

**Y Pwyllgor Iechyd a
Gofal Cymdeithasol**

**Health and Social Care
Committee**

**Y Pwyllgor Cyfrifon Cyhoeddus a
Gweinyddiaeth Gyhoeddus**

**Public Accounts and Public
Administration Committee**

Julie Morgan MS
Deputy Minister for Social Services
Welsh Government

13 July 2023

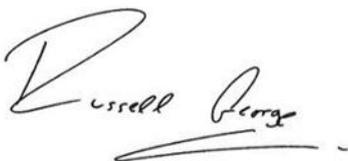
Dear Julie

Evaluation of the Social Services and Well-being (Wales) Act 2014

On Thursday 25 May 2023 the Health and Social Care and Public Accounts and Public Administration Committees held a concurrent session to discuss with academics the evaluation of the Social Services and Well-being (Wales) Act 2014. Following the evidence session, Members agreed to write to you on a number of issues outlined in the annex to this letter.

We are aware that the Welsh Government is currently consulting on proposed changes to the Code of Practice and regulations as part of the Rebalancing Care and Support Programme, and believe this work presents a prime opportunity to address issues raised in the evaluation and session with experts. We recognise that you will need time to consider the consultation responses but would appreciate assurances that you will take our points into account in developing the proposals and would be grateful for a more detailed response at an appropriate time following the close of the consultation.

Yours sincerely



Russell George MS
Chair, Health and Social Care Committee



Mark Isherwood MS
Chair, Public Accounts and Public
Administration Committee

Croesewir gohebiaeth yn Gymraeg neu Saesneg. We welcome correspondence in Welsh or English.

Annex: issues arising from discussion of the evaluation of the Social Services and Well-being (Wales) Act 2014 with academics on 25 May 2023

Following the Committees' [discussion of the evaluation of the Social Services and Well-being \(Wales\) Act 2014](#) with academics on 25 May 2023, Members agreed to write to you on the issues set out below.

Evaluation of the Act

The Social Services and Well-being (Wales) Act 2014 was intended to transform social services and provide a new legal framework for improving the wellbeing of children and adults who need care and support, and unpaid carers. However, the evaluation suggests that “the journey towards the realisation of the ambitious aim of the Act is not complete”, and highlights areas in need of improvement, particularly service users’ and carers’ experiences of social services.

We commend the Welsh Government for commissioning this independent evaluation. But, we believe this important and extensive evaluation study requires a fuller, more detailed response by the Welsh Government than the brief statement issued on publication of the report.

1. Will the Welsh Government provide a comprehensive response to the evaluation, explaining the actions it intends to take to address the findings and if so what are the timescales for this?
2. The evaluation was a substantial piece of work involving service users and carers and sector stakeholders. How will ‘what happens next’ be communicated to these groups?
3. More broadly in terms of the approach the Welsh Government takes to reviewing and evaluating its legislation, what lessons have been learned from the approach to the evaluation of this Act?
4. Will the Welsh Government consider the need for monitoring and evaluation to be inbuilt into each body covered by the Social Services and Well-being (Wales) Act 2014.

Test questions to the sector

The final evaluation report includes open test questions for the sector to contemplate. It says these questions can be a vehicle to support dialogue amongst stakeholders in order to invigorate and revitalise the vision the Act lays out post-COVID.

We want to see these questions utilised and addressed by the Welsh Government and the sector, and we support Professor Mark Llewellyn’s suggestion that the test questions should be incorporated into inspections.

5. Please set out how these test questions have been incorporated into the consultation on the rebalancing care and support programme.
6. What further action will the Welsh Government take to improve the areas identified in the 19 test questions? Do you agree with the suggestion to incorporate them into inspections?

Guidance

In evidence to the Committees, Professor Luke Clements highlighted the lack of detail in the guidance for the Act. He told us that "it is incontestable that the overall depth and detail of the guidance provided in England to the Care Act 2014 is more informative and accessible than that provided in Wales to its 2014 Act."¹ He goes on to say:

*"It is simply unacceptable for a legislature to enact major rights based social welfare legislation of this kind and for the Government to fail (due to lack of ability, resources or otherwise) to provide the detailed guidance and other materials necessary to ensure that the legislation has its intended impact at the coalface."*²

Professor Clements gives the example of the Code that contains the guidance on Direct Payments: the relevant section runs to 10 pages (just under 4,000 words), which is half the length of the guidance on the same topic in England. He also notes that the previous (2011) Welsh Assembly Guidance on Direct Payments (that the Code replaces) ran to 81 pages (and just over 27,000 words). He says the lack of detail and clarity impairs the ability of local government to implement the legislation as intended.

Dr Alison Tarrant told us that the guidance could contain a much more structured discussion of the social model of disability, which would be helpful to promote disabled people's rights.

We believe the consultation provides an opportunity to address some of these issues.

7. Will the proposed changes to the Codes of Practice currently being consulted on help to bring more clarity and detail to the guidance?
8. Will the Welsh Government consider taking this opportunity to make further revisions to the Codes of Practice to ensure they provide the necessary detail?

