



Leading Social Services
in Wales

Yn arwain
Gwasanaethau Cymdeithasol
yng Nghymru

**ADSS CYMRU
WRITTEN RESPONSE**

**TO THE
CONSULTATION ON THE SOCIAL
SERVICES & WELLBEING (WALES)
BILL**

March 2013

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INTRODUCTION

1. ADSS Cymru is the recognised professional and strategic leadership organisation for Local Authority Social Services in Wales. It comprises the statutory Directors of Social Services and all Heads of Services who have responsibility for adult services, children and young people services or business management. Our primary purpose is to promote the social well-being, protection, support and care of adults and children in vulnerable situations in Wales.

2. We are committed to:
 - providing modern, accessible and responsive services, which are delivered flexibly, consistently and sustainably across organisational boundaries;
 - working with all partners in the transformation of social services in Wales;
 - shaping and influencing public policy development across Wales;
 - ensuring that social services have a strong voice at the corporate centre of local government;
 - promoting public understanding of social services and the positive role it plays by engaging with the media, opinion formers and the wider public;
 - providing effective leadership for the social services work force;
 - strengthening relationships between commissioners and providers of social services; and
 - helping to ensure excellent public services as a whole.

3. ADSS Cymru welcomes the initiative taken by the Welsh Government in seeking to create a new legal framework for social services in Wales. This is the first opportunity we have ever been given in Wales to change the deeply confusing assortment of care and support law which exists at present. We support the ambition of the Welsh Government to introduce a Bill that draws together our legal framework for social services, in a way that both helps to bring about transformational improvements in the help available to people and also provides a clear, ambitious but realistic direction for social services.


4. In the past few years, a good start has been made in addressing the need to transform the delivery of social services, with the Welsh Government leading a programme of major reform. Local Government has demonstrated a strong commitment to delivering the changes required and to providing good leadership through its Sustainable Social Services Implementation Plan, developed by ADSS Cymru and the WLGA. The plan has been welcomed by the Deputy Minister as demonstrating *“the absolute commitment of local government to transforming social services in Wales, and to collaborating with all partners to deliver the improvements that are needed for people who need care and support.”* We believe strongly that this emphasis on co-production and collaborative working across the range of stakeholders is the key to effective delivery of policy objectives.

5. In developing our submission, we have involved our members and other specialist officers in local authorities. ADSS Cymru and WLGA have worked together in developing written responses to the Bill because there are a number of areas where we share the same views and advocate the same solutions. Recognising that our role is different, we share the same desire to see local government at the heart of delivering more effective systems of social services on behalf of our communities and citizens.

6. Social care cannot be viewed in isolation. The care and support needs of the people of Wales are affected significantly by poor levels of health and socio-economic factors such as poverty. Effective solutions require local government to work as a trusted partner of Welsh Government and other key stakeholders. Hence our commitment to developing a strategic response at national, regional and local levels to the challenges we face in achieving sustainable social care and public services. We are intent on finding new ways to ensure that all the functions of local authorities contribute to this agenda, embracing the potential of increased citizen involvement in the design and delivery of services, stronger professional delivery teams and collaboration across public services.

Summary of key points

- We welcome the introduction of legislation to simplify the current law and to support delivery of new integrated service models.
- The Bill must be proportionate and enabling, achieving the right balance between primary legislation and regulation.
- The Bill is just one element of a bigger picture, where the care and support needs of the people of Wales are affected significantly by poor levels of health, and socio economic factors such as poverty.
- Improved wellbeing is a whole public service responsibility and, to be effective in its aim, the Bill must demarcate the specific role expected of social services.
- Local government is well placed to deliver locally determined models of care aligned to population requirements. Legislation must not undermine the autonomy of Councils to make decisions on resource allocation and service delivery as a result of needs analysis, engagement with service users and carers and democratic processes.
- Given the scale of new responsibilities and changes to current practice and patterns of service, resources will be required to deliver the policy objectives stated in the Bill, alongside efficiency savings being delivered by local government.



Phil Evans, President ADSS Cymru and
Director Lead for the Bill



Gwen Carrington,
Director Lead for the Bill

WILL THE BILL ACHIEVE ITS STATED PURPOSE?

7. In our opinion, a really good start has been made. We appreciate the progress made by Welsh Government in designing and getting consensus around its ten-year strategy for major reform in social care, a programme which includes the current legislation. The values and aspirations set out in the strategy and the Bill provide essential building blocks for the framework we will need for transformational change.

