status with various client groups, and its targeted outreach activities. The Welsh Government has entered partnership and/or funding arrangements with the voluntary sector to support primary preventions. Examples from the Health and Social Services MEG include:
- £0.2m has been awarded to Alcohol Concern Cymru (ACC) to raise awareness of alcohol misuse issues; monitoring and reporting on questionable alcohol labelling and promotions; leading on information campaigns; issuing good practice guidance and undertaking research. Some of the key actions which Alcohol Concern Cymru have delivered in the first year of funding are a refresh of the *Drink Wise Wales* website; launch of the 2015 *Dry January* challenge (with over 900 formal sign-ups in Wales); a Communities Together project in Pembrokeshire, showing how techniques of community development and co-production can be used to address alcohol-related harms; provision of evidence-based policy and research work; awarding of grants to Boys and Girls Clubs of Wales, Taff Housing Association, Willows High School and Project 2020, through the *It's the drink talking* project to promote young people's engagement with alcohol issues.
  - £0.2m is allocated to the *Healthy Ageing* programme which is run by Age Cymru on behalf of the Welsh Government. The programme is aimed at addressing the needs of older people and helps support them to enjoy good physical, mental and emotional health and well-being. Results Based Accountability (RBA) performance measures have been developed to measure the outcomes of the programme. Currently 95% of older people have reported an increase in their physical activity as a result of participating in Nordic Walking and 100% of older people participating in LIFT. 94% of older people participating in Nordic Walking have reported a health benefit.

- £0.2m supports *Lets Walk Cymru*, which is delivered by the Ramblers Association which co-ordinates and develops health related walking projects in Wales, targeting the least active adults. The project complements the Welsh Government aims to increase physical activity levels in Wales alongside improving access to the countryside and the coast of Wales. There were 14,500 registered walkers in 2014 with growing links with Communities First areas.
- £0.08m has been allocated to fund the 6 current projects under Health Challenge Wales Voluntary Sector Grant Scheme. The aim of the scheme is to develop the capacity and capability of national voluntary sector organisations in Wales to work in partnership with the Welsh Government and other voluntary sector organisations to promote sustainable health and well-being through support for core and project activities. The six projects currently being funded are:
  - MIND Cymru - Perinatal Mental Health and Resilience – Early Support;
  - The Prince's Trust - Active Youth Project;
  - Clybiau Plant Cymru Kids' Clubs - Project Title: Play, Learn and Grow Healthy Project;
  - Sustrans Cymru - Healthy Universities Project;
  - Sustrans Cymru - Healthy Hospitals Alliance Project;
  - Breast Cancer Care Cymru - Best Foot Forward Project.
- £0.1m has been awarded to ASH Wales to support the delivery of aspects of the tobacco control action plan for Wales, which aims to reduce smoking prevalence in adults across Wales to 16% by 2020. The current smoking prevalence rate is 20%. Some of the key actions which ASH Wales has delivered in the first year of funding are setting up an illegal tobacco working group making recommendations on the issue; supporting seven local tobacco action groups across Wales, and the Directors of Public Health across Wales to tackle priority areas (illegal tobacco, young people, and smoke-free spaces); leading a research sub-committee focusing on tobacco control and smoking research which has commissioned studies such as the annual e-cigarette survey and a feasibility study of 'The Filter' project; and working with local authorities to implement smoke-free playgrounds across Wales.
- Food safety is another area of primary prevention. Local Authorities fund a number of food safety measures. £3,242,000 was provided from the HSS MEG to fund the FSA in Wales in 2014/15.

### Secondary and tertiary prevention

26. A significant proportion of secondary and tertiary prevention work will be undertaken in primary and community care, though the spend on the preventative elements of work will not be easily identifiable. The spend on



Primary Healthcare Services in 2014/15 (excluding prescribed drugs and appliances) was £853m.

27. Screening is an important preventative service where costs are more readily identifiable. Public Health Wales provide national population screening services directly to the people of Wales; these include well established screening programmes such as Newborn Bloodspot Screening Wales, Newborn Hearing Wales, Breast Test Wales and Cervical Screening Wales together with newer programmes such as Bowel Screening Wales and the recently introduced Wales Abdominal Aortic Aneurysm Screening Programme. As noted earlier, Public Health Wales core funding allocation from Welsh Government is not ring-fenced for any single activity, but we know PHW allocated a budget of £34.37m for screening in 2014/15. Health boards are also responsible for delivering the Antenatal Screening Wales programme with oversight from Public Health Wales.
28. The impact of such programmes in identifying health problems at an early and treatable stage is highlighted in some of the statistics below:
- In 2013/14 over 104,000 women were screened for breast cancer and uptake was 72.1%. Nearly 1,100 cancers were diagnosed amongst women aged 50-70 who were routinely invited.
  - Over 210,000 women were screened for cervical cancer in 2013/14. Coverage at five years for women aged 25-64 was 78.6% meaning that about eight out of ten women attended their screening appointment. 8,800 women had further colposcopy and 2,400 had moderate or high Cervical Intraepithelial Neoplasia (abnormal or pre-cancerous cells) or worse diagnosed.
  - Over 161,500 bowel cancer test kits were validated in 2013/14. Uptake was 52.6%, showing an improvement on the previous year. Around 2,500 had colonoscopy investigation and approximately 250 cancers were diagnosed as a result of the screening test.
  - Over 15,000 65 year-old men were screened for abdominal aortic aneurysms in 2013/14 and nearly 200 aneurysms were detected.
  - Over 33,500 babies were screened for hearing loss in 2013/14, which is 99.4% of eligible births. Nearly 450 babies were referred for further investigation. Approximately 30 babies were diagnosed with a hearing loss by the programme.
  - In 2013/14 more than 17,000 pregnant women were screened for Down's syndrome during their pregnancy and over 560 were identified with a possible risk to their baby. Over 31,600 women were screened for Hepatitis B, syphilis, HIV and rubella susceptibility. Over 6,000 women were screened to identify carriers of sickle cell or thalassaemia genes.
  - Of the 115,344 results reported from diabetic retinopathy screenings during the 2013/14, 29.8% were found to have some degree of diabetic

retinopathy. In 3% of cases, potential sight threatening retinopathy was found.

