



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 Carers Trust Wales – RISC 43 / Tystiolaeth gan Ymddiriedolaeth Gofalwyr Cymru – RISC 43

Carers Trust Wales response to National Assembly for Wales' call for evidence on Regulation and Inspection of Social Care (Wales) Bill

23 April 2015

Overview

- (i) Carers Trust Wales recognises the need for the Regulation and Inspection of Social Care (Wales) Bill
- (ii) We would welcome a greater recognition throughout the Bill and associated documents of carers, including a greater emphasis on carer involvement in the regulation and inspection of services, and a recognition that some social care will be provided as a result of a support plan for a carer.
- (iii) We welcome the duty on local authorities to produce reports on the provision of social care in their areas and hope these reports will be able to highlight and promote service provision/providers that meet the needs of carers
- (iv) We are **deeply concerned** about the intention to introduce partial cost recovery for regulatory activity by charging fees, including fees for services to register. We feel this will have a disproportionate impact on small third sector services. We believe that the introduction of fees would disproportionately impact quality-focused, small, third sector services who are already operating in difficult and constrained economic climate.

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- (v) We believe there is ambiguity over Social Care Wales' proposed role in relation to the wider social care workforce beyond those who would be registered to and regulated by Social Care Wales
- (vi) We are concerned about the way the Bill defines 'care' as being physical tasks and the mental processes associated with those physical tasks. We feel this downplays the importance of human interaction and relationships, including involvement of the carer, in delivering effective, quality care.
- (vii) We feel that the Bill could have been more ambitious and gone further in promoting integrated and joined up approach to inspections, workforce development and education
- (viii) In its current form, we feel it is not immediately clear how the Bill relates to the social care workforce as a whole. Similarly, at a number of points in the Bill it is not immediately clear which groups are being referred to when the Bill refers to the 'social care workforce'.
- (ix) These changes to the regulation and inspection of services must be reflected in the contract or tenders offered by social services across Wales – commissioners cannot simply keep pushing for the best price as there is an inherent cost in providing quality services – staff training, monitoring, investment in staff development etc. that we have historically borne despite the financial demands of contracting regimes.

About Carers Trust Wales

Carers Trust Wales welcomes the opportunity to respond to the National Assembly for Wales' call for evidence on the Regulation and Inspection of Social Care (Wales) Bill. Carers Trust is a new charity which was formed by the merger of The Princess Royal Trust for Carers and Crossroads Care in April 2012.

Carers Trust Wales works across Wales to improve support, services and recognition for the 370,000 carers in Wales living with the challenges of caring unpaid for a family member or friend who is ill, frail, disabled or has mental health or addiction problems. With our Network Partners, who are local service providers across Wales, we aim to ensure that information, advice and practical support are available to all carers.

Our strategic aims are to

- Raise the profile of carers and the caring role
- Support the growth and development of solutions for carers

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- Influence society to improve carers' lives
- Work with local partners to develop a strong network

Together with our network partners, we provide access to desperately-needed breaks, information and advice, education, training and employment opportunities – working with 20,000 carers a year in Wales. Our network partners benefit from the provision of grants, advice documents and reports to improve carers' services. We give carers and young carers avenues to speak to someone and make their voices heard, offline via our carers' services and young carers' schemes and online via our interactive websites.

Our vision is a world where the role and contribution of unpaid carers is recognised and they have access to the quality support and services they need to live their own lives.

We provide support, information, advice and services for the millions of people caring at home for a family member or friend. Our Network Partners reach carers of all ages and with a range of responsibilities, in their local communities. From helping carers to access local services, to making their views heard by opinion formers and professionals, together we help carers to connect with everyone and everything that can make a difference to their lives.

With carers' needs, choices and voices at the heart of everything we do, we strive to ensure that the enormous contribution they make to society and to those they care for is fully recognised, appreciated and valued.

Response

1. Do you think the Bill as drafted will deliver the stated aims (to secure well-being for citizens and to improve the quality of care and support in Wales) and objectives set out in Section 3 (paragraph 3.15) of the Explanatory Memorandum? Is there a need for legislation to achieve these aims?

1.1 Carers Trust Wales feels that there is a need for legislation to achieve these aims. We recognise the need to incorporate well-being in response to the Social Services and Well-being (Wales) Act 2014 and to promote the involvement of citizens to help improve and assure quality (p. 10). We also recognise the need to learn from the serious incidents that have taken place across the UK in respect to safeguarding vulnerable citizens.

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1.2 We also believe that this Bill could help move social care in Wales towards the stated aims. We welcome the proposed duty on local authorities to produce local market stability reports, and we welcome that such reports would include assessment of 'sufficiency of provision of care and support'. Many of our network partners across Wales, which are charities focused on supporting carers, are finding themselves under increasing market pressure with services being commissioned on cost rather than quality.