8. Local Government has demonstrated already a strong commitment to delivering this scale of change and to providing good leadership, in part through its Sustainable Social Services Implementation Plan developed by ADSSC and the WLGA. The Plan, owned by the twenty-two Welsh councils, supports the delivery of modern, accessible and responsive services capable of meeting people's needs and of being delivered flexibly and consistently. These changes are being taken forward at a local, regional and national level. Where all the stakeholders are working together, it has been possible to take real strides in areas such as remodelling services, joint commissioning, joining up health and social care services, and improving shared responsibility for safeguarding children.

9. Building upon the considerable and acknowledged strengths that exist in social services in Wales and working closely with the WLGA, members of ADSSC are intent on achieving service transformation through providing:
 - a clearer focus on improved wellbeing outcomes for the people using services;
 - greater control and choice for citizens about the help they want and improved access to that help, without unnecessary bureaucracy;
 - more effective and better integrated models of care and support and a more responsive range of services; and

- a better qualified workforce with skills that enable them to work across organisational boundaries.
10. This is a comprehensive agenda, properly so in the current and future context for social care services. Radical and urgent change is needed as the numbers of people needing care and support continue to grow year-by-year. We believe, therefore, it is appropriate that the Bill is extensive in scope and that it sets out to define:
- a. who should get help and support;
 - b. what services should be available to them;
 - c. where people can expect to have control and choice about the help they get; and
 - d. how the most vulnerable groups in society will be protected from harm.
11. However, there are great hazards too if the Bill fails to provide a coherent way of providing social care fit for the 21st Century. It is essential that the changes made as a result of the Bill can become a reality on the ground, a force for positive change and not a series of promises which cannot be delivered in the even harder times that lie ahead. With great ambition comes increased risk, especially in terms of unintended consequences. Therefore, as always in looking at new laws, it is often the degree of coherence and the detail which tend to be most problematic.
12. The activities of local government are strongly shaped by the legislative context. In social services (and in contrast to some other areas such as criminal justice), we have been exceptionally fortunate in the major acts which have steered our work to date. Additionally, there is considerable experience in the task of making statute, regulations and guidance work in practice. Staff are often very idealistic, willing to embrace change where this has clear benefits for service users and carers. However, they also need to be very pragmatic, asking questions such as: what should I/we say or do to keep this person engaged and help them to achieve what they want? how do I/we help them to negotiate the

correct access, assessment and care pathway? what do the law and regulations require me/us to do in circumstances where there is conflict and risk? what does our agency say and what does evidence-based practice tell us works best? It is essential that, as far as possible, they are able to rely on a coherent framework for this work, one which is consistent and clear. Similarly, we have growing evidence about what makes for an effective social services department and here again clarity about purpose and priorities is a crucial factor¹.

13. In many ways, the Bill makes a good start in providing the legislative framework needed. It defines well many of the objectives which collectively we have agreed to be necessary.

- To mitigate and manage the increasing demand for high quality social services
- To drive forward an outcomes approach and focus for users of social services
- To make savings and efficiencies at a time of acute economic pressures
- To ensure the sustainability of services with more effective models of care
- To reduce the unjustified variations in the quality of care across Wales
- To achieve a more responsive, needs led, range of services with a strong and professional delivery team that can work across organizational boundaries
- To safeguard adults, and protect children and young people more effectively
- To ensure that users of social care services have a stronger voice, and real choice and control over their lives.

14. We welcome the focus on improved wellbeing outcomes; recognition of the role of information, prevention and early intervention; the potential for changes to assessment and eligibility; increased entitlements for carers; the impetus for integrating health and social care at the service level; the move to place adult safeguarding on a sound statutory footing; the emphasis on partnership

¹ For example, in 'Reviewing Social Services in Wales 1998-2008 - Learning from the Journey', CSSIW and the Wales Audit Office analysed what had been learned about organisational effectiveness from the joint review programmes. Also, to assist CSSIW in their annual performance evaluation of council social services functions, they have developed 'performance descriptors' taxonomy.

working; and greater responsibility for promoting a more diverse social care market through an enhanced role for social enterprises. These are potentially strong pillars in new models of service provision.

