



HYSBYSIAD YNGHYLCH GWELLIANNAU NOTICE OF AMENDMENTS

Cyflwynwyd ar 11 Mawrth 2014
Tabled on 11 March 2014

Bil Gwasanaethau Cymdeithasol a Llesiant (Cymru)
Social Services and Well-being (Wales) Bill

Kirsty Williams

106

To insert a new section –

‘(1) Statutory principles

- (1) In making decisions under this Act the principles in subsection (2) apply.
- (2) The principles are –
 - (a) the welfare of any child in need of care and support shall be the paramount consideration, as stated in the welfare principle in section 1 of the Children Act 1989;
 - (b) in the case of an adult, anything done under this Act must seek to maximise their independence and autonomy;
 - (c) decisions made under this Act should promote the dignity, safety and well-being of a person in need of care and support, or of a carer in need of support;
 - (d) a person must be involved so far as is practicable in any decision made in relation to their care assessments, the planning, developing and the reviewing of their care and support, or relating to the support provided in their role as carers, as is appropriate having regard to their level of understanding and willingness to participate, and in addition in the case of a child as is compatible with the welfare principle;
 - (e) where a person’s ability to communicate is impaired through disability, age or otherwise, appropriate support should be provided to enable them to participate

- in decisions that affect them to an extent as is appropriate in the circumstances and in the case of a child compatible with the welfare principle;
- (f) the wishes of any person must be respected and followed wherever practicable, safe and appropriate, and in the case of a child compatible with their level of understanding and the welfare principle;
 - (g) people have the right to make decisions that to others may appear irrational, unwise or eccentric unless in the case of a child they do not have the necessary level of understanding to make such decisions, or such decisions are incompatible with the welfare principle;
 - (h) it must be presumed that a person is the best judge of their own well-being, except in cases where they lack the necessary legal capacity to make that assessment or in addition in the case of a child, they do not have the necessary level of understanding to make that assessment;
 - (i) the least restrictive intervention should be adopted when it is necessary to interfere with a person's human rights, in particular but not exclusively their right to family life, private life and home.
- (3) With the exception of the welfare principle in subsection 2(a) which in all cases involving children will be the paramount consideration, the above principles are not listed in order of priority nor do they necessarily have equal weight.'

I fewnosod adran newydd –

'() Egwyddorion statudol

- (1) Wrth wneud penderfyniadau o dan y Ddeddf hon, mae'r egwyddorion yn is-adran (2) yn gymwys.
- (2) Yr egwyddorion yw –
 - (a) llesiant unrhyw blentyn y mae arno angen gofal a chymorth yw'r brif ystyriaeth, fel y nodir yn yr egwyddor llesiant yn adran 1 o Ddeddf Plant 1989;
 - (b) yn achos oedolyn, rhaid i unrhyw beth a wneir o dan y Ddeddf hon geisio cynyddu'i annibyniaeth a'i ymreolaeth i'r eithaf;
 - (c) dylai penderfyniadau a wneir o dan y Ddeddf hon hyrwyddo urddas, diogelwch a llesiant person y mae arno angen gofal a chymorth, neu urddas, diogelwch a llesiant gofalwr y mae arno angen cymorth;
 - (d) i'r graddau y mae hynny'n ymarferol, rhaid i berson fod yn rhan o unrhyw benderfyniad a wneir mewn perthynas â'i asesiadau gofal, y gwaith o gynllunio, datblygu ac adolygu'i ofal a'i gymorth, neu mewn perthynas â'r cymorth sy'n cael ei ddarparu iddo yn ei rôl fel gofalwr, fel sy'n briodol o ystyried ei lefel o ddealltwriaeth a'i barodrwydd i gymryd rhan, ac yn ychwanegol, yn achos plentyn, fel sy'n gydnaws â'r egwyddor llesiant;
 - (e) pan fo anabledd, oed neu rywbeth arall yn amharu ar allu person i gyfathrebu, dylid darparu cymorth priodol i'w alluogi i gymryd rhan mewn penderfyniadau sy'n effeithio arno i'r graddau sy'n briodol o dan yr amgylchiadau ac, yn achos plentyn, fel sy'n gydnaws â'r egwyddor llesiant;
 - (f) rhaid parchu dymuniadau unrhyw berson a'u dilyn ym mha le bynnag y mae

hynny'n ymarferol, yn ddiogel ac yn briodol ac, yn achos plentyn, yn gydnaws â'i lefel o ddealltwriaeth a'r egwyddor llesiant;

