



Health and Social Services Committee consultation on the Social Services and Well-Being (Wales) Bill

Response from Mind Cymru

Introduction

Mind is the leading mental health charity in England and Wales. Mind Cymru is Mind's presence in Wales.

Mind Cymru welcomes the opportunity to contribute to this consultation process. The views expressed within this response are the views of Mind Cymru and are informed by people with direct experience of mental distress.

Mind Cymru is experienced in matters of legislation affecting people with experience of mental health problems, living in Wales. Example of this are the facilitation of 13 events across Wales, in community settings, hospitals, secure units and prisons, to inform the Mental Health Act Code of Practice for Wales 2007, the consultation on Regulations for the Mental Health (Wales) Measure 2010 and the Welsh Government Consultation on this Bill 2012.

Mind Cymru's key messages are that:

- People with experience of mental health problems inform all that we do.
- Because people with mental health problems inform all that we do, we know what the real issues are.
- We are determined to improve society's recognition, understanding and acceptance of people with mental health problems.
- We value diversity and ensure inclusion is at the heart of our work.

General Comments

Mind Cymru welcomes the introduction of the Social Services and Wellbeing (Wales) Bill (the Bill) as it will enable a number of positive developments. We particularly welcome the emphasis on prevention and wellbeing and that of cooperative approaches. However there are still shortcomings which need to be addressed at this stage to enable the Bill to match the aspirations of *Sustainable Social Services: A Framework for Action*.

Mind Cymru is a signatory to the joint response by 25 third sector and citizen organisations, representing the interests of thousands of people with diverse backgrounds across Wales. A summary of this response is contained in Appendix 1, page 8 below.

Our individual response has focussed on some additional aspects of the Bill, highlighting key issues affecting the lives of people with mental health problems.

Overarching Principles

1. Definition of Disability

Mind Cymru supports the need to base the Bill on the principles of the Social Model of Disability (see Appendix 1 point 1).

Mental health problems are often fluctuating, with different individuals experiencing different cycles of good and poor mental health and wellbeing.

They often “fall out” of definitions of disability on the grounds of long-term adverse effect, due to this being given a fixed time interpretation.

1 in 4 people will experience a mental health problem in any one year, however of the number of people in Wales aged 18-64 in receipt of social services on 31 March 2012 those identified as having mental health problems comprised only 6.96%, compared to 39% for those with a learning disability¹.

Building the Bill around the Social Model of Disability will support people with mental health problems access the support they need to break down the barriers they face to maintaining their health and wellbeing.

¹ <https://stats.wales.gov.uk/Catalogue/Health-and-Social-Care/Social-Services/Adult-Services/Service-Provision/AdultsReceivingServices-by-LocalAuthority-ClientCategory-Age> downloaded 2 March 2013

2. Synergy with Existing Legislation and Practice

There is recently introduced new legislation² and strategy³ which support people in Wales with mental health problems. It is vitally important that the Bill complements and enhances opportunities and services for people with mental health problems and is not counter intuitive or counter productive. Currently there is insufficient evidence that these major developments have been taken into account when drafting the Bill.

Mind Cymru asks the Committee to seek evidence based assurance that both The Mental Health (Wales) Measure 2010 and Together for Mental Health have been fully considered and have informed the Bill, and will inform the Code of Practice and Regulations.

2. Wellbeing

Mind Cymru sees the Bill as an ideal opportunity to give direction to wider social and community partnership working both across local authority functions and in meaningful partnerships with Health Boards, third sector organisations, community initiatives and individuals, to promote and develop resilience. It is vital to ensure a sound practical application of wellbeing approaches across health, social care and the wider determinants of health and wellbeing.

The New Economics Foundation's Five Ways to Wellbeing⁴ gives an effective model on which to base such partnerships.

Mind Cymru asks the Committee to consider embodying the Five Ways to Wellbeing on the face of the Bill, or at the very least in the Code of Practice.