15. However, as we will seek to demonstrate later in this document, there are legitimate questions about whether some of the proposed solutions in these areas have been spelled out sufficiently. In our judgement, they do not yet provide a sound guide for those who will be responsible for implementation. The sheer weight of the legislation only confuses the interdependencies of many of Bill's provisions and so it can be read as a mixture of seemingly unrelated measures, with attendant difficulties in identifying a coherent thread running through it. The underpinning emphasis on sustainable social services appears to have been lost in translating the ten-year strategy into legislation. The proposed Bill sets a whole range of new challenges that will have to be met at a time of severe financial restraints for local government and social services. It is right to remain cautious about whether there will be sufficient resources available to meet all the increased commitments and expectations in the Bill in the face of growing demand for services.
16. We believe that there are reasons to question whether prevention and early intervention can deal well enough with increasing demand or act mainly to delay the need for more acute services. There is limited evidence to date whether extensive integration of health and social care services at an operational level can generate considerable savings in the Welsh context, especially as the Bill is not very ambitious in this area. The outcome may be increased competition for scarce resources which will undermine commitments to increased levels of engagement with citizens at an early stage, improved access to assessments, more services for carers and higher standards in protecting adults. Where will we find the resources needed for transformational change across so many areas of service on the scale set out in the Bill, in terms of improvement funding, bridging costs, sustained policy implementation and a determined focus on innovation with reducing numbers of staff? It is important also not to

underestimate the groundwork needed to put in place the significant changes in working practice and organizational cultures required to implement such ambitious reform.

17. We are currently conducting our annual survey of the social services budget position in each local authority. In many of them, there is a pattern of overspending against allocated budgets and SSA over many years. The pressures are across all service user groups but the position in children's services and services for people with learning disability appear to be especially acute areas in which the Bill may prompt increased expenditure, especially in the context of welfare reform and austerity measures. The impact of changes to eligibility criteria and charging regimes has not been assessed and some local authorities are still waiting to be reimbursed for significant loss of income from the First Steps requirements.
18. The case for transformational change has been well made. However, if there is to be no additional funding for implementing reforms on the scale set out in the Bill, we would want to ensure that it sets out more clearly the priority areas for change. Only in this way can we all focus on delivering a programme which is phased, properly understood and collectively promoted.
19. It is our view also that the Bill will affect profoundly local government as a whole and its key statutory partners, not only social services. The principle of wellbeing in the Bill cuts across all functions of local government, the NHS, other public services, the third or voluntary sector, independent providers of care and social enterprises. The Bill does not yet spell out in a compelling enough way their contribution to service transformation.
20. Shaping the Social Services and Wellbeing (Wales) Bill is one of the biggest challenges that the Welsh Government and the National Assembly for Wales have taken on. We are yet to be convinced that all the measures in the Bill require legislation. Some may well be redundant when they finally become law

and are implemented; others are on a relatively small scale and could be achieved by means other than legislation. This risks distracting effort from those which are crucial to the whole enterprise of reform. We believe that the Bill can only achieve its aims through a proportionate approach, legislating only where new duties and powers will support its aspirational aims.

21. A serious concern is that a significant part of the legislation is coming forward as delegated legislation and as powers for Ministers. The legislative framework is broad and lacking in detail; detailed changes will be set out later in regulations, guidance and codes of practice. This is even the case with issues such as eligibility criteria, an area which Welsh government insists that local authorities should debate through transparent political processes, to ensure proper accountability and scrutiny. We do worry that there is too much scope for frequent amendments to secondary instruments, thereby undermining the stable direction which is needed.

22. Will the Bill achieve its stated purpose? Our current answer is “potentially and perhaps but this is not yet proven”. There is a serious risk that we are willing the ends without proper regard to means. Therefore, we would welcome the opportunity to provide further detailed evidence on specific sections of the Bill, using expert testimony from our members.

ARE THE BILL’S PROVISIONS APPROPRIATE TO DELIVER ITS STATED PURPOSE?

25. We believe that some of the key areas in the Bill will need considerable consideration during the scrutiny process. These are:

- I. Wellbeing
- II. Access, Assessment & Eligibility
- III. Adult Safeguarding
- IV. Remodelling care and support services and integrating with Health services.