29. There are both national and local programmes and policies which fall into this category of prevention, also nationally funded schemes which fall into this bracket of prevention. For example, at a national level there is the National Exercise Referral Scheme (NERS) that enables a wide range of patients to access physical activity through GP referral. Retention figures for 2013-2014 demonstrate that 91% would not have taken up physical activity without NERS; 83% completed the programme and were still exercising at 16 weeks; and 63% were still exercising independently at 52 weeks. An assessment of the 2012/13 NERS scheme showed that all participants in the scheme had higher levels of physical activity than those in the control group, with this difference being significant for those patients referred for coronary heart disease risk factors. There were positive effects on depression and anxiety, particularly in those referred for mental health reasons.
30. An example of a local initiative is the Optimising Outcomes policy adopted by Cardiff and Vale University Health Board that aims to help patients improve their chances of successful surgery. Evidence shows that smokers are more likely to suffer complications during surgery, have a higher risk of infection and will spend longer in hospital. Weight can also dramatically increase risk levels in a variety of elective surgeries. Patients who smoke or have a high body mass index are referred by their GP to a smoking or weight reduction course and would be expected to complete it before their outpatient appointment.
31. Another area where secondary prevention spend can be identified is in the area of substance misuse. *Working Together to Reduce Harm* is the Welsh Government's 10 year strategy for tackling the harms associated with the misuse of alcohol, drugs and other substances. The strategy is supported by the Substance Misuse Delivery Plan 2013-15 and almost £50m of revenue and capital funding. A new 3 year development plan for 2016-18 is being developed which will set out the specific actions that we will take forward during this period.
32. The Welsh Government invests £32m from our Substance Misuse Action Fund, including £22m which goes to seven Area Planning Boards (APBs) which commission substance misuse services for the region. £5.072m worth of capital funding is also made available to the APBs.
33. In addition, a further £17.1m is ring-fenced for substance misuse services within the health boards' discretionary allocation.

<b>Budget</b>	<b>2015-16 £m</b>
SMAF Revenue APB Allocations	22.663
All Wales Schools Liaison Core Programme	2.200
Operation Tarian	0.500
European related spend, including	0.600

proposed ESF out of work service	
Drug and Alcohol Policy Initiatives	1.012
SMAF Capital APB Allocations	5.072
LHB Ring-Fenced Funding	17.134
<b>Total</b>	<b>49.181</b>

34. In 2013, there were 135 drug misuse deaths (involving illegal drugs) and 208 drug poisoning deaths (involving both legal and illegal drugs) in Wales. The drug misuse deaths were unchanged from 2012 figures, whilst the drug poisoning deaths in Wales decreased by 2.8% from 2012. Both drug misuse and drug poisoning deaths have continued to fall since 2010 when both reached a peak of 162 and 224 respectively.
35. In 2013, there were 467 alcohol related deaths in Wales, a decrease of 7.3% from 2012. The overall number of alcohol related deaths has declined from 541 in 2008, although the year on year trend across this period has been inconsistent.
36. Latest data from 2013/14 shows that 87.2% of all substance misuse clients were referred to treatment within 20 working days. This has risen year on year from 75.2% in 2008/09.

### **PROGRESS ON THE CONSIDERATION AND APPROVAL OF LOCAL HEALTH BOARDS' PLANS FOR 2016-17 TO 2017-18**

37. In accordance with the NHS Finance (Wales) Act 2014 and the NHS Planning Framework (October 2014), all NHS organisations submitted 2015/16 integrated medium term plans by 1 April 2015.
38. Plans have been through a robust challenge and assessment process to test the extent to which they address service priorities, quality, and performance and workforce requirements within the resource envelope that was set out in the 2015/16 approved budget.
39. As Minister for Health and Social Services, I am required to approve plans and will not approve any plans until I can be satisfied that they are fit for purpose.
40. Performance against approved plans will be tracked through Chief Executive and Chair bilateral discussions; Quality, Safety and Delivery meetings; and Joint Executive Team (JET) meetings.
41. Where there is an unacceptable level of variance from the agreed plan, an organisation will be subject to increased monitoring and challenge, support and escalation arrangements and may lose the privileges associated with being part of the Medium Term Planning regime.

42. The organisations without approved plans recognise their specific challenges and are committed to continuous improvement of their planning approach and aim to develop robust IMTPs for entry into the 2016/17 cycle. It is anticipated that each organisation will need tailored support over the next 6-12 months to ensure progress is made in developing plans that meet the requirements of the NHS Planning Framework.
43. An update will be provided at the meeting.

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## Health and Social Care Committee

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Meeting Venue: **Committee Room 3 – Senedd**

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Meeting date: **Thursday, 21 May 2015**

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Meeting time: **09.05 – 12.38**

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<http://senedd.tv/en/3018>

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### Concise Minutes:

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#### Assembly Members:

**David Rees AM (Chair)**  
**Alun Davies AM**  
**Janet Finch–Saunders AM**  
**John Griffiths AM**  
**Elin Jones AM**  
**Darren Millar AM**  
**Gwyn R Price AM**  
**Lindsay Whittle AM**  
**Kirsty Williams AM**

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#### Witnesses:

**Professor Sally Holland, Children’s Commissioner for Wales**  
**Hywel Dafydd, Children’s Commissioner for Wales**  
**Samantha Clutton, Barnardo’s Cymru**  
**Cecile Gwilym, NSPCC Wales**  
**Catriona Williams, Children in Wales**  
**Kate Chamberlain, Healthcare Inspectorate Wales**  
**Nia Roberts, Healthcare Inspectorate Wales**  
**Lin Slater, Aneurin Bevan University Health Board**  
**Lynda Williams, Cwm Taf University Health Board**

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#### Committee Staff:

**Llinos Madeley (Clerk)**  
**Helen Finlayson (Second Clerk)**

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Catherine Hunt (Second Clerk)  
Sian Giddins (Deputy Clerk)  
Enrico Carpanini (Legal Adviser)  
Gwyn Griffiths (Legal Adviser)  
Gareth Howells (Legal Adviser)  
Joanest Varney–Jackson (Legal Adviser)  
Stephen Boyce (Researcher)  
Amy Clifton (Researcher)

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## Transcript

View the [meeting transcript](#).

