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Consultation – Summary Report

Regulations and code of practice in relation to Part 11 of the Act, Miscellaneous and General, including Adults and Children in prison, youth detention accommodation and bail accommodation, and Ordinary Residence

Regulations and code of practice in relation to Part 11 of the Act - Consultation Summary

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Section 1

Introduction

The Social Services and Well-being (Wales) Act 2014 (“the Act”) received Royal Assent on 1 May 2014. The Act forms the basis of the new statutory framework for social care in Wales.

A consultation was held on the proposals for regulations and codes of practice in relation to Part 11 of the Act, miscellaneous and general, including adults and children in prison, youth detention accommodation and bail accommodation, and ordinary residence. The consultation period ran from 6 November 2014 to 2 February 2015.

The consultation document was distributed to:

- Association of Directors of Social Services (ADSS) Cymru
- Children's commissioner
- Older People's Commissioner
- Wales Community Rehabilitation Company (CRC) Wales
- Royal College of General Practitioners (RCGP) Secure Estate Improvement Network
- Welsh Medical Committee
- College of Occupational Therapists
- Care Council for Wales
- British Association of Social Workers (BASW) Cymru

In total 63 responses were received. A list of recipients is attached at Annex A. A summary of consultation responses together with the Welsh Government's analysis can be found in Section 2.

Background

The Welsh Ministers have made it clear that they wish the core elements of the new statutory framework to be in place for April 2016, when the Act will be implemented.

The statutory framework will consist of three main elements, the Act itself, regulations made under the Act, and codes of practice/statutory guidance. These three elements work together to form the framework within which social services will operate from April 2016.

The consultation on and laying of the Regulations to be made under the Act is being conducted principally in two tranches. This consultation formed part of

the first tranche. The intention is to lay these regulations before the Assembly from May 2015 to give the health and social care sector the maximum amount of time to adjust to the new requirements ahead of implementation in April 2016.

The evidence for change

Social services are at the heart of Welsh public life. They support 150,000 young, old and disabled people every year to achieve their potential and help make them safe. Many of these services are delivered in partnership with others, including housing, health and education services. Society is changing and social services must change in response. There has been and will continue to be shifts in the public's expectations of social services, as a result of demographic change and changes in our society. Social services need to alter and to respond to all of these.

Furthermore, demand is rising across social services, yet the financial outlook for all public services is difficult. Whilst we have protected social services expenditure, we need to make a more fundamental change than just pursuing the obvious efficiency measures if we are to make social services sustainable. Our White Paper *Sustainable Social Services for Wales: A Framework for Action* sets out a programme of change to meet these challenges based on the following nine principles:

- A strong voice and real control
- Supporting each other
- Safety
- Respect
- Recovery and restoration
- Adjusting to new circumstances
- Stability
- Simplicity
- Professionalism

These have been informed by discussion with stakeholders and debates in the National Assembly for Wales and elsewhere since *Sustainable Social Services for Wales* was published. They sit alongside the evidence of the Independent Commission on Social Services in Wales, the Law Commission review of adult social care legislation^a, and our Review of Safeguarding^b. All this forms the backbone of our case for change.

^a <http://lawcommission.justice.gov.uk/areas/adult-social-care.htm>

^b <http://wales.gov.uk/topics/health/publications/socialcare/reports/advisory/?lang=en>

This evidence, and the process of considering it through the Assembly scrutiny process on the Bill, has informed and shaped the contents of the Act. The next stage, the development of the regulations and codes of practice or statutory guidance, has been informed by key strategic inputs such as *More than just words*, our Strategic Framework for Welsh Language Services in Health, Social Services and Social Care^c, the *Enabling Wales* project which directly supports the delivery and implementation of the Welsh Government's *Framework for Action on Independent Living* and by evidence sourced through technical groups consisting of key stakeholders. These groups have looked at the Act's provisions, and the policy underpinning these, in detail, and provided advice to officials on how the regulations and codes of practice should be framed in order to achieve the aims of the Act and, through this, the requirements of *Sustainable Social Services: A Framework for Action*. This process has secured a range of valuable input which Welsh Government officials have drawn upon to develop the draft regulations and code of practice which were consulted upon.

The proposal

The code of practice aims to set policy on meeting the 'care and support' needs of **Adults and Children in Prison, Youth Detention Accommodation or Bail Accommodation** while they are in custody, and to prepare them for the care and support