I. WELLBEING

26. In our opinion, the concept of wellbeing is a powerful one, with a wide range of uses. It can be a helpful tool in defining the role that public services as a whole can play in improving the lives of citizens. It has merit as a way of fostering discussion about how far the state can and should take responsibility for such amelioration and what is the role of the individual or family. We should aspire to giving Welsh citizens, in the circumstances in which they are born, grow, live, work and age, better life chances and the opportunity to flourish in sustainable, cohesive communities. There is some consensus about the determinants of wellbeing. Use of the concept is not new in local government (as in the 2000 Act) and we know that Welsh Government may soon have two other Bills in which it is a key tenet. The concept of wellbeing is also embedded in the Government's anti-poverty agenda.
27. It is essential that social services are acknowledged as having a key role in this agenda. Social care and support services can be designed around and judged by their contribution to improved wellbeing. The Bill reflects the World Health Organisation's definition of the term. Consequently, this gives greater potential for local government and key partners such as the NHS to 'own' the definition and to generate a common understanding about need that supports joined up, outcome based planning and commissioning of service, as well as promoting good working.
28. However, perhaps we need to be somewhat wary as well about a term which appears to be so plastic and ubiquitous. It is hard to understand differences between its use at a population level and at the individual level. People generally do not approach local authorities or social services with a request for help that will improve a specific aspect of their wellbeing and they tend to use the word, if at all, as a general measure. It risks, therefore, confusing the dialogue between practitioners and potential service users and carers while increasing the numbers of people seeking help without being given any clear

idea about what and why. Are social services being given paramount responsibility for wellbeing or primarily for the wellbeing of those who may need care and support? This could be especially problematic if the definition includes economic wellbeing. Social services operate very rarely as a means of income maintenance, perhaps only for young people leaving care.

29. In these circumstances, there is a risk that the term will achieve limited congruence with other key aspects of the proposed legislation. In many places, it appears to be overtaken by reliance on the provision of information and prevention as the passport to social services. We are not entirely reassured when the Explanatory Memorandum outlines that the Welsh Ministers will publish at some point a statement of the outcomes to be achieved in terms of wellbeing for people who need care and support, and carers who need support.
30. ADSS Cymru believes there is scope for improvement. By placing the provision for wellbeing at the corporate centre of local government and partners such as the NHS, (but not on social services *per se*), public bodies can work together to improve 'wellbeing' in their local communities. We support WLGA's general thrust that it is local government and other public bodies that must manage the wellbeing agenda in Wales. Legislation then becomes an enabling tool to pursue an outcome based approach to the creation of social services, based on the concept of social wellbeing but not constrained by tight bureaucratic definitions. The Bill's provisions could then become largely a means of improving performance, accountability, and consistency in service provision. This shift in thinking provides empowerment and choice² for the users of social services, because measures of outcome will be firmly centred on the concept of social care interventions having value for users in ways that they themselves define.

² Forgeard M, Jayawickreme E, Kern M and Seligman M, 'Doing the right thing: Measuring wellbeing for public policy', *International Journal of Wellbeing*, 1(1), 2011, pp 79-106.

31. The following diagram is intended to clarify this issue about how we might demarcate more precisely the specific role of social services vis-à-vis other public services while still acknowledging the place of local authorities in providing leadership for the wellbeing agenda in their own area.

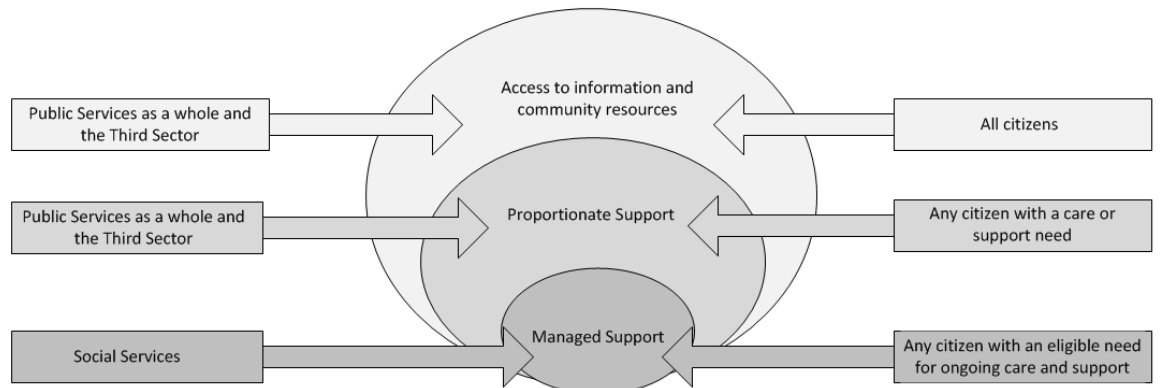


Diagram 1: Specific role of social services vis-à-vis other public services

II. ACCESS, ASSESSMENT AND ELIGIBILITY

32. The current system of access, assessment and eligibility has considerable flaws. It provides differential rights of access to care and support across different service user groups, consumes considerable resources with limited evidence of impact upon outcomes and acts to deter people seeking to arrange early intervention and prevention.
33. There is considerable consensus about the principles that should underpin new arrangements. Staff from local authorities have been working with the Social Services Improvement Agency (commissioned by Welsh Government) to develop and test out a new model which takes into account the requirements of the ten-year strategy. The report should be available soon.