### **1 Safe Nurse Staffing Levels (Wales) Bill: discussion on order of consideration for Stage 2 proceedings**

1.1 The Committee agreed, in principle, the order of consideration for Stage 2 proceedings of the Safe Nurse Staffing Levels (Wales) Bill.

### **2 Introductions, apologies and substitutions**

2.1 Apologies were received from Lynne Neagle.

### **3 Regulation and Inspection of Social Care (Wales) Bill: evidence session 13**

3.1 The witnesses responded to questions from Members.

3.2 The Children’s Commissioner agreed to provide the Committee with:

- the findings from the Commissioners review of the commissioning of advocacy services; and
- her views on section 57 of the Bill on local authorities functions in relation to looked after and accommodated children.

### **4 Regulation and Inspection of Social Care (Wales) Bill: evidence session 14**

4.1 The witnesses responded to questions from Members.

4.2 Catriona Williams and Cecile Gwilym agreed to provide the Committee with their views on whether the definition of a social care worker in the Bill is sufficiently clear.

4.3 Samantha Clutton and Cecile Gwilym agreed to provide the Committee with their views on how the Bill could be strengthened in relation to the commissioning of services by local authorities.

## **5 Regulation and Inspection of Social Care (Wales) Bill: evidence session 15**

5.1 The witnesses responded to questions from Members.

## **6 Regulation and Inspection of Social Care (Wales) Bill: evidence session 16**

6.1 The witnesses responded to questions from Members.

## **7 Papers to note**

7.1 Regulation and Inspection of Social Care (Wales) Bill: correspondence from the Children, Young People and Education Committee

7.1a The Committee noted the correspondence.

## **8 Motion under Standing Order 17.42(vi) to resolve to exclude the public from the remainder of the meeting**

8.1 The motion was agreed.

## **9 Regulation and Inspection of Social Care (Wales) Bill: consideration of evidence**

9.1 The Committee considered the evidence received.

9.2 The Committee agreed to write to foster careers organisations to seek their views on extending registration with Social Care Wales to foster careers.

## **10 Public Health (Wales) Bill: preparation for scrutiny**

10.1 The Committee noted the Business Committee's decision in principle to refer the Bill to the Health and Social Care Committee for Stage 1 and Stage 2 scrutiny and agreed to write to the Business Committee to indicate that it had significant concerns about the proposed timetable and the pressure it would place on its workload.

10.2 The Committee also agreed to ask the Business Committee to extend the proposed deadline for Stage 1 scrutiny of the Bill by two weeks to accommodate other work commitments.



# Health and Social Care Committee

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Meeting Venue: **Committee Room 1 – Senedd**

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Meeting date: **Wednesday, 3 June 2015**

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Meeting time: **10.00 – 11.34**

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<http://senedd.tv/en/3010>

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## Concise Minutes:

### Assembly Members:

**David Rees AM (Chair)**  
**Alun Davies AM**  
**John Griffiths AM**  
**Mike Hedges AM**  
**Altaf Hussain AM**  
**Elin Jones AM**  
**Darren Millar AM**  
**Gwyn R Price AM**  
**Lindsay Whittle AM**

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### Witnesses:

**Mark Drakeford AM, The Minister for Health and Social Services**  
**David Pritchard, Welsh Government**  
**Kate Johnson, Welsh Government**  
**Mari Williams, Welsh Government**

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### Committee Staff:

**Helen Finlayson (Second Clerk)**  
**Catherine Hunt (Second Clerk)**  
**Rhys Morgan (Deputy Clerk)**  
**Gareth Howells (Legal Adviser)**  
**Gareth Pembridge (Legal Adviser)**  
**Joanest Varney-Jackson (Legal Adviser)**

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## TRANSCRIPT

View the [meeting transcript](#).

### 1 Introductions, apologies and substitutions

1.1 Apologies were received from Lynne Neagle and Kirsty Williams. Mike Hedges substituted for Lynne Neagle.

### 2 Regulation and Inspection of Social Care (Wales) Bill: evidence session 17

2.1 The Minister responded to questions from Members.

2.2 The Minister agreed to:

- provide a note on routes of redress or appeal for service users in relation to eligibility assessments;
- provide a note on research commissioned by the Welsh Government on zero hours contracts, and setting out how the use of zero hours contracts in the social care sector might be addressed through the Bill; and
- write to the Secretary of State for Wales to ascertain the feasibility of introducing appropriate provisions in the Bill to protect individuals who wish to blow the whistle on poor practice which may put other individuals at risk.

### 3 Papers to note

3.1 Minutes of the meeting on 13 May 2015

3.1a The Committee noted the minutes of the meeting on 13 May 2015.

3.2 Regulation and Inspection of Social Care (Wales) Bill: additional information

3.2a The Committee noted the additional information from Carers Trust Wales, Age Cymru, Age Alliance Wales, and the British Association for Adoption and Fostering. It noted that additional information had also been received from the Fostering Network and the Older People's Commissioner for Wales, which would be circulated to Members and published on the Bill webpage.

3.3 Inquiry into the GP workforce in Wales: correspondence from the Minister for Health and Social Services

3.3a The Committee noted the correspondence.

#### **4 Motion under Standing Order 17.42(vi) to resolve to exclude the public from the remainder of the meeting**

4.1 The motion was agreed.

#### **5 Regulation and Inspection of Social Care (Wales) Bill: consideration of evidence**

5.1 The Committee considered the evidence received.

National Assembly for Wales / Cynulliad  
Cenedlaethol Cymru  
[Health and Social Care Committee](#) / [Y Pwyllgor  
Iechyd a Gofal Cymdeithasol](#)

[Regulation and Inspection of Social Care \(Wales\) Bill](#) / [Bil Rheoleiddio  
ac Arolygu Gofal Cymdeithasol \(Cymru\)](#)

Evidence from The Fostering Network – RISC AI 07 / Tystiolaeth gan Y  
Rhwydwaith Maethu – RISC AI 07

David Rees AM  
Chair, Health and Social Services Committee  
National Assembly for Wales  
Cardiff Bay  
CF99 1NA

29<sup>TH</sup> May 2015

Dear David,

**Re: Scrutiny of the Regulation and Inspection of Social Care (Wales) Bill**

Thank you for your letter, dated 22<sup>nd</sup> May 2015, as the new Director for the Fostering Network in Wales, I am pleased to be able to respond to outline the views of the Fostering Network, in relation to the questions raised of future registration of Foster Carers within Social Care Wales.