4. Co-production

The Bill is an opportunity to transform health, social care and wellbeing in Wales and as such must adopt a genuine co-production approach across assessment, care and support and care planning with the citizen at the centre, (see Appendix 1 point 3).

Wales has a diverse population across urban, semi rural and rural settings. It is vital that co-production includes genuine participation of marginalised individuals and groups, including the seldom heard, or "hard to engage".

² Mental Health (Wales) Measure 2010

³ Together for Mental Health 2012

⁴ <http://www.neweconomics.org/projects/five-ways-well-being>

In developing a co-produced model Mind Cymru asks the Committee to consider current examples of co-production such as Together for Mental Health building outcomes 'through the service user lens'.

5. Reablement

Currently reablement is not addressed in the Bill.

Research has shown that reablement services **enable people to live at home longer and reduce care costs**. As Welsh services face potentially greater demand alongside increased financial pressures, there is a compelling moral and financial argument to ensure these services are consistently available across Wales. The Social Care Institute for Excellence (SCIE) identifies that "*Reablement is key because it appears to be welcomed by people receiving the service, and represents an investment that may produce savings*"⁵.

Mind Cymru asks the Committee to consider seeking an amendment to include reablement on the face of the Bill.

6. Code of Practice and Regulations

The Bill refers to a Code of Practice and Regulations. Evidence from both the Mental Health Act Code of Practice for Wales 2007 and the Mental Health Measure Code of Practice 2010 demonstrate the need for an effective, robust and accessible Code of Practice, co-produced with individuals and a range of organisations, which is available from the point of implementation of law.

Mind Cymru asks the Committee to consider seeking an amendment to include the need for the Code of Practice to be co-produced and published concurrently with the Bill.

7. Direct Payments

Mind Cymru welcomes commitments to extending the availability of Direct Payments (see Appendix 1 points 4a and 4b). People with mental health problems have the lowest take up of direct payments in Wales. Building co-operative models of support, with citizens at the centre, which take into account the particular barriers faced by people with mental health problems and seek to find solutions to enable people to break down those barriers is vital.

There needs to be put in place simple systems of support and brokerage, which are accessible to people, including those with mental health problems. The role of care co-ordinators and other supporters is key to meaningful participation in this. Adopting a joined up approach to assessment and care

⁵ Social Care Institute for Excellence (SCIE) (2011) [At a glance 46: Reablement: A key role for occupational therapists](#) London: SCIE

planning across health and social care should assist in this regard, (see also point 10 below).

People should have access to visionary, person centred support and care, encompassing a wide range of provision beyond traditional narrowly focused 'care packages', whether they choose to take up direct payments or choose not to do. It will be important to ensure that people can access real opportunities to do things differently and these are not narrowed, or eroded by cost constraints. For example riding, or cycling activities for disabled people can make a big positive difference to wellbeing.

Mind Cymru seeks assurances that those who do not wish to take up Direct Payments are not 'left behind', or offered poorer quality services and support.

Mind Cymru has heard of inconsistent approaches to provision of similar services through Local Authority commissioned services. For example one person being advised not to use a Direct Payment approach as they would have to make a financial contribution, whereas if the person accessed the same services through a Spot Contract they would not. These confusions form particularly challenging barriers for people with mental health problems and there must be access to good quality advice, support and advocacy to assist disabled people navigate through life.

8. Part 1 Key Terms 2 Meaning of "well-being"

(4) (b) participation in work.

Mind Cymru fully appreciates the positive impact that work can have on mental health and wellbeing. However it is good work that is good for your wellbeing, not any work. For work to impact positively it must be appropriate to the person's needs, skill match and capacity.

Often people with mental health problems have low self esteem and others have low expectations of them:

"When I finished my MSC in Electronic Engineering, the person at the job centre could not understand that I did not want a job stacking shelves".

In addition, people with mental health problems are often furthest away from the workplace. The definition of wellbeing should include access to meaningful activities.