34. If the national framework for these areas of work is to ensure a consistent approach to the way in which local authorities and partners interact with citizens and promote more responsive services, there is general agreement that the new arrangements should:
- begin with the provision of comprehensive information and advice, including what help is available within communities;
 - allow access to early intervention and prevention services, without complex assessment processes;
 - Offer proportionate assessment for those who may require managed care and support.
35. Changes of this kind are starting to emerge in practice with developments such as intermediate care and reablement, communication hubs and integrated hospital discharge services, Flying Start and Families First initiatives. However, we are learning too about how big is the gap between where we are now and where we will need to be in order to meet the statutory requirements set out in the Bill. The new model has considerable implications for all the stakeholders.
36. If we are to avoid duplication and confusion, the provision of information and advice needs to be managed in a unified way across the public sector and with partners. It is difficult to discern how costs can be apportioned and shared between those organisations that are resourced as universal providers of services and those who have a residual and rationing role. There is a need for further consideration about how systems for children and adults will align. In particular, the Bill as it stands appears to pay little attention to the complex interface between needs, problems, risk, capacity and outcomes. There will be people for whom there is prescribed duty to assess and plan.
37. One of our major concerns is with the next stage in the process when issues of eligibility become more central and centralised. The Bill provides for a new National Eligibility Framework which will introduce a uniform threshold for

people to access publicly funded state support wherever they live in Wales. This addresses the problem of substantial variability in adult services across council areas under the current system (i.e. the Fair Access to Care Services or FACS framework). However, in our opinion, national eligibility criteria should be applied initially to a small range of services, to allow a managed period of transition but also to ensure that a worthwhile goal (consistent eligibility) does not undermine another valuable principle (local determination about the best models of service that can be put in place in response to particular circumstances in the local context).

38. ADSSC broadly supports the modernisation of the system through these provisions but, as stated earlier, we do have some reservations about the anticipated outcomes from the Bill's drive on early intervention and prevention approaches in order to rebalance the system and make immediate savings. There is some evidence that, if poorly managed, such work can create unrealistic expectations, increase levels of dependency, and accelerate a "care career" which requires unnecessary provision of long-term support. Timely early intervention is critical to preventing high end, high cost interventions in some circumstances. For children and families, timely intervention depends on the coping capacity of the family and what is needed are the resources to determine when intervention will likely reduce escalation of need and therefore service demand. Greater access to assessment, even if assessment itself is more proportionate and less bureaucratic, risks taking capacity away from work that is geared towards assessing and managing risk and protection at a time when these are already stretched thinly.
39. Evidence of savings as a result of effective prevention services is primarily related to significant reductions in potential future cost pressures (for example, John Bolton's work in Coventry council³) rather than in existing

³ <http://ssrg.org.uk/wp-content/uploads/2012/01/2006files/10JohnBolton.pdf>

budgets for acute needs can be reduced. We advocate, therefore, an approach which recognises the need for additional investment in information and prevention services alongside the development of outcome based, citizen centred/integrated models of care that prevent institutionalised care, support people in their own homes, and provide for integrated care pathways.

40. To be effective, the Bill has to encourage financial remodelling across the public sector to create sustainable investment in early intervention and prevention. This means ensuring good joint commissioning processes and the use of an appropriate range of delivery mechanisms (to include social enterprises, co-operatives and user-led initiatives]).
41. As Professor Bolton points out, there is an important link between prevention and outcomes but that does not always sit well with increased entitlement to assessment and eligibility. These complexities must be fully understood. Alignment of outcomes through a whole systems approach from delivery through to regulation including social care and health will minimise unintended consequences of some of the provisions in the Bill (elaborated later in this evidence).
42. The parallel system of eligibility that determines access to fully funded NHS continuing health care operates under a different legal and operational framework, and so creates another set of challenges to be resolved. The development of appropriate secondary legislation offers the opportunity for addressing some of the longstanding issues here.
43. There is a perception, also, that the proposed model of access, assessment and eligibility in the Bill is too focused on adults and that current legislation already allows children and families to benefit from a proportionate assessment response in relation to need (based upon development of the CAF and the team around the family approach). There may be greater benefit from

focusing attention on provisions that deal with the transition of young people from children's services to adult services.