The Fostering Network has undertaken considerable research into this important question, to ensure that as the leading voice of Foster Care in the UK, we are able to contribute constructively to legislative and policy development. The registration of Foster Carers is an ongoing consideration across the UK and we welcome the focus given to this issue, as part of the scrutiny of the Regulation and Inspection of Social Care (Wales) Bill.

It is our view that there is a balance to be struck in ensuring excellence, whilst not introducing unnecessary regulatory burdens. As such we would be keen to understand the balance between the regulatory focus of Social Care Wales and the improvement responsibilities within this new body.

However, in providing a response to your question The Fostering Network would welcome foster carers being registered with a national body through a national register, as we see it as being advantageous to both foster carers and to local

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t [REDACTED] e [REDACTED] [www.fostering.net](http://www.fostering.net)

authorities. This would bring foster carers in line with residential staff, social workers, childminders, teachers and others.

Introducing such a national register in Wales at a time when there is likely reorganisation of local government may also be very timely and helpful to Foster Carers and the likely new local authorities. A national registration scheme would also create a mechanism which would facilitate the movement of foster carers between fostering services and it would provide a mechanism for foster carers to seek a review of a decision to deregister them.

Foster carers are currently approved by their individual fostering agency and registered with that agency. National registration after approval (via The Skills to Foster as the minimum training requirement) would enhance the status and standing of foster carers and could be a key part of a strategy to transform foster care and the outcomes of children in foster care. National registration after approval with regular updates would offer a safety net and if further training and development was mandatory it would help to build a competent and skilled workforce. A national register should also ensure that information about a foster carer who is or has previously fostered is always passed on to any new fostering service as well as providing the mechanism to improve the portability of approval.

The Fostering Network believes that Foster Carers should be supported to provide excellent care and support for the vulnerable children who come into their care. In doing so the consideration of registering Foster Carers with Social Care Wales is an extremely complex matter, as highlighted by the Children's Commissioner in her evidence to Committee last week. As such registration and the requirements for continuing professional development would need considerable further discussion to determine what would be effective, whilst not being overly burdensome. We would therefore welcome a commitment to a full impact assessment or research being undertaken on this matter prior to any legislation being tabled and would be keen to support this work.

We would welcome further discussions with you as scrutiny progresses and should you require any further information, please don't hesitate to contact me.

Kind Regards



Dr Emily Warren  
Director, The Fostering Network

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[Regulation and Inspection of Social Care \(Wales\) Bill](#) / [Bil Rheoleiddio ac Arolygu Gofal Cymdeithasol \(Cymru\)](#)

Evidence from Older People's Commissioner for Wales - RISC AI 08 / Tystiolaeth gan Comisiynydd Pobl Hŷn Cymru - RISC AI 08

Cambrian Buildings  
Mount Stuart Square  
Cardiff CF10 5FL

Adeiladau Cambrian  
Sgwar Mount Stuart  
Caerdydd CF10 5FL

Prof. Mark Drakeford AM  
Minster for Health and Social Services  
National Assembly for Wales  
Cardiff Bay  
CF99 1NA

28 May 2015

Dear Minster,

**Re: Regulation & Inspection of Social Care (Wales) Bill**

Following my submission of written evidence and recent oral evidence to the Health & Social Care Committee, I thought it would be helpful to summarise in writing some of the main points I raised.

The regulation and inspection of social care has a huge effect on the lives of older people, in particular on those who are more vulnerable and who often struggle to make their voices heard. Given the scale of change and the impact on older people as one of largest users of social care, it is paramount that this Bill ensures that services deliver care, support and wellbeing to older people that keeps them safe but also upholds their rights. Whilst it is a Bill about the system, it is also fundamentally a Bill about people.

Although there is much intent within the proposed Bill that I welcome, there are a number of missed opportunities that still need addressing if the Bill is to match the intent ambition and fundamental change driven by its sister Act, the Social Services and Wellbeing (Wales) Act 2014.

Whilst much of the underpinning detail of the Bill is yet to be seen, there are seven key areas that need further attention if its full intent is to be realised for older people.

- 1. Commissioning** is a significant omission from the proposed Bill. The Bill needs to drive systemic and robust cultural change to help ensure that those responsible for commissioning understand the complex needs of people. A duty must be placed on local authorities and health boards to commission against wellbeing outcomes thereby improving commissioning practices through ensuring greater consistency in care and focus by providers on quality of life. This is clearly set out in my Care Home Review<sup>1</sup> in Requirements for Action (6.1) that specifically referenced the Regulation & Inspection of Social Care legislation.
- 2.** The Bill as it stands does not match the intent or action from Welsh Government in relation to the **integration of health and social care**. Again, this is a significant omission from the proposed Bill. Whilst the forthcoming Green Paper may address integration between health and social care, in my view this is a missed opportunity in terms of consolidating legislation and making it easier to translate law into practice. Without a fully integrated approach to the regulation and inspection of social care, there will continue to be inadequate scrutiny in respect of the quality of life and healthcare of older people.
- 3.** The **definition of 'care'** included in the Bill focusses too heavily on process and tasks, reflecting a functional approach to care. I am concerned that it does not reflect 'quality of life' or the importance of valuing privacy, dignity, choice, rights, independence and fulfilment. A clear and shared understanding of what good care looks like must be a fundamental driver throughout this legislation. If the definition is right, it will enable services to focus on the quality of life and the lived experience of older people rather than on tasks, reducing the currently unacceptable variations in the

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<sup>1</sup> Older People's Commissioner for Wales, A Place to Call Home, A Review into the Quality of Life and Care of Older People Living in Care Homes, 2014

standards of care and increasing focus on quality of life experienced by older people.

4. Requirements for Action (5.7) of my Care Home Review specifically referenced the Bill and called for robust regulation of the care home workforce. **Registration of the social care workforce must be extended** to residential and domiciliary care workers to ensure that older people, many of whom find themselves in a position of vulnerability with little voice and huge difficulty in standing up for their rights, are afforded the same level of safeguarding and protection as any other vulnerable person. Workforce registration, through its link to a mandatory code of practice and mandatory training, can upskill and help professionalise the sector. The proposed Bill does not extend workforce registration nor include mandatory training for the un-registered workforce. This is an area of concern and is a real missed opportunity as it will not address the issue of older people receiving care and support from care staff who do not have the appropriate level of skills, values or competencies.
  