- (g) mae gan bobl yr hawl i wneud penderfyniadau a allai ymddangos i eraill yn afresymol, yn annoeth neu'n ecentrig oni bai, yn achos plentyn, nad oes ganddo'r lefel angenrheidiol o ddealltwriaeth i wneud penderfyniadau o'r fath, neu fod penderfyniadau o'r fath yn anghydnaws â'r egwyddor llesiant;
 - (h) rhaid rhagdybio mai'r unigolyn yw'r person mwyaf cymwys i wneud penderfyniadau ynglŷn â'i lesiant ei hun, ac eithrio mewn achosion pan nad oes ganddo'r cymhwyster cyfreithiol angenrheidiol i wneud yr asesiad hwnnw neu, yn ychwanegol yn achos plentyn, nad oes ganddo'r lefel angenrheidiol o ddealltwriaeth i wneud yr asesiad hwnnw;
 - (i) dylid mabwysiadu'r ymyriad sy'n cyfyngu leiaf ar yr unigolyn pan fydd yn angenrheidiol ymyrryd â hawliau dynol person, yn arbennig, ond nid yn unig, ei hawl i fywyd teuluol, bywyd preifat a chartref.
- (3) Ar wahân i'r egwyddor llesiant yn is-adran 2(a), sef y brif ystyriaeth ym mhob achos sy'n ymwneud â phlant, nid yw'r egwyddorion uchod wedi'u rhestru mewn trefn blaenoriaeth ac ni roddir yr un pwyslais arnynt o reidrwydd chwaith.'

Kirsty Williams

107

Section 1, page 2, after line 24, insert—

'() Part (*section to be inserted by amendment 110*) (Appeals) enables Welsh Ministers to make provision for and in connection with appeals against determinations of eligibility (section 28) and ability to pay (section 60) and charging decisions (section 53).'

Adran 1, tudalen 2, ar ôl llinell 25, mewnosoder—

'() Mae Rhan (*yr adran sy'n cael ei fewnosod gan welliant 110*) (Apelau) yn galluogi Gweinidogion Cymru i wneud darpariaeth ynghylch ac mewn cysylltiad ag apelau yn erbyn dyfarniadau cymhwystra (adran 28), y gallu i dalu (adran 60) a phenderfyniadau i osod ffioedd (adran 53).'

Kirsty Williams

108

Section 13, page 11, after line 10, insert—

'() Regulations made under this section shall clarify that visits to deliver personal care in an adult's home should not normally be commissioned to last less than thirty minutes, excluding travel time.'

Adran 13, tudalen 11, ar ôl llinell 12, mewnosoder—

'() Bydd rheoliadau a wneir o dan yr adran hon yn egluro na ddylai ymweliadau i ddarparu gofal personol yng nghartref oedolyn gael eu comisiynu fel arfer i bara llai na thri deg munud, ac eithrio amser teithio.'

Kirsty Williams

109

Section 28, page 23, line 26, leave out subsection (4) and insert –

- ‘() The eligibility criteria are met where one or more of the following circumstances apply –
- (a) there is, or will be, an inability to carry out several personal care or domestic routines;
 - (b) the individual is, or will be, unable to maintain control over several aspects of their day-to-day life;
 - (c) involvement in several aspects of work, education, training or recreation cannot or will not be sustained;
 - (d) several domestic, family and personal relationships cannot or will not be sustained;
 - (e) there is abuse or neglect or risk of abuse or neglect.
- () In the case of a child the eligibility criteria are met where subsection (*first subsection to be inserted by amendment 109*) applies or there is harm or risk of harm.’