III. SAFEGUARDING ADULTS

44. The Bill provides for putting on a statutory footing our work to safeguard adults at risk. ADSSC welcomes this new provision but believes that the Bill could further develop the parameters of a comprehensive framework for adult safeguarding and protection. If adult protection is to gain further force in policy and practice, the right to protection and the right to take risks have to be balanced. Reconciliation between prioritising protection and the role of choice in risk assessment and the management of risk is not easy. For example, aligning potentially competing needs of a carer and the person being cared-for can be a critical component in the management of risk. The Bill rightly emphasises the right to self determination, independent control over one's own life (except for those without capacity) and so the right to take reasonable risks. However, an individual is also entitled to protection from undesirable risks. The draft legislation is relatively weak on this very important matter, particularly when risk management can either viewed as a strategy for eliminating risk or a strategy for empowering an individual to take control. We would be concerned about replicating the development of children's safeguarding where a series of tragedies brought about more and more prescription in terms of process and procedures which acted to marginalise the voice of the child.
45. Unlike the legislation successfully enacted in Scotland in 2007, the new provisions in the Bill for safeguarding and protection have no new resources identified to support the implementation of the new framework or the new structures. Furthermore, the Bill does not acknowledge its lack of legislative competence over non-devolved partners such as the police and probation so these professional bodies are not required to contribute to the funding of the boards and may not be fully accountable to multi-agency boards. The absence

of a national funding formula will increase the financial burden on local authorities and may limit what the boards can deliver.

46. We welcome the creation of National Independent Safeguarding Board which should help to provide consistent leadership to drive forward the transformation of social care protection systems. ADSS Cymru and WLGA have jointly commissioned a study from the University of Sheffield to consider the benefits of regional boards. Our initial reservation is that the Bill focuses on creating structures for collaborative working at a strategic level rather than focusing on safe and effective practice. For this reason, we welcome the Committee's invitation to contribute to the thematic oral evidence session on safeguarding in May.

IV. SERVICE REMODELLING AND INTEGRATING SOCIAL CARE AND HEALTH SERVICES: COLLABORATING FOR SERVICE IMPROVEMENT AND BETTER OUTCOMES

47. A national policy goal is for closer and more effective integration of social care and health services, rightly regarded as crucial to the sustainability of services and to improving health and wellbeing outcomes for service users. ADSSC welcomes the requirement for local authorities to promote partnership working and making arrangements to promote co-operation with partner bodies, as set out in the clauses of Part 9 of the Bill.
48. Whilst we support the Bill's emphasis on the role of local government in championing the needs of the local population and those in need of help, we are concerned that the Bill does not contain sufficient detail making explicit the requirements on key partners. The evidence from our own consultation with stakeholders views the lack of well defined statutory duties on the NHS as a major challenge to the delivery of the Bill's stated purpose.

49. Sustainable Social Services: A Framework for Action is prompting a radical change in the way that we organise and manage social care and health services. This is in response to wide range of issues, including an unsustainable current pattern of social care services which has the potential for increasing the costs of provision by 84% over the period 2010-2030. Specific tasks include:
- developing new service models for adults and older people predicated on principles of prevention and reablement and designed to improve outcomes for individuals while reducing demand for core services.
 - reforming the commissioning and purchasing of Adult Social Care, through the potential use of joint commissioning arrangements and promoting the development of social enterprises;
 - building management capacity to meet the challenges of the emerging agenda.
50. This agenda is being delivered in so far as it can be without a fundamental overhaul designed to overcome many of the formidable challenges and barriers to change, especially the difficulties both the NHS and local authorities are experiencing in their genuine efforts to work together effectively. This includes factors such as:
- meeting the costs of service transformation;
 - the scale of the agenda, with a need to focus on innovation and continuous improvement in all areas of service design, delivery and evaluation;
 - securing the right service scale - balance of local and regional and national
 - budgetary pressures and the need for savings
 - different funding and charging;
 - the risks of cost shunting between partners and the potential for a breakdown in trust between partners
 - finding the resources required to bring about transformational change
 - effective leadership across all sectors
 - difficulties experienced by Health Boards in shifting resources from acute services to community health and prevention.