5. The use of **lay assessors in the inspection process** is another omission from the proposed Bill which appeared in the White Paper. Lay assessors are often referred to as 'experts by experience' and they have been proven<sup>2</sup> to offer a different perspective to those working in service regulation and inspection. They can provide insights into the quality of care and life experienced by people and, essentially, the quality of life of older people living in care homes. Regulatory bodies should be open to challenge and lay assessors will help the regulator to see things from the person's point of view, making the inspection process far more robust as a result. Lay assessors are used in social care inspection throughout the UK and, given the expressed willingness by community health councils to participate in care home inspections the proposed Bill must not negate this long held ambition. Whilst the Explanatory Memorandum cites financial cost as a barrier (despite this being a low cost of £43,000 across all social care services), the cost of not addressing issues before they become significant is far greater.
  
6. I have already said that this should be a Bill about people. This legislation must **uphold people's rights** and this should be a fundamental driver

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<sup>2</sup> A Critical Reflection on the Involvement of 'Experts by Experience' in Inspections, British Journal of Social Work, Scourfield, P. (2009)



behind the Bill, shaping the values of the social care sector. There must be a rights based approach reflected throughout the Bill, with the UN Principles on the face of the Bill so that all public bodies must have due regard to the UN Principles for Older Persons when discharging their duties under this Act. Failing to embed a rights based approach at the heart of this legislation will create legislation that falls short of the aspiration of the 2014 Act and is unable to drive the better care, better support and better outcomes that older people have a right to receive.

7. The proposed Bill fails to prevent those who are unfit to own a social care service, such as a care home, from operating here in Wales. Whilst the Bill places a 'fitness to practise' requirement on both the registered workforce and registered individuals but it does not place equivalent requirements on those who own services. It is my view that a **'fitness to own' requirement** should be included on the face of the Bill, allowing individuals who have previously owned services that have failed or are failing due to poor care or financial instability to be prevented from entering the social care sector in Wales.

There is much intent within this Bill that I welcome, however there is still a significant amount of work to do to ensure that the Bill's intent is made real and felt to be real by older people. I do not believe it yet fully addresses all of the issues I've raised in my Care Home Review and the expectations that older people have. I welcome the opportunity to work with you and your officials, whom I am meeting with next week, to ensure that the relevant Requirements for Action made in my Care Home Review are reflected within the Bill where appropriate, and that the potential of this Bill is fully maximised.

Yours sincerely,



**Sarah Rochira**

**Older People's Commissioner for Wales**

C.C. David Rees AM, Chair, Health & Social Care Committee

C.C Andrew Goodall, Director General for Health and Social Services and Chief Executive of NHS Wales





Ein cyf/Our ref LF/MD/0523/15

David Rees AM  
Chair, Health and Social Care Committee

2 June 2015

Dear David

Thank you for your letter of 19 May 2015 regarding the links between the review of Dr Flynn into Operation Jasmine and the Regulation and Inspection of Social Care (Wales) Bill.

I agree that the review's findings are a very important consideration as we develop our regulatory regime. I, together with the First Minister, have met with Dr Flynn on a number of occasions over the past year to hear how her review has been progressing, and to be updated on her thinking into how our systems might need to respond to her findings.

From the outset there were three central ambitions that Dr Flynn and I discussed for legislation based on her work:

- To shift accountability within our legislative system, so that those who own and gain from providing services are held accountable for them.
- That our legislative system must allow action by regulators to go beyond a single setting or service, so that poor providers can be removed from the register in totality.
- To place in statute, the access of users and families to information about the services and care that they or their loved ones receive.

I believe the Bill tackles these core issues head on, providing significant reform to how we regulate social care in Wales.

As you may be aware, Dr Flynn wrote to the First Minister in December 2014 outlining some of her more detailed ambitions in the area of legislation. This letter built on previous conversations and represented, as Dr Flynn suggested, a potential agenda for future consideration.

These ambitions and others will be reflected in Dr Flynn's review, scheduled to be published in the first half of July. I will happily write to the Committee again following that publication to detail how I believe this bill is meeting the recommendations that Dr Flynn may set out in her report.

*Best wishes.*

*Mark*

**Mark Drakeford AC / AM**

Y Gweinidog Iechyd a Gwasanaethau Cymdeithasol

Minister for Health and Social Services



Evidence from Mark Drakeford AM, Member in charge of the Regulation  
and Inspection of Social Care (Wales) Bill - RISC AI 12 / Tystiolaeth gan  
Mark Drakeford AC, yr Aelod sy'n Gyfrifol am y Bil Rheoleiddio ac  
Arolygu Gofal Cymdeithasol (Cymru) - RISC AI 12

Ein cyf/Our ref: LF/MD/0569/15

David Rees AM  
Chair of the Health and Social Care Committee  
National Assembly for Wales  
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[David.rees@assembly.wales](mailto:David.rees@assembly.wales)

*Dear David,*

10 June 2015

### **Regulation and Inspection of Social Care (Wales) Bill**

I would like to thank you and the Committee for the further opportunity to discuss the Regulation and Inspection of Social Care (Wales) Bill on 3 June 2015.

I am pleased to provide the Committee with information on the following issues which were raised during the session:

- a.) The inclusion of a provision on whistleblowing in the Bill and discussions with the UK Government on the wording of such a provision; and
- b.) The right of appeal for an individual regarding decisions relating to their eligibility to receive care and support services (and support services for carers).

In respect of the matter of whistleblowing, I can confirm that, during the passage of the Social Services and Well-being Act 2014, the Welsh Government made a commitment to consider whistle-blowing in social care within the legislative framework established by the Regulation and Inspection Bill. Members will recall that commitment followed the tabling of an amendment from William Graham.

