

**Vaughan Gething AC/AM**  
**Y Gweinidog Iechyd a Gwasanaethau Cymdeithasol**  
**Minister for Health and Social Services**



Llywodraeth Cymru  
Welsh Government

Ein cyf/Our ref: MA/VG/5824/19

Llyr Gruffydd AM  
Chair, Finance Committee  
National Assembly for Wales  
Cardiff Bay  
Cardiff  
CF99 1NA

14 January 2020

Dear Llyr,

I would like to thank the Finance Committee for its diligent and detailed work in considering the financial implications of the Health and Social Care (Quality and Engagement) (Wales) Bill. I acknowledge the 9 recommendations made by the Committee within its scrutiny report, published on 15 November 2019, and enclose my response to each of these in Annex A.

I am pleased the Committee supports our approach to developing estimates of the cost and benefits of the Bill via engagement with key stakeholders, including NHS bodies and local authorities and that it believes this will aid us in realising the cultural changes the Bill is looking to achieve.

A number of the Committee's recommendations relate to those areas where it has not been possible to meaningfully quantify the costs and benefits of those cultural changes. I remain firmly of the view that attempting to frame the conversation about quality and candour in terms of monetary value does not take into account the fact that the benefits of introducing these two duties are not capable of being monetised in a meaningful way, but do recognise the Committee's role and interest in probing this. The majority of the benefits expected to arise from the Bill's provisions are non-financial – they are benefits in terms of improved services, experiences and outcomes. These are of real and significant benefit to the people who use and provide health services but do not lend themselves to being monetised.

Consequently, it has not been possible for me to accept, in full, all of the Committee's recommendations in these areas. However, I acknowledge the intent behind them and in each case we have carried the principles and underpinning reasoning through as far as possible.

I very much value the Committee's words of caution about the accuracy of estimated costs. I am keen to emphasise my continued commitment to monitoring these very carefully and to

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

will continue to work closely with our key stakeholders to keep these under constant review during the implementation phase.

Finally, I would like to make you aware that on 2 December 2019 I tabled three Government amendments to the Bill and that I intend to table a further tranche of amendments during Stage 2. Any financial impacts associated with these changes will be set out in the revised Regulatory Impact Assessment which we will table following Stage 2 proceedings.

I will also be writing to the Chairs of the Constitutional and Legislative Affairs and the Health, Social Care and Sport Committees with regard to their Stage 1 reports and will copy all letters to the three Committee Chairs.

Yours sincerely,

A handwritten signature in black ink that reads "Vaughan Gething". The signature is written in a cursive, flowing style.

**Vaughan Gething AC/AM**

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Minister for Health and Social Services

## **Annex A: Welsh Government response to the recommendations of the Finance Committee regarding the Health and Social Care (Quality and Engagement) (Wales) Bill.**

On 3 July 2019, the Finance Committee considered the financial implications of the Health and Social Care (Quality and Engagement) (Wales) Bill and on 15 November published its scrutiny report. This document provides the Welsh Government's response to each of the 9 recommendations included in that report.

**Recommendation 1:** The Committee recommends the Welsh Government undertakes further work analysing and estimating the benefits of the Bill, which are identified as key drivers for implementing the legislation. This information, which should include a sensitivity analysis to show the potential range of values, should be included in a revised Regulatory Impact Assessment published following Stage 2 proceedings.

### **Welsh Government response: Reject**

Prior to introduction of the Bill, significant work was undertaken in investigating the available evidence and our conclusion on this point was that due to the lack of data around the cost benefits of avoiding poor quality healthcare, any sensitivity analysis would have been too broad to be meaningful in practice.

The majority of the benefits expected to arise from the Bill's provisions are non-financial – they are benefits in terms of improved services, experience and outcomes. These are things that are of real benefit to the people who use and provide services but are not easily or robustly monetised. In producing the Regulatory Impact Assessment as published, we have sought to strike an appropriate balance between a quantified assessment of the costs we anticipate will result from the legislation and the risk of presenting a spurious estimation.

Work is underway to scope the programme of monitoring and evaluation activity that will measure the non-financial benefits of the Bill. This will include the specific benchmarked indicators we anticipate will show measurable improvement over the post-implementation period.

### **Financial Implications**

There are no financial implications as a result of our response to this recommendation.

**Recommendation 2:** The Regulatory Impact Assessment assumes that a significant proportion of the costs arising from the requirements of the Bill will be absorbed by stakeholders, such as NHS bodies without setting out the likely implications of it. The Committee recommends that further information should be included in the revised Regulatory Impact Assessment.