Adran 28, tudalen 23, llinell 30, hepgorer is-adran (4) a mewnosoder –

- ‘() Bodlonir y meini prawf cymhwysra pan fydd un neu ragor o’r amgylchiadau a ganlyn yn gymwys –
- (a) bod, neu bydd, analluedd i ymgymryd â sawl tasg arferol o ran gofal personol neu ddomestig;
 - (b) nad yw’r unigolyn, neu na fydd yr unigolyn, yn gallu cynnal rheolaeth dros sawl agwedd ar ei fywyd pob dydd;
 - (c) na ellir cynnal sawl agwedd ar waith, addysg, hyfforddiant neu weithgareddau hamdden neu na fydd yr agweddau hynny yn cael eu cynnal;
 - (d) na ellir cynnal sawl perthynas ddomestig, deuluol a phersonol neu na fydd y perthnasoedd hynny yn cael eu cynnal;
 - (e) bod camdriniaeth neu esgeulustod neu risg o gamdriniaeth neu esgeulustod.
- () Yn achos plentyn, bodlonir y meini prawf cymhwysra pan fydd is-adran (*yr is-adran gyntaf sy’n cael ei fewnosod gan welliant 109*) yn gymwys neu pan fydd niwed neu risg o niwed.’

Kirsty Williams

110

To insert a new section –

'PART ()

APPEALS

Appeals against decisions taken by the local authority

() Appeals against decisions taken by the local authority

- (1) Regulations may make provision for and in connection with the appeal of –
 - (a) determinations made under section 28 and section 60;
 - (b) charges imposed under section 53.
- (2) Regulations made under this section may provide for an independent panel to be established to consider appeals.'

I fewnosod adran newydd –

'RHAN ()

APELAU

Apelio yn erbyn penderfyniadau awdurdod lleol

() Apelio yn erbyn penderfyniadau awdurdod lleol

- (1) Caiff rheoliadau wneud darpariaeth ar gyfer, ac mewn cysylltiad ag, apelio yn erbyn –
 - (a) dyfarniadau a wneir o dan adran 28 ac adran 60;
 - (b) ffioedd a osodir o dan adran 53.
- (2) Caiff rheoliadau a wneir o dan yr adran hon ddarparu ar gyfer sefydlu panel annibynnol i ystyried apelau.'

Kirsty Williams

111

Section 190, page 130, line 24, after '37(1)', insert '(section to be inserted by amendment 110).'

Adran 190, tudalen 130, llinell 26, ar ôl '37(1)', mewnosoder '(yr adran sy'n cael ei fewnosod gan welliant 110).'

Angela Burns

112

Section 164, page 109, after line 34, insert—

- '() Where the Welsh Ministers exercise their power of direction under subsection (1) they must within 21 days of the giving of the direction—
 - (a) report to the National Assembly for Wales that the power has been exercised, and
 - (b) lay a copy of the direction before the National Assembly for Wales.'

Adran 164, tudalen 109, ar ôl llinell 34, mewnosoder—

- '() Where the Welsh Ministers exercise their power of direction under subsection (1) they must within 21 days of the giving of the direction—
 - (a) report to the National Assembly for Wales that the power has been exercised, and
 - (b) lay a copy of the direction before the National Assembly for Wales.'

Suzy Davies

1A

As an amendment to amendment 1, line 2, after 'Welsh', insert 'and any other languages, other than English, identified as being spoken in the local authority's area'.

Fel gwelliant i welliant 1, llinell 2, ar ôl 'Gymraeg', mewnosoder 'ac unrhyw ieithoedd eraill, ac eithrio Saesneg, y nodir eu bod yn cael eu siarad yn ardal yr awdurdod lleol'.

Suzy Davies

113

Section 26, page 22, line 29, after 'assessment', insert ', including, but not to the exclusion of any other consideration, an individual's current or future language requirements'.

Adran 26, tudalen 22, llinell 29, ar ôl 'asesiad', mewnosoder ', gan gynnwys, ond nid ar draul unrhyw ystyriaeth arall, ofynion ieithyddol presennol unigolyn neu ei ofynion ieithyddol yn y dyfodol'.

