

David Rees AM
Chair, Health and Social Care Committee

11 June 2015

Dear David,

Regulation and Inspection of Social Care (Wales) Bill

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

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

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

Evidence from the Minister

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

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

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

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



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

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

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

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

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

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



Our view

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

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

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

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

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

Yours sincerely,



Jocelyn Davies AM
Committee Chair

cc Minister for Health and Social Services



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



Llywodraeth Cymru
Welsh Government

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

Jocelyn Davies AM
Chair
The Finance Committee

Jocelyn.davies@assembly.wales

Dear Jocelyn,

5 May 2015

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

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

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

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

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

Best wishes,

Mark

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

Amendments made to the RIA

1. Dual registration

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

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

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

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

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

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

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

2. Due diligence of key providers

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

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

3. Social Care Wales

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

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

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

Total costs

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