- local authorities and health boards have their own local political, corporate, performance and improvement priorities
48. Only if working together on service remodelling and integrating services is seen as a joint statutory obligation and policy imperative is it likely that these challenges can be met. The current Bill is seen as too weak a tool to tackle such entrenched difficulties which undermine the key purpose of integration which is to deliver new service models, better citizen experiences of services and improved outcomes in terms of independence and wellbeing. In our opinion, it allows too much opportunity for silo working, rather than joint accountability for securing appropriate and high quality provision across health and social care in the local authority area. Government needs to be sure that the NHS is obliged to participate fully and not only to co-operate *when required* to do so by local government. Otherwise, the Bill's provision runs the risk of disengagement by the NHS leading to disjointed assessment processes, confusion over who is accountable for the provision of services for agencies and for service users, an increase in complaints due to unworkable care and support plans, an incomplete local offer to citizens and limited use of joint commissioning and pooled budgets where these are appropriate. Social care has to be regarded as having equal status with health, not a subordinate one, if partnership working is to be a joint responsibility and to have positive outcomes.
49. Government needs to consider the practicalities that will realise the vision of the Bill in relation to provisions to promote partnership working. We know that outcomes for adults and children can be vastly improved by integration on different levels, allowing for a range of professional perspectives to shape and develop effective models of intervention. But aligning the agendas of both health and local authorities does not happen automatically; it requires conscious effort to develop a matrix of management arrangements, resource alignment, shared policies, and a shared language about holistic outcomes for service users. Despite acknowledged difficulties, in our opinion, rebalancing

the burden of responsibility across partner agencies in the Bill is critical to the principle of integrated health and social care, and the success of this legislation.

50. The NHS has the power for pooling budgets but it is not used properly. Local authorities and the NHS have different financial arrangements and different regimes; at present, it can be very difficult to reconcile these differences. Government may need to reflect on the mechanisms that need to be in place in order for the provisions in the Bill to deliver its vision. For example, the Bill should place a duty on the NHS to participate in joint assessments and discharge other functions efficiently and effectively, such as the provision of information in the Carer's Measure, to address present variations across Wales.

51. We share the belief that good partnership working with health will strengthen the role and impact of the Bill's prevention agenda. There is a real opportunity here for public health to play a key role in addressing the wider social determinants of ill health through the full range of local government functions and partnerships. We know that ill health can potentially escalate both the clinical and social care needs of vulnerable individuals. In England, for example, Professor Michael Marmot's Review⁴ noted that only 4% of NHS funding is at present spent on prevention. Partnership working between primary care, local authorities and the third sector is proven to deliver effective universal and targeted preventative interventions for those most in need.⁵ ADSS Cymru recommends that the present Bill should provide for a more inclusive role by Public Health Wales.

⁴ <http://www.instituteofhealthequity.org/projects/fair-society-healthy-lives-the-marmot-review> .

⁵ Strategic Review of Health Inequalities in England Post 2010. Marmot Review. P.32

IMPLEMENTATION OF THE BILL – POTENTIAL BARRIERS

I. FRAGMENTED POLICY

52. There is body of evidence that points to disjointed policy initiatives in social care as a critical factor and a root cause in tackling crises of unsustainable cost increases, poor quality and inequity. Unfortunately, a series of narrowly-focused provisions in the Bill will serve further to fragment social care policy and may possibly undermine the Bill's broad vision or strategy for efficiently delivering a national social care system. The proposals for direct payments are a good example. The overly prescriptive approach taken in the Bill without due consideration to the wider policy context in which direct payments operate (that is, citizen centred support) means that the use of direct payments to encourage and support self determination and self management of social care needs loses its flexibility and become less responsive to the assessed needs of an individual. The danger of over-prescription is potentially the 'undoing' of complex whole system arrangements already in place on the ground. ADSSC advocates that legislative prescription on this scale should not be on the face of the Bill.

II. RESOURCES & FUNDING

53. ADSS Cymru would welcome a more evidenced appraisal of the resources and funding consequences of the provisions in the Bill. There is a real danger in creating increased expectations and duties at a time of depleting resources and the absence of an agreed funding formula for social services that we simply will not be able to meet the expectations of our citizens and deliver on the Act.
54. We are working with WLGA to produce more detailed financial modelling of the impact of the welfare reform and an interim report on likely resource implications of the Bill as currently drafted. We would appreciate a more

detailed assessment within the Explanatory Memorandum to support the assertion that in some areas costs are minimal or cost neutral.