In response to a question by the Committee on 3 June 2015, I confirmed that commitment. I also outlined my intention to make provision pursuant to the regulation making power in section 26 of the Bill which will place a duty on service providers to ensure that they have adequate policies and procedures in place with regard to whistleblowing. Furthermore, the guidance which will be issued pursuant to section 28 of the Bill would then set out more detail in terms of what is expected from those policies and procedures. This is consistent with the approach taken in the Bill generally that all of the key duties which are to be placed on service providers will be achieved via the regulations under section 26 and section 27 of the Bill.

In relation to the question of competence, previous legal advice regarding proposed amendments to the Employment Rights Act 1996 via the Social Services and Well-being (Wales) Act 2014 has been clear that those amendments would have been outside the National Assembly for Wales' competence.

While in Committee, I made a suggestion to write to the Secretary of State regarding this issue, to which Darren Millar replied:

*"I don't think that we're suggesting that you write to request that dispensation be given to the Welsh Government to make changes to employment law; we're simply asking you to have a discussion about whether there's an appropriate section that can be introduced to the Bill that protects individuals who want to blow the whistle on poor practice that may be putting individuals at risk. I think that's an entirely different proposition that you can make to the Wales Office and the UK Government, and I would suggest that that is the way in which you might want to approach it."*

I have considered the matter further following the Committee. When questions of competence arise, Ministers take advice from Welsh Government advisors. Decisions are taken in light of this advice and it is the Supreme Court who will make the ultimate judgement should the Bill be referred there, after its passing, by the Attorney General or the Counsel General. Enquiring about the Secretary of State's view on the Assembly's competence to legislate in relation to particular issues will not take matters forward and I consider that there is a better approach to take. My officials will continue to discuss policy matters related to the provisions in this Bill with their counterparts in Whitehall and through these discussions will cover our policy approach in relation to whistleblowing as outlined above. This, I feel, is in line with the discussion at Committee and is a better way to direct efforts in this important area.

In addition, I am keen to support the Committee further in this area. Whilst members will be aware that it is not possible to have a definitive answer on whether 'whistleblowing' is in competence, it is possible to consider specific proposals in this way. Questions of competence will always depend on the particular provision in question and therefore any discussion about competence can only be had with reference to a specific provision which might be included in the Bill. If the Committee does have a specific legislative proposal in relation to whistleblowing I confirm that I will share with the committee the Welsh Government's view on whether the provision in question would be within competence.

The Committee has requested that I provide further detail on eligibility and routes of redress for service users and carers. I am happy to do so – and this is set out below - but would take the opportunity to clarify that this is not something which would be appropriate to incorporate within this Bill as it is a matter for the Social Services and Well-being (Wales) Act 2014. By way of background, provision in relation to eligibility is set out in section 32 of the 2014 Act and the determination of eligibility criteria is set out in regulations made pursuant to the power in section 32(3). Those Care and Support (Eligibility) (Wales) Regulations 2015 are subject to the super-affirmative procedure and are currently undergoing the full scrutiny of the Assembly since they were laid on 8 May.

The 2014 Act, its accompanying regulations and the Code of Practice to be issued on Part 3 of the Act: *Assessing the Needs of Individuals*, (a copy of which can be found at: <http://gov.wales/docs/dhss/publications/150508code3en.pdf>) do not make any special provision for a system of appeal against decisions on eligibility. This is deliberate and for good reason because the duties which are being placed upon local authorities means that their approach must be one of assessment, re-assessment and review rather than a blunt decision between eligibility or ineligibility.



Under the 2014 Act people are part of the assessment process rather than passive recipients and the code emphasises our commitment to a partnership, co-production approach in helping people meet their well being outcomes. People have the right for an assessment to be reviewed (sections 19, 21 and 24 of the 2014 Act) and the process is straightforward and can be triggered quickly and without additional bureaucracy. This applies equally to everyone, including carers.

The 2014 Act provides that the appearance of a need for care and support is sufficient to place a legal requirement on a local authority to undertake an assessment of an individual's care and support needs. In all cases – whether an individual is deemed eligible or not - the local authority must include an explanation of how the recommended action (be it the provision of information, advice or assistance, a care and support plan, or other means) will help meet the identified outcome or otherwise meet needs identified by the assessment. The code extends this duty by requiring that a review of an assessment must be undertaken where the previous assessment has not fully addressed the person's care and support needs, or where there has been a change in the person's circumstances.

Where, through assessment, a local authority decides that a need will not be met by a care and support plan it must set out clearly in the record of the assessment how the proposed action will help the person achieve their personal well-being outcomes. This requirement has been included in the updated version of the Care and Support (Assessment) (Wales) Regulations 2015.

Should someone feel that the care service they are receiving is not meeting their needs they, or their representative, can request a review of that service and/or a re-assessment of their needs at any time. As a last resort anyone who feels the local authority is not meeting its statutory duties, or who is dissatisfied with the service they are receiving, has recourse through the local authority's complaint procedure.

I hope that the information provided in this letter answers the questions raised by Committee members and I look forward to answering any further questions from members in due course.

Best wishes  
Mark

**Mark Drakeford AC / AM**  
Y Gweinidog Iechyd a Gwasanaethau Cymdeithasol  
Minister for Health and Social Services

National Assembly for Wales / Cynulliad Cenedlaethol Cymru  
[Health and Social Care Committee / Y Pwyllgor Iechyd a Gofal Cymdeithasol](#)

[Regulation and Inspection of Social Care \(Wales\) Bill / Bil Rheoleiddio ac Arolygu Gofal Cymdeithasol \(Cymru\)](#)

Evidence from Children in Wales- RISC AI 10 / Tystiolaeth gan Plant yng Nghymru – RISC AI 10

In response to your query, regarding the Regulation and Inspection of Social Care (Wales) Bill, please find below our views on whether the definition of a social care worker in the Bill is sufficiently clear.

We believe that the definition as stated on the face of the Bill is suitable at this point in time. However, as stated in my evidence, we would like to see over time a recognition that the workforce interfacing with vulnerable children is varied and regulated by different bodies. A more joined up approach between the regulators would be welcome in the future. We do not therefore see it as wise to extend registration to more individuals such as foster carers at present as it could reduce services available to children.

2. Could the Bill be strengthened in relation to regulating the commissioning of services by local authorities?

We agree that the quality of the services will ultimately depend on the quality of the commissioning. For instance quality assuring commissioning in relation to implementation of the UNCRC/child development etc is essential so we would like to see it strengthened.