1.3 We believe that the local market stability reports could help promote and secure these services and in doing so protect carers' wellbeing. 96% of care in the community is delivered by carers, saving social services and the NHS in Wales a significant amount of expenditure, preventing hospitalisations and supporting faster transfers of care.

1.4 To support them in their caring responsibilities, carers require quality social care that includes longer visits. A '15-minute call' does not provide carers with a break, and evidence demonstrates how vital good care and support are in ensuring a carer is able to continue in their caring role. A 2011 report found that spending more on breaks, training, information and emotional support for carers could significantly reduce the overall spending on care by local authorities¹.

1.5 As such, Carers Trust Wales would want local market stability reports to take into account the type of social care being commissioned and at what cost the social care is being commissioned.

1.6 We also believe that the local market stability reports should also make it clear how the social care providers being commissioned in the area is constituted – for example, what proportion of providers are in the third sector.

1.6 Carers Trust Wales would also like to see the involvement of carers in the inspection of service providers strengthened. For example, one way to do this would be to amend section 33, subsection 3 (f) as follows:

- (i) interview in private any person accommodated or receiving care and support at the place who consents to be interviewed.
- (j) interview in private the carer of any person receiving care and support at the place who consents to be interviewed

¹ Conochie, G (2011) *Supporting Carers: The Case for Change*; London: The Princess Royal Trust for Carers and Crossroads Care.

2. What are the potential barriers to implementing the provisions of the Bill (if any) and does the Bill adequately take account of them?

2.1 Carers Trust Wales believes that some of the potential barriers to implementing the Bill include:

- Ambiguity over the reach and remit of Social Care Wales in relation to the whole social care workforce, including those regulated by other bodies
- Potential conflicts of interest within Social Care Wales. Social Care Wales would have a number of different functions and roles. For example, as well as being responsible for protecting the public, Social Care Wales would also be responsible for the workforce development of social care workers.
- Difficulties in managing transition for service providers, including allowing enough time to raise awareness and support the implementation of changes to registration, regulation and reporting
- Difficulties in clearly and successfully communicating the changes, and what the changes mean in practical terms, to those with care and support needs and, where relevant, their carers

3. Do you think there are any issues relating to equality in protection for different groups of service users with the current provisions in the Bill?

3.1 There are different expectations for registration of adult and children's workforces which may cause different levels of protection for vulnerable people.

4. Do you think there are any major omissions from the Bill or are there any elements you believe should be strengthened?

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4.1 Carers Trust Wales would welcome a greater recognition of the role social care plays in providing breaks to carers. Services, inspections and regulation are discussed across the Bill in relation to those in need of care and support but not their carers. Often, social care is safeguarding and promoting the well-being of both the person with care and support needs *and* the carer. Sections 39, 70 and 55 could all include additional reference to carers of those with care and support needs.

4.2 The Bill does not appear to encourage integration in inspections, workforce development and education, and in improvement agendas. Part 9 of the Bill does highlight co-operation between regulatory bodies stating that such bodies must 'co-operate with each other... if they think that such co-operation...will have a positive effect'. But the relevant bodies listed in part 9 do not include other professional regulatory bodies such as HCPC.

4.3 To fully involve people in the regulation and inspection of services, we continue to believe that the introduction of 'lay inspectors' would help improve regulated services in Wales as well as helping to protect and promote the well-being of people in Wales. We would welcome clarity on any intention to make provision for 'lay inspectors' in either the regulations or codes of practice associated with the Bill.

5. Do you think that any unintended consequences will arise from the Bill?

5.1 Carers Trust Wales is concerned by the definition of 'care' in the Bill in section 3. This definition defines 'care' as relating to 'the day to day physical tasks and needs of the person cared for' and the 'mental processes related to those tasks'. We feel that this definition does not place a sufficient emphasis on the relationships and quality human interaction inherent to providing a good standard of social care.

5.2 The policy intention to charge for the registration of services (and for there to be fees for other parts of the regulatory system) could have a disproportionate impact on the small third-sector services which other parts of Welsh Government policy are attempting to encourage. Currently small third sector services aimed at supporting carers are operating in an increasingly difficult financial environment. This is the result of the increasingly lower price at which local authorities are commissioning care.

5.3 Our network partners work hard to provide quality social care that delivers for the individual with care and support needs *and* the carer. By placing additional charges on these small third sector services, services that are for the most part funded by

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local authorities, and to a lesser extent local health boards, it is making it increasingly likely that small third sector services will be put at risk.

5.4 Many service providers in Wales, particularly those with a carer-focus such as our network partners, are third sector organisations. As such, care should be taken that the new responsibilities on service providers to provide an annual return align wherever possible with their existing reporting responsibilities as charities to avoid unnecessary duplication of effort, particularly among smaller, less-resourced, third-sector organisations.