Jocelyn Davies

114

Section 30, page 25, after line 5, insert—

- '() Where a local authority is meeting a person's needs under sections 31 to 39 by providing or arranging care and support at the person's home, the local authority must satisfy itself that any visits to the person's home for that purpose are of sufficient length to provide the person with the care and support required to meet the needs in question.
- () A code issued under section 139 must include guidelines as to the length of visits to a person's home for the purpose of providing care and support.'

Adran 30, tudalen 25, ar ôl llinell 5, mewnosoder –

- ‘() Pan fo awdurdod lleol yn diwallu anghenion person o dan adrannau 31 i 39 drwy ddarparu neu drefnu gofal a chymorth yng nghartref y person, rhaid i’r awdurdod lleol fodloni ei hun bod unrhyw ymweliadau â chartref y person at y diben hwnnw yn ddigon hir i roi i’r person y gofal a’r cymorth sydd ei angen i ddiwallu’r anghenion dan sylw.
- () Rhaid i gôd a ddyroddir o dan adran 139 gynnwys canllawiau ynghylch hyd ymweliadau â chartref person at y diben o roi gofal a chymorth.’

Kirsty Williams

115

Section 1, page 4, after line 38, insert –

- ‘() provides for a duty to review the Act (section (*section to be inserted by amendment 118*));’.

Adran 1, tudalen 4, ar ôl llinell 39, mewnosoder –

- ‘() yn darparu ar gyfer dyletswydd i adolygu’r Ddeddf (adran (*yr adran sy’n cael ei fewnosod gan welliant 118*));’.

Kirsty Williams

116

Section 1, page 4, after line 38, insert –

- ‘() makes provision for reporting on the funding for new costs arising from this Act (section (*section to be inserted by amendment 119*));’.

Adran 1, tudalen 4, ar ôl llinell 39, mewnosoder –

- ‘() yn gwneud darpariaeth ar gyfer adrodd ar y cyllid ar gyfer costau newydd sy’n deillio o’r Ddeddf hon (adran (*yr adran sy’n cael ei fewnosod gan welliant 119*));’.

Kirsty Williams

117

Section 1, page 4, after line 38, insert –

- ‘() makes provision for an independent review of future demand for social care and healthcare (section (*section to be inserted by amendment 120*));’.

Adran 1, tudalen 4, ar ôl llinell 39, mewnosoder –

- ‘() yn gwneud darpariaeth ar gyfer adolygiad annibynnol o’r galw yn y dyfodol am ofal cymdeithasol a gofal iechyd (adran (*yr adran sy’n cael ei fewnosod gan welliant 120*));’.

Kirsty Williams

118

To insert a new section –

‘(1) Duty to review the Act

- (1) The Welsh Ministers must review and report on the operation of this Act.
- (2) The first review and report under subsection (1) must be undertaken and published by 31 December 2015 and thereafter on a biennial basis.
- (3) Reviews and reports under this section must include, in particular, an assessment of the impact the Act has had on –
 - (a) adults who need care and support;
 - (b) children who need care and support;
 - (c) carers who need support.
- (4) The Welsh Ministers must lay a copy of any report required to be published under subsection (2) before the National Assembly for Wales.’.

I fewnosod adran newydd –

‘(1) Dyletswydd i adolygu’r Ddeddf

- (1) Rhaid i Weinidogion Cymru adolygu gweithrediad y Ddeddf hon a chyflwyno adroddiad ar ei gweithrediad.
- (2) Rhaid i’r adolygiad a’r adroddiad cyntaf o dan is-adran (1) gael eu cynnal a’u cyhoeddi erbyn 31 Rhagfyr 2015 ac, ar ôl hynny, bob dwy flynedd.
- (3) Rhaid i adolygiadau ac adroddiadau o dan yr adran hon gynnwys, yn benodol, asesiad o’r effaith y mae’r Ddeddf wedi’i chael ar –
 - (a) oedolion y mae arnynt angen gofal a chymorth;
 - (b) plant y mae arnynt angen gofal a chymorth;
 - (c) gofalwyr y mae arnynt angen cymorth.
- (4) Rhaid i Weinidogion Cymru osod copi o unrhyw adroddiad y mae’n ofynnol iddynt ei gyhoeddi o dan is-adran (2) gerbron Cynulliad Cenedlaethol Cymru.’.