Mind Cymru asks the Committee to consider seeking an amendment to the Bill to include (4) (b) participation in appropriate work and (4) (c) meaningful activity.

9. Part 2 General Functions

6 Preventative services

6 (6) (c) disproportionate expenditure

Mind Cymru welcomes the emphasis on early intervention and prevention services, which can support the development of resilience, both at individual and family level and in whole communities. We are concerned that the inclusion of 6 (6) (c) is likely to lead to services being considered in isolation, and cost driven, which is unhelpful at least and counterintuitive. It is widely recognised that investing in early intervention and prevention saves money. However some of these are evident over time.

“In some cases the pay-offs are spread over many years. Most obviously this is the case for programmes dealing with childhood mental health problems, which in the absence of intervention have a strong tendency to persist throughout childhood and adolescence into adult life. However, the overall scale of economic pay-offs from these interventions is generally such that their costs are fully recovered within a relatively short period of time”.⁶.

Mind Cymru asks the Committee to consider an amendment to remove Part 2 6 (6) (c) from the Bill.

10. Part 3 Assessing the Needs of Individuals

38 Care and support plans and support plans

In order for people facing barriers to maintaining their health and wellbeing, including people with mental health problems, accurate and holistic care plans should be produced and maintained with regular review in partnership with the person facing such barriers.

Many people in such positions will have a range of agencies involved in their assessment and planning. The Bill needs to ensure a joined up approach to planning and assessment in order to maximise engagement and minimise duplication.

⁶ Mental Health Promotion and Prevention: the Economic Case Martin Knapp, David McDaid and Michael Parsonage (editors) Personal Social Services Research Unit, London School of Economics and Political Science January 2011, p43

The 8 measures based on areas of life used in mental health Care and Treatment Plans should be considered as part of the mix to ensure greater joined up support in overcoming barriers faced by people in all aspects of their lives.

The 8 areas are

- Accommodation
- Education and Training
- Finance and Money
- Medical treatment including psychological interventions
- Parenting or caring relationships
- Personal care and physical wellbeing
- Social, cultural and spiritual
- Work and occupation

For those people in secondary mental health services, who have an existing care and treatment plan enshrined by law in the Mental Health (Wales) Measure 2010, there should be one joined up plan, not different plans for health and social care. This also allows for greater portability of plans.

Mind Cymru asks the Committee to consider an amendment to enshrine the eight areas of life in care planning on the face of the Bill.

11. Part 7 Safeguarding

Vulnerable people including adults with mental health problems and young carers of adults with mental health problems must at all times be treated with respect and dignity, without fear of violence, mistrust or neglect.

Scope, definitions and duties around safeguarding must not focus on how practitioners can assess and make decisions about an individual's level of risk and fail to take account of service users' own perceptions of their vulnerability.

An appropriate definition of vulnerability can only be reached by taking the views of those deemed to be at risk as its starting point. In Mind's consultation, in 2008, 35 per cent of respondents considered themselves to be 'vulnerable' or 'at risk' of abuse all of the time, whilst 49 per cent felt vulnerable or at risk sometimes. Only 16 per cent of respondents (13 out of 83) said they did not feel vulnerable.

Many respondents explicitly stated they felt vulnerable because of their mental health. However, a strong message that came out of focus group

discussions was that people's sense of vulnerability is not constant, but may fluctuate in line with their condition. There was a firm resistance to being defined as 'vulnerable' automatically by virtue of a diagnosis. Respondents agreed that your level of vulnerability will vary depending on the severity of your problem at any one time, as well as a number of other factors, such as who is providing your care, what other people you come into contact with regularly, whether you are on medication, and so on.

Some people with mental health problems have told Mind about not being referred to adult protection teams, because the current definition is often interpreted as those who meet the high levels of need required for access to local authority social care services. (Mind (2008) *Health Select Committee Inquiry into Patient Safety: Response from Mind*). Our research shows that people may not meet social care eligibility criteria but may still feel vulnerable because of their mental health problems. The definition of vulnerable adult must clearly include people with mental health problems. However, Mind is concerned that any duties and their interpretation are sensitive to the fluctuating needs of people with experience of mental distress and do not prejudice their circumstances.