Kindest Regards

Catriona

**CATRIONA WILLIAMS OBE**

Chief Executive  
Children in Wales



National Assembly for Wales / Cynulliad Cenedlaethol Cymru  
[Health and Social Care Committee](#) / [Y Pwyllgor Iechyd a Gofal Cymdeithasol](#)

[Regulation and Inspection of Social Care \(Wales\) Bill](#) / [Bil Rheoleiddio ac Arolygu Gofal Cymdeithasol \(Cymru\)](#)

Evidence from NSPCC Wales – RISC AI 11 / Tystiolaeth gan NSPCC Cymru – RISC AI 11

## **NSPCC CYMRU/WALES BRIEFING NOTE:**

**National Assembly for Wales  
Health and Social Care Committee  
Regulation and Inspection of Social Care (Wales) Bill 2015  
Oral evidence follow-up**

### **1. Is the definition of social care worker on the face of the Bill sufficiently clear?**

NSPCC Cymru/Wales feels the definition placed on the face of the Bill is clear and wide enough.

We support the Welsh Government's intention to ensure that those working with vulnerable adults and children are properly qualified and checked through the registration process. However, we would urge caution about over extending registration to a large number of care and support professionals: this could act as an obstacle to the involvement of new people into the provision of care and support and could reduce innovation.

### **2. Could the Bill be strengthened in relation to regulating the commissioning of services by local authorities?**

This is not an area of expertise for NSPCC Cymru/Wales as the services we provide are done so independently of the commissioning process and are funded by public donations. We will therefore not comment extensively on this.

David Rees AM  
Chair, Health and Social Care Committee

11 June 2015

Dear David,

### **Regulation and Inspection of Social Care (Wales) Bill**

As the Chair of the Committee considering Stage 1 scrutiny of the Regulation and Inspection of Social Care (Wales) Bill (“the Bill”), I hope you will find the information provided in this letter useful as part of your consideration of the Bill.

At its meeting on 13 May 2015, the Finance Committee (“the Committee”) considered the wider financial implications of the Bill and took evidence from the Member in Charge, Mark Drakeford AM, Minister for Health and Social Services (“the Minister”). A copy of the transcript is available here:

<http://www.senedd.assembly.wales/documents/s40229/13%20May%202015%20-%20Draft.pdf>

### ***Evidence from the Minister***

Prior to the evidence session, the Minister provided the Committee with an update to the Regulatory Impact Assessment (“RIA”) in three areas, including the overall cost of the Bill (letter attached at Annexe A). These included:

- Dual registration;
- Due diligence of key providers; and
- Social Care Wales.

The Minister stated that these changes would be incorporated in the RIA when it was revised after Stage 2 proceedings (subject to the Bill progressing to this stage).

The Committee questioned the Minister about the concerns expressed in consultation responses that the current financial and resource pressures could be



the biggest barrier to implementing the Bill. The Minister confirmed the current system of regulation and inspection costs £34 million a year and that the new system would cost an additional £1.5 million a year (or 4 per cent more). Therefore, the Minister did not believe the costs involved in the Bill to be “unmanageable”. He said if the financial situation changed he would have to weigh up whether he could afford to bring certain parts of the Bill onstream earlier or whether he “would have to push them a bit further back until we could afford them”.

In a letter to your Committee, the Auditor General for Wales (“Auditor General”) said the RIA was potentially misleading in the way it displayed monetised benefits. In response, the Minister said “it’s an absolutely standard way of doing things”. However, he agreed to look at the Auditor General’s comments and if there was a better method he would consider using this in future.

The Auditor General also referred to the appropriateness of the five year time period over which to analyse costs. The Minister believed this timeframe to have “reasonable certainty over those costs” and felt that beyond five years the level of costs could become too unreliable to account for.

On the issue of subordinate legislation, the Committee noted that the RIA detailed two provisions that would give Welsh Ministers powers to make subordinate legislation that had not been costed (protection of title and prohibition orders). The Minister confirmed the Bill had been used as an opportunity to include subordinate legislation powers that could be used in the future but that he did not currently “have an intention to use”. The Minister said where he intends to “move ahead with a policy” he had provided a detailed account in the RIA of what the cost of subordinate legislation would be. However, he confirmed there was a second group of subordinate legislation powers in the Bill, where he didn’t “have an immediate intention to move on those things” and therefore these costs were not included in the RIA.

The Minister considered the transitional costs for Care and Social Services Inspectorate Wales (“CSSIW”) to be robust. He said there were three major components in the transitional costs including the move to a service model of registration; training and information across the whole sector and IT changes. He said the £2.1 million allocated “is as accurate as we can make it at this point” but confirmed he would continue discussions with CSSIW and if necessary costs could be refined as the Bill changes through the Assembly’s scrutiny process.

In relation to transitional costs for Social Care Wales (currently known as the Care Council for Wales) of £100,000, the Minister confirmed this had been based on a recent example in the education sector. The Minister agreed to provide a more detailed breakdown of the £100,000 cost but said it “might be slightly later in the process”. The Minister said that should transitional costs rise, he had a budget line available from the Social Services and Well-being (Wales) Act 2014 that he would be able to draw upon and said “it would not be unreasonable to use a small amount of that for the implementation of its companion Act”.



### ***Our view***

The Committee notes the Minister's assertion that the new system would cost an additional £1.5 million a year, in comparison to the existing system. The Committee is pleased that the Minister is in continuous discussions with the CSSIW and the Care Council for Wales (which is to become Social Care Wales) and has given a commitment to consider updating the financial implications of the Bill as discussions and the scrutiny process progresses.

The Committee believes that basing the costs over a five year period gives reasonable certainty and agrees with the Minister that a longer timeframe could make costs unreliable. The Committee also notes that a five year period is in-line with other Government Bills.

The Committee is also reassured that the Minister has a budget line from the Social Services and Well-being (Wales) 2014 Act that could be used if transition costs rise.

However, the Committee is concerned that there are two provisions that would give Welsh Ministers powers to make subordinate legislation that have not been costed, the protection of title and prohibition orders. The Committee believes that all costs in relation to legislation should be accounted for, whether the intention is to use these or not.

I hope this information is helpful to your Committee's considerations and I look forward to the Bill's Stage 1 Plenary debate.