Kirsty Williams

119

To insert a new section –

‘(1) Reporting on the funding for new costs arising from this Act

- (1) There is to be a Joint Care and Support Reform Panel consisting of representatives of (but not limited to) the Welsh Local Government Association, the Association of Directors of Social Services and Local Health Boards.
- (2) The Joint Care and Support Reform Panel must inform the Welsh Ministers by an annual written report that it is satisfied whether sufficient funding is in place to ensure that social care is adequately funded and that the provisions in the Act can be implemented satisfactorily.

- (3) The report mentioned in subsection (2) must include a statement of the satisfaction of the Joint Care and Support Reform Panel with (but not limited to) –
 - (a) adequacy of the funding of the provisions in this Act;
 - (b) on-going costs of implementation;
 - (c) an additional five yearly review of the short and medium term cost of setting the eligibility criteria in accordance with regulations made under section 28.’.

I fewnosod adran newydd –

‘(1) Cyflwyno adroddiadau ar gyllid ar gyfer costau newydd sy’n deillio o’r Ddeddf

- (1) Bydd Cyd-banel Diwygio Gofal a Chymorth a fydd yn cynnwys cynrychiolwyr (ond heb fod yn gyfyngedig iddynt) o Gymdeithas Llywodraeth Leol Cymru, Cymdeithas Cyfarwyddwyr Gwasanaethau Cymdeithasol Cymru a Byrddau Iechyd Lleol.
- (2) Rhaid i’r Cyd-banel Diwygio Gofal a Chymorth roi gwybod i Weinidogion Cymru drwy gyfrwng adroddiad ysgrifenedig blynyddol ei fod yn fodlon a oes digon o gyllid ar gael i sicrhau bod gofal cymdeithasol yn cael ei ariannu’n ddigonol ac y gellir rhoi darpariaethau’r Ddeddf ar waith yn foddhaol.
- (3) Rhaid i’r adroddiad a grybwyllir yn is-adran (2) gynnwys datganiad o fodlonrwydd gan y Cyd-banel Diwygio Gofal a Chymorth o ran (ond heb fod yn gyfyngedig i) –
 - (a) digonolrwydd y cyllid ar gyfer darpariaethau’r Ddeddf hon;
 - (b) costau parhaus eu rhoi ar waith;
 - (c) adolygiad ychwanegol bob pum mlynedd ar y gost tymor byr a thymor canolig o osod y meini prawf cymhwystra yn unol â’r rheoliadau a wneir o dan adran 28.’.

Kirsty Williams

120

To insert a new section –

‘(1) Independent review of future demand for social care and healthcare

- (1) The Welsh Ministers must make arrangements for an independent review of, and report on, the likely demand for social care, public health and healthcare services in Wales over the next twenty years.
- (2) The objective of the review mentioned in subsection (1) is to identify the key factors determining the financial and other resources required to ensure that social care and health functions as a cost effective, high quality, equitable, integrated and sustainable single system which –
 - (a) promotes individual well-being (as defined in Part 1 of this Act),
 - (b) enables access to be determined on the basis of need, and
 - (c) can meet forecast demand.
- (3) The arrangements for the conduct of review must include provision for a fully integrated modelling and analysis of health and social care including examination of –
 - (a) the technological, demographic and health status trends over the next two decades that may inform or affect demand for social care and health services;

- (b) the inter-dependencies between social care, public health and healthcare and the appropriate balance between different types of intervention, in particular between –
 - (i) health and social care,
 - (ii) primary and secondary care,
 - (iii) physical and mental health, and
 - (iv) treatment and prevention;
 - (c) any other matter that the Welsh Ministers set out in the review's terms of reference.
- (4) The Welsh Ministers must lay before the National Assembly for Wales a copy of an interim report on emerging themes and trends identified by the first such review by 31 March 2015 and make arrangements for a consultation process to be undertaken in relation to those interim findings.
 - (5) The Welsh Ministers must lay before the National Assembly for Wales a copy of the final report by 31 December 2015.
 - (6) At no more than five year intervals, the Welsh Ministers must make arrangements for the updating of the report of the review mentioned in subsection (1) with the same objective and approach as mentioned in subsections (2) and (3), and including such matters as are provided for in subsection (3)(c), and must prepare and lay before the National Assembly for Wales a report on the outcomes.
 - (7) The Welsh Ministers must prepare and lay before the National Assembly for Wales a statement on the extent to which the reports mentioned in subsections (1) and (6) inform their wider budget strategy and decisions.'.