### **Welsh Government response: Reject**

The Regulatory Impact Assessment presents an appropriate assessment of the likely costs and benefits of the legislation and was developed via close engagement with

stakeholders, including NHS bodies. The RIA concludes that the duties being placed on NHS bodies through the Bill are both appropriate and proportionate. The RIA also includes, where it is possible, opportunity costs as a result of the provisions in the Bill including releasing staff for training to embed the new ways of working.

Regulatory Impact Assessments are a value for money analysis - to extend the analysis to consider how those costs will be funded moves beyond their design and intended purpose. Matters of affordability and funding are of course important considerations for the Welsh Government, but will be of interest to the Assembly, and as such will be closely monitored during the implementation phase.

### **Financial Implications**

There are no financial implications as a result of our response to this recommendation.

**Recommendation 3:** The Committee recommends that further work be undertaken in respect of the likely ongoing costs to arise from the duty of quality, which are not quantified in the Regulatory Impact Assessment. This should include sensitivity analyses to show the potential range of values and be included in a revised Regulatory Impact Assessment at Stage 2.

### **Welsh Government response: Reject**

We remain of the view the ongoing costs arising from the duty of quality will be in the main determined by decisions taken by individual NHS bodies and Welsh Government is not in a position to pre-empt those decisions. We will undertake further work in the revised EM on providing some examples of existing best practice, where some individuals are already working in the ways which will be required by the duty. This will demonstrate values on current individual best practice cases but does not provide the evidence on future decisions and outcomes that enables us to robustly present an estimate of the total cost (or even the range of costs) across Wales.

### **Financial Implications**

There are no financial implications as a result of our response to this recommendation.

**Recommendation 4:** The Committee recommends the Welsh Government reconsiders the levels of costs for awareness and training for the duties of quality and candour and these are included in a revised Regulatory Impact Assessment at Stage 2.

### **Welsh Government response: Accept in Principle**

The cost estimates for developing course materials and the public awareness campaign for the duties of quality and candour, set out in the Regulatory Impact Assessment, are based on the best available information at this time. They have been based on engagement with the relevant stakeholders and our previous

experience of implementing other comparable legislation, including the Putting Things Right campaign that was used to launch the new NHS complaints procedure, back in 2011.

In considering this recommendation, the estimates included in the Regulatory Impact Assessment have been reviewed. No new evidence was presented during Stage 1 scrutiny on the levels of costs in these areas and therefore only minor amendments have been made to better reflect inflationary pressures when referring to historic figures. We will continue to work closely with the relevant stakeholders, as the Bill progresses through scrutiny and during the implementation phase, to monitor the cost and practicalities of the proposals.

### **Financial Implications**

Any unforeseen financial implications will be managed within the existing budget allocated for this legislation, over the budget planning period as set out in the Regulatory Impact Assessment. Any additional costs required will be incorporated into future budget plans.

**Recommendation 5:** The Committee recommends the Welsh Government prepares a sensitivity analysis to show the impact of changes in the number of incidents on the ongoing cost arising from the introduction of the duty of candour. This information should be included in a revised Regulatory Impact Assessment at Stage 2.

**Recommendation 6:** The Committee recommends the Welsh Government undertakes further work on legal costs arising from the Bill and updates the Regulatory Impact Assessment at Stage 2. This should include a sensitivity analysis to demonstrate a range of costs, where appropriate.

**Recommendation 7:** The Committee recommends that a sensitivity analysis is undertaken to show how fluctuations in the assumptions about the volume of additional complaints impacts on the number of staff required for the new Citizen Voice Body and its expected running costs. This information should be included in a revised Regulatory Impact Assessment at Stage 2.

**Recommendation 8:** The Committee recommends that the Regulatory Impact Assessment should reflect the potential range of ICT costs rather than the low cost estimate.

### **Welsh Government response: Accept**

A revised Regulatory Impact Assessment will be laid at the end of stage 2 which will contain the additional information requested.

### **Financial Implications**

Any unforeseen financial implications will be managed within the existing budget allocated for this legislation, over the budget planning period as set out in the

Regulatory Impact Assessment. Any additional costs required will be incorporated into future budget plans.

**Recommendation 9:** The Committee recommends that in revising the Regulatory Impact Assessment, information is included about the methodologies and specific content of the post implementation review. This should include information about the baseline position against which the impact of the Bill can be measured and assessed.

**Welsh Government response: Accept**

Work is underway to scope a programme of post implementation monitoring and review activity. A revised Regulatory Impact Assessment will be laid at the end of stage 2 which will contain some detail of the intended methodologies and planning approach to establish the baseline position to evaluate the success and impact of the Bill's provisions.

**Financial Implications**

Any additional financial implications will be managed within the existing budget allocated for this legislation, over the budget planning period as set out in the Regulatory Impact Assessment. Any additional costs required will be incorporated into future budget plans.