It is important that this is not interpreted as a need to sustain the current risk averse culture in Social Services (see Appendix 1 point 8).

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Appendix 1

Introduction and Executive Summary of a joint response to the Health and Social Care Committee Consultation on the Social Services and Well-being (Wales) Bill

Introduction

We are a partnership of 25 third sector and citizen organisations, representing the interests of thousands of people with diverse backgrounds across Wales (see Annex).

We ask the Health and Social Care Committee to consider this paper, which identifies some key concerns with the Social Services and Well-being (Wales) Bill.

Although circulation of the paper has been limited mainly to the Wales Alliance for Citizen Directed Support, the Direct Payment Support Schemes Network and Wales Disability Reference Group, and not (because of time constraints) via wider networks such as WCVA, the position that it represents has received considerable support.

The partner organisations, whilst not necessarily supporting all aspects of this paper, do endorse the general principles and proposed direction that it outlines and recommend it to the Health and Social Care Committee for consideration. Some of the partner organisations will submit additional evidence to the Committee.

The paper has been co-ordinated by Disability Wales, in discussion with the partner organisations, and was drafted mainly from the perspective of disabled people. We recognise that there are specific issues for older people, for children and young people, and for carers, although the proposals that are outlined in the paper should be broadly applicable to all groups.

The consensus of the partner organisations is that introduction of the Social Services and Well-being (Wales) Bill (the SSW Bill) is welcome and will both simplify legislation and enable a number of positive developments, such as a focus on well-being and outcomes, national eligibility criteria, portable assessments, integration of children, adults and carers services, social enterprise and co-operative approaches to service delivery, and promotion of the role of third sector.

However, there is also a consensus that in its present form the legislative framework which the SSW Bill would establish falls short of achieving the radical transformation of Social Services aspired to in *Sustainable Social Services: A Framework for Action*.

The partner organisations ask the Committee to consider the following key points, which we believe to be fundamental if the SSW Bill is to be strengthened sufficiently to achieve a real transformation of Social Services.

Executive Summary

The partner organisations call upon the Committee to:

1. recommend an amendment to the SSW Bill to replace the current Medical Model definition of disability with a Social Model definition.
2. recommend an amendment to the SSW Bill to incorporate enjoyment of the right to Independent Living into the meaning of well-being.
3. obtain assurance from WG that the Code of Practice will clarify its commitment to transforming Social Services by supporting development of a co-produced model of Citizen Directed Support.
 - 4a. consider how the Social Care (Self-directed Support) (Scotland) Act 2013 may be drawn upon to inform further development of the SSW Bill, e.g. by making Direct Payments the default method of administering care and support services.
 - 4b. recommend to Welsh Government that new models of support should be actively developed which place control with citizens, including within collective approaches to support provision.
5. recommend an amendment to the SSW Bill to require local authorities to ensure access to Independent Advocacy and peer support, as well as information, advice and assistance.
6. clarify whether an Equality Impact Assessment has been carried out on Section 54 of the SSW Bill, and to seek an amendment to the SSW Bill to prevent local authorities "charging for preventative services and information, advice and assistance."
7. obtain confirmation that the £50 per week cap on charges for domiciliary care and support will be retained under new regulations.

8. recommend an amendment to the SSW Bill to acknowledge the right of individuals to take risks, to take full account of the positive use of the Mental Capacity Act requirements, and to ensure that risk is managed on an individual basis.
9. bring the Talking Points Personal Outcomes Approach, as developed by the I Matter, We Matter campaign, to the attention of WG, with a view to incorporating its principles and practice into development of the National Outcomes Framework.
10. obtain an assurance from WG that the Code of Practice will establish Co-production as the preferred method of delivering a genuinely transformed Social Services across Wales.