Yours sincerely,



**Jocelyn Davies AM  
Committee Chair**

**cc Minister for Health and Social Services**



Mark Drakeford AC / AM  
Y Gweinidog Iechyd a Gwasanaethau Cymdeithasol  
Minister for Health and Social Services



Llywodraeth Cymru  
Welsh Government

Ein cyf/Our ref LF/MD/0460/15

Jocelyn Davies AM  
Chair  
The Finance Committee

[Jocelyn.davies@assembly.wales](mailto:Jocelyn.davies@assembly.wales)

*Dear Jocelyn,*

5 May 2015

**Regulation and Inspection of Social Care (Wales) Bill – Finance Committee**

Thank you for inviting me to attend the Finance Committee on 13 May 2015 to discuss the Regulation and Inspection of Social Care (Wales) Bill.

The Regulatory Impact Assessment which accompanies the Bill sets out options for twenty policy areas addressed by the Bill. For each of the options, the costs and benefits to relevant stakeholder groups are discussed. My officials worked with stakeholders to ensure the estimates and their underlying assumptions are evidence-based.

My officials continue to keep the Regulatory Impact Assessment under review and have drawn my attention to three areas in which updating will be required. The enclosed appendix provides the details of these together with their impact on the overall cost of the Bill. These changes will be incorporated in the Regulatory Impact Assessment when it is revised after Stage 2 proceedings.

I trust this information will assist Members in their scrutiny of the Regulation and Inspection of Social Care (Wales) Bill. If you or any Members require further information, please do not hesitate to contact me.

*Best wishes,*

*Mark*

Mark Drakeford AC / AM  
Y Gweinidog Iechyd a Gwasanaethau Cymdeithasol  
Minister for Health and Social Services

## Amendments made to the RIA

### 1. Dual registration

Managers are currently required to register with both the workforce regulator and the service regulator. Option one sets out the costs for maintaining the existing system of dual registration (see table 27, page 228) and option two sets out the preferred option of requiring managers to only register with the workforce regulator (see table 28, page 230).

Table 27 will be updated to reflect more accurately the estimated costs with the existing system of dual registration. The cost in 2016/17 has been increased to £324,900. This cost includes an additional £6,125 which has been moved from 2017/18 to more accurately reflect the cost of the existing system in 2016/17 (see table 27 below). There is no cost to years 2018-19 to 2020-21.

**Table 27: revised summary of costs associated with maintaining dual registration**

	2016-17	2017-18	2018-19	2019-20	2020-21
Service regulator					
Workforce regulator	143,000	143,000	143,000	143,000	143,000
Managers with outstanding service regulator applications	12,500	0	0	0	0
Managers making fresh applications to the service regulator	63,800	63,800	63,800	63,800	63,800
Managers making fresh applications to the workforce regulator	33,100	33,100	33,100	33,100	33,100
Ongoing costs for managers to remain registered with the workforce regulator	72,500	72,500	72,500	72,500	72,500
<b>Total cost</b>	<b>324,900</b>	<b>312,400</b>	<b>312,400</b>	<b>312,400</b>	<b>312,400</b>

Table 28 will be updated to reflect more accurately the estimated costs for managers, as set out in the regulatory impact assessment, where they are required to register only with the workforce regulator. The cost for managers for 2016-17 has increased by £6,425 from £175,475 to £181,900 and the cost to managers has been increased from by £41,800 from £63,800 per year to £105,600 per each of the years 2017-18 to 2020-21 (see table 28 below).

**Table 28: revised summary of estimated costs and benefits associated with removing dual registration**

	2016-17	2017-18	2018-19	2019-20	2020-21
Service regulator					
Workforce regulator					
Transition	1,800				
Ongoing	143,000	165,500	165,500	165,500	165,500
Managers	181,900	105,600	105,600	105,600	105,600
<b>Total cost</b>	<b>326,700</b>	<b>271,100</b>	<b>271,100</b>	<b>271,100</b>	<b>271,100</b>

## 2. Due diligence of key providers

Option one sets out potential costs associated with the disorderly closure of care providers. Paragraphs 7.462 to 7.467 set out the costs to service users, where a large care home closes in a disorderly manner. The total cost to services users is estimated to be £923,000. An assumption has been made that only one large provider is likely to exit the market in a disorderly manner every 10 years. Thus, the cost to service users is £92,300 per annum.

Option two sets out the costs and benefits of introducing due diligence of key providers. Undertaking due diligence aims to prevent disorderly closures of care providers and, in turn, to prevent the associated costs being incurred. For service users, the introduction of due diligence should reduce the risk of incurring costs of £92,300 to zero. Thus, there is no cost to service users, resulting in a saving of £92,300 per annum. Rather than a stated cost of zero to service users, tables 42 and 43 (see pages 279-287 of the regulatory impact assessment) have a stated cost of -£92,300. This has resulted in the potential savings over the five year period 2016/17 to 2020/21 being stated as £738,400 rather than the intended estimate of £369,200.

## 3. Social Care Wales

Table 39 sets out the current grant funding of £19,458,575 for workforce regulation and improvement, research and service improvement. This grant funding will be used to fund Social Care Wales, as set out in table 40.

This information is not presented accurately in the summary tables 42 and 43, which state the cost to public finance is £19,147,575. This figure will be amended to read £19,458,575. Whilst this has an impact on the total ongoing cost and the total cost of implementing Social Care Wales, it has no impact on the additional cost of implementing the preferred options set out in the regulatory impact assessment.

Summary tables 42 and 43 will be updated to take account of the changes outlined above. The amended totals are set out in the table below.

## Total costs

	2016/17		2017/18	2018/19	2019/20	2020/21			
	Do nothing		Introduce preferred option						
	Ongoing	Total 5 years - do nothing	Transition	Ongoing	Ongoing	Ongoing	Ongoing	Total 5 years - preferred option	Cost difference
<b>Original figures</b>	33,981,085	169,905,425	3,357,412	35,382,513	35,376,388	35,376,388	35,376,388	178,850,174	8,944,749
<b>Amended figures</b>	34,298,510	171,492,550	3,357,412	35,821,488	35,821,488	35,821,488	35,821,488	180,941,874	9,449,324



# Agenda Item 9

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