I fewnosod adran newydd –

'(1) Adolygiad annibynnol o'r galw yn y dyfodol am ofal iechyd a chymdeithasol

- (1) Rhaid i Weinidogion Cymru wneud trefniadau ar gyfer cynnal adolygiad annibynnol o'r galw tebygol am ofal cymdeithasol, iechyd cyhoeddus a gwasanaethau gofal iechyd yng Nghymru yn yr ugain mlynedd nesaf, ac adrodd ar yr adolygiad hwnnw.
- (2) Amcan yr adolygiad a grybwyllir yn is-adran (1) yw nodi'r ffactorau allweddol sy'n pennu'r adnoddau ariannol ac adnoddau eraill sydd eu hangen i sicrhau bod gofal cymdeithasol ac iechyd yn gweithredu fel un system gosteffeithiol, safon uchel, teg, integredig a chynaliadwy sydd –
 - (a) yn hybu llesiant unigolion (fel y diffinnir yn Rhan 1 o'r Ddeddf hon),
 - (b) yn galluogi mynediad i gael ei ddyfarnu ar sail angen, ac
 - (c) yn gallu diwallu'r galw a ragwelwyd.
- (3) Rhaid i'r trefniadau ar gyfer cynnal adolygiad gynnwys darpariaeth ar gyfer modelu a dadansoddi iechyd a gofal cymdeithasol yn gwbl integredig, gan gynnwys archwilio'r canlynol –
 - (a) y tueddiadau o ran technoleg, demograffi a statws iechyd yn ystod y ddau ddegawd nesaf a all hysbysu neu effeithio ar y galw am ofal cymdeithasol a gwasanaethau iechyd;

- (b) y rhyngddibyniaeth o ran gofal cymdeithasol, iechyd cyhoeddus a gofal iechyd, a'r cydbwysedd priodol rhwng y gwahanol fathau o ymyrraeth, yn enwedig rhwng y canlynol—
 - (i) iechyd a gofal cymdeithasol,
 - (ii) gofal sylfaenol ac eilaidd,
 - (iii) iechyd corfforol a meddyliol, a
 - (iv) triniaeth ac atal;
 - (c) unrhyw fater arall a nodir gan Weinidogion Cymru yng nghylch gorchwyl yr adolygiad.
- (4) Rhaid i Weinidogion Cymru osod copi o adroddiad interim gerbron Cynulliad Cenedlaethol Cymru ynghylch y themâu sy'n amlygu a'r tueddiadau a nodwyd yn yr adolygiad cyntaf erbyn 31 Mawrth 2015 a gwneud trefniadau ar gyfer cynnal proses ymgynghori mewn perthynas â'r canfyddiadau interim hynny.
 - (5) Rhaid i Weinidogion Cymru osod copi o'r adroddiad terfynol gerbron Cynulliad Cenedlaethol Cymru erbyn 31 Rhagfyr 2015.
 - (6) Ar gyfnodau o ddim mwy na phum mlynedd rhaid i Weinidogion Cymru wneud trefniadau i uwchraddio adroddiad yr adolygiad a grybwyllir yn is-adran (1), gyda'r un nod a dull gweithredu a grybwyllir yn is-adrannau (2) a (3), a chan gynnwys materion y darperir ar eu cyfer yn is-adran (3)(c), a rhaid iddynt baratoi a gosod gerbron Cynulliad Cenedlaethol Cymru adroddiad am y canfyddiadau.
 - (7) Rhaid i Weinidogion Cymru baratoi a gosod gerbron Cynulliad Cenedlaethol Cymru ddatganiad ynghylch y graddau y mae'r adroddiad a grybwyllir yn is-adrannau (1) a (6) yn hysbysu eu strategaeth a'u penderfyniadau ehangach ynghylch y gyllideb.'.