UNINTENDED CONSEQUENCES

I. RISK TO LOCALISM

55. We do not feel that the provisions made on the face of the Bill are in keeping with the localism agenda and there is no guarantee that secondary legislation will acknowledge the potential differences between local areas, so that each area has a measure of flexibility to mitigate risks when implementing the Act. This is in keeping with the greater emphasis in the ten-year strategy on strong national leadership but there has been little debate about the potential impact of moves towards a national care service. Involving communities, adults, children, young people and carers in the development of 'local offers' is critical to successful wellbeing outcomes.
56. The Bill presents a mixed picture of provision where some areas (such as assessments, direct payments, safeguarding and adoption) appear to be overly prescribed and others (such as promoting integration and co-operation with partner agencies) are under-prescribed – often without any clear rationale for such differentiation. We believe that the Bill risks overriding the legitimate autonomy of sovereign bodies to plan and design services around local need which respects geographical terrain, diversity, local demographic profiles and local cultural sensitivities.
57. The Simpson report⁶, commissioned by the Welsh Government in March 2011, made a valuable contribution to the debate on 'what services should be delivered where and on what scale'. There is much work being done to agree what services should be delivered at national, regional or local levels, within the limits of current governance arrangements. The Bill appears to

⁶ <http://wales.gov.uk/docs/dsjlg/publications/localgov/110325lnrsvicesv2en.pdf>

shed little light on this area apart from prescribing a national adoption service. We recognise the need to increase the pace of collaborative activity and our regional improvement collaboratives are making a significant contribution. The Bill gives Welsh Ministers substantial powers to pre-empt and override decisions which may be strongly grounded in local political and professional judgements about complex interdependencies of policy and practice at the point of service delivery.

II. CONSEQUENCES OF A DISJOINTED APPROACH

58. The interface of this Bill with the Sustainable Development Bill and the Public Health Bill suggests that the Welsh Government is working towards a holistic approach to sustaining people and place, helping communities to help people and communities to help themselves. However, it has not explicitly stated or debated its conclusions. Similarly, the recent Welsh Government White Paper on 'Ending Violence against Women, And Domestic Abuse' has crossovers with this Bill. It would be helpful to see an explanation of how the Government sees the provisions in this Bill sitting alongside those in other existing Acts and forthcoming Bills.
59. The Bill takes on board the Law Commission's recommendation to consolidate and simplify existing adult social services law into a single legal framework for Wales. We support this endeavour. However, while acknowledging that this Bill will work alongside the majority of the provisions contained in the Children's Act, it does struggle to connect coherently systems that will have to cater for a whole range of ages, from unborn babies to the very oldest people in our population. There are many common factors but different groups of service users also have different rights, different needs and different potential solutions for meeting needs for care and support.
60. We would want to ensure that the Bill is clear about (a) which provisions in other legislation have been repealed or transferred to this Bill so that local government might act lawfully and (b) provisions for the transfer of

responsibility for assessing needs and providing services for young people from children's services to adult services, between the ages of 14 to 25 years. The success of such transition planning and programmes are crucially dependent on collaboration between children's and adult services and a multi-agency, integrated approach is required to ensure clinical, educational and social outcomes for young people⁷. The journey from adolescence to adulthood can be a challenging time for young people, (especially young carers and those with complex needs). As they move between different services, they find significant differences in the expectations, style and culture of these services while their own care needs are evolving at the same time. We recommend that the Bill takes these issues into consideration more explicitly.

61. It is understandable perhaps that the Bill makes little reference to the social care workforce, given the commitment to producing a White Paper on Regulation and Inspection. However, it would be helpful to see a better understanding in the Bill of the role played by strong professional teams across social care and health (many of which now operate in a very integrated way) and the need for training them to meet the changes and challenges it introduces. Associated with this issue is the future of training funds for the workforce which is under review currently.

ACHIEVING A REASONABLE BALANCE IN THE PRIMARY AND SECONDARY LEGISLATION

62. Given the complexity of what the Bill is aiming to achieve, ADSSC would welcome the opportunity to engage in debate about effective secondary legislation as this is material to the Assembly's understanding of how the legislation will operate successfully for individual citizens as well as on a theoretical level.

END

⁷ <http://www.everychildmatters.gov.uk/>

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