Co-production

It is clear from the evaluation that the Act's core principles, around delivering voice and control and co-production to individuals so that they are equal partners in their care, are not consistently being

¹ [HSC Committee, 25 May 2023, Paper 3](#)

² [ibid](#)

achieved. The final evaluation report concludes “making voice and control a ‘reality’ for everyone should be prioritised, which could be addressed through investing in advocacy, alongside working with and investing in, the expertise of community-anchored organisations.”³

Dr Alison Tarrant told us this is a classic example of where the guidance is problematic, as:

It does not instruct local authorities or individuals seeking support or using support. It doesn't give any indication of what co-production is. You cannot do co-production, for want of a better phrase, if you don't know what it is, and there is no proper definition.”⁴

Therefore, we are pleased to see that proposed changes to the Code of Practice aim to give greater prominence to the need for co-production with service users and carers in the design and delivery of care and support and preventative services.

9. Building on the findings of the evaluation, how will you ensure that service users and unpaid carers are true partners in the design and delivery of the services they receive? Are you confident the proposed changes do enough to ensure the Code sets out clear expectations of how to achieve co-production in practice?
10. Is the Welsh Government willing to provide further investment in advocacy services to help prioritise voice and control, as recommended in the final evaluation report? Furthermore, how will you ensure that such advocacy services include the specialist/lived-experience understanding of particular conditions - including neurodiversity, sensory loss, cognitive impairment and learning disability - necessary for them to represent the diverse needs of people?

Experiences of Black, Asian and Minority Ethnic service users and carers

We were very concerned by the findings of the report on the experiences of Black, Asian and Minority Ethnic service users and carers, particularly the view that “on too many occasions, the colour of their skin had been a consideration in their interactions with the system.” Professor Mark Llewellyn acknowledged the limitations of the study but noted that the work was done in partnership with EYST Wales, who felt very strongly that this was reflective of broader trends that they were aware of.

11. What action is the Welsh Government taking to address the experiences of service users and carers from ethnic minority backgrounds in particular?

³ Final report: evaluation of the Social Services and Well-being (Wales) Act 2014

⁴⁴ RoP [para 316], 25 May 2023.

Direct payments

There remain a number of ongoing problems around the use of direct payments in Wales, including low take up and a lack of awareness of entitlement to direct payments among social care users. The evaluation report concludes it is important to provide support and promotion of direct payments alongside the development of innovative and alternative models of citizen-directed support.

Professor Mark Llewellyn told us “We have a pretty singular option around direct payments as they are at the moment.”

12. What action has been taken, or is planned to implement the recommendations relating to direct payments set out in the “Voice and Control”⁵ research that supports the final evaluation report?

Social enterprises

According to Professor Luke Clements “One of the most innovative provisions in the 2014 Act concerns the requirement in section 16 that local authorities promote the development in their areas of third sector organisations (including social enterprises and co-operatives) that can provide relevant services.”⁶

However, in December 2022, Audit Wales⁷ found that most local authorities are not delivering their responsibilities under the Act to effectively promote social enterprises. Its overall conclusion is that local authorities are not effectively working with social enterprises to maximise their impact, make better use of resources and improve services for people and communities.

13. How will the changes proposed to Chapter 4 of the Code ensure that local authorities work with social enterprises to maximise their impact, make better use of resources, and improve services for people and communities?

Eligibility criteria regulations

The process evaluation report (from the evaluation study) sets out a view from the workforce that statutory care services are “reactive” and “a last resort” and not early intervention oriented. There were comments that the threshold for support is too high, and clients have to wait until “needs are higher or in crisis before being able to access direct support.”⁸

⁵ [Voice and Control: Research to support the Final Report of the Evaluation of the Social Services and Wellbeing \(Wales\) Act 2014](#)

⁶ [HSC Committee, 25 May 2023, Paper 3](#)

⁷ [Audit Wales, ‘A missed opportunity’ – Social Enterprises, December 2022](#)

⁸ [Evaluation of the Implementation of the Social Services and Well-being \(Wales\) Act: Process Evaluation – Report](#)

According to Dr Alison Tarrant, the “eligibility criteria are very problematic.”⁹ As the criteria establish that a person is only eligible for care if (among other things) they cannot meet their personal needs alone, with the support of others, or through existing community services. She says, “In other words, in Wales social care is legally expressed as a ‘last resort’, to be used only where other options are not available.”¹⁰

Dr Tarrant gives the example, if a disabled person can complete the tasks of a morning routine without support but is left with so little time and is so fatigued that their ability to carry out further activities is curtailed, independent living and social contribution are denied. She notes that it is also important to acknowledge that informal support and generic services do not necessarily enable, and may actually negate, independent living.

14. Professor Luke Clements also told us that stringent eligibility criteria leave many in need of care and support with no services or inadequate services to meet their needs, and dependent on unpaid carers. What is the Welsh Government’s response to the findings of the evaluation and above comments on the eligibility criteria?

15. Would the Welsh Government consider amending the regulations, or undertaking further work to determine whether the regulations are fit for purpose? If so, what are the plans for undertaking this work.

Unpaid carers

We continue to be concerned about the pressures unpaid carers are facing. The evaluation report found that carers “too often feel that they are unable to have their voice heard, listened to and acted upon”.¹¹ It identifies that more needs to be done to support unpaid carers as a priority.

The ‘Measuring the Mountain’¹² project, commissioned by the Welsh Government to evaluate experiences of social care in 2020, reached similar conclusions.

16. What will the Welsh Government do to address the findings of the evaluation on unpaid carers?

⁹ [RoP \[para 275\], 25 May 2023](#)

¹⁰ [HSC PSS 92, Consultation on Sixth Senedd Priorities, Response from Dr Alison Tarrant](#)

¹¹ [Expectations and experiences: service user and carer perspectives on the Social Services and Well-being \(Wales\) Act](#)

¹² [Evaluating people's experiences with social care services](#)