5.5 Carers Trust Wales believes that an unintended consequence of the local market reports could be that initial market reports find that local markets are insufficient to meet the needs of citizens. In such a case, there would be a need for increased public sector investment in areas of the social care 'market'.

Provisions in the Bill

The Committee is interested in your views on the provisions within the Bill, and whether they will deliver their stated purposes. For example:

6. What are your views on the provisions in Part 1 of the Bill for the regulation of social care services?

For example moving to a service based model of regulation, engaging with the public, and powers to introduce inspection quality ratings and to charge fees.

6.1 Carers Trust Wales welcomes greater engagement with the public in Part 1 in relation to the regulation of social care services. However, we do not feel it is sufficiently clear in what ways or to what extent the public will be involved in the regulation of social care services in the Bill.

6.2 We would also want to see greater reference to involving carers specifically across the Bill. Carers are often experts in the care that those they care for require, but the involvement of carers directly in the current regulatory and inspection environment is inconsistent. Similarly, currently the involvement of carers in social care by service providers is not consistent across all service providers.

6.3 There are many opportunities to reference carers in the Bill including in section 33 (as outlined above). We welcome that the Statement of Policy Intent makes it

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clear that in regulations under Section 26 (1) carers will be involved in how providers work with service users to define and agree well-being outcomes that are personal to the service user. We feel that it is important that this involvement is clear and further emphasised. Social care may be arranged as a result of a support plan put in place by a local authority for the *carer*, the purpose of which is to enable the *carer* to meet their well-being outcomes. As such, it is important that the social care services in this context delivers for the carer's well-being outcomes also.

6.4 Carers Trust Wales welcomes the power and intention to introduce quality judgement ratings although with the usual caveats that such a system must not produce a 'league table' and must be developed carefully and in partnership with stakeholders. Many carer-focused services across Wales, including our network partners, already participate voluntarily in externally assessed quality awards, and as such would welcome an opportunity to gain national recognition for their existing commitment to quality.

6.5 As outlined in our response to the previous question, we are concerned that the introduction of fees for the registration of services would have a disproportionate impact on small third sector services which are largely funded by local authorities and prioritise quality, including those focused on supporting carers.

6.6 We are also unclear on whether there is an intention to charge for other costs of regulation including receiving inspection reports. We would welcome clarity on this and, again, strongly feel that such fees would be a disproportionate burden on small third sector providers.

7. What are your views on the provisions in Part 1 of the Bill for the Regulation of local authority social services?

For example, the consideration of outcomes for service users in reviews of social services performance, increased public involvement, and a new duty to report on local markets for social care services.

7.1 To reiterate our earlier points – we feel it is important that the Bill makes reference to involving carers specifically. For example, in section 55 the annual reports produced by local authorities could include detail on how they involved carers in how their social services functions were exercised.

7.2 We welcome the introduction of the new duty to report on local markets for social care services for the reasons outlined in our response to question 1 – if executed correctly, such reports should help promote quality social care that delivers for

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carers, as well as shine a light on the increasingly difficult environment that carer-focused services are currently operating in.

8. What are your views on the provisions in Part 1 of the Bill for the development of market oversight of the social care sector?

For example, assessment of the financial and corporate sustainability of service providers and provision of a national market stability

8.1 Carers Trust Wales welcomes the development of market oversight of the social care sector but feel it is important that great care be taken in developing the regulations that determine whether a provider falls under the regime.

9. What are your views on the provisions in Part 3 of the Bill to rename and reconstitute the Care Council for Wales as Social Care Wales and extend its remit?

9.1 Carers Trust Wales has some concerns over the breadth of Social Care Wales objectives as laid out in section 67 and how they relate to its regulatory role. The definition in section 78 of a social care worker is broad and encompasses workers from a range of professions regulated by other professional bodies. We would welcome clarity over which aspects of Social Care Wales' responsibilities relate to only those staff that are regulated and/or registered with Social Care Wales and which responsibilities relate to the whole social care workforce.

9.2 As outlined earlier in this response, Carers Trust Wales is concerned of potential conflicts of interest arising between Social Care Wales' functions – for example, Social Care Wales' regulatory functions in relation to fitness to practice and Social Care Wales' role in continuing professional development and the approval of courses.

10. What are your views on the provisions in Parts 4 - 8 of the Bill for workforce regulation?

For example, the proposals not to extend registration to new categories of staff, the removal of voluntary registration, and the introduction of prohibition orders.

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11. What are your views on the provisions in Part 9 of the Bill for cooperation and joint working by regulatory bodies?

As outlined in previous responses, we welcome the provisions in part 9. However, we are disappointed that Part 9 does not go further in encouraged and promoting co-operative working between Social Care Wales and other professional regulatory bodies such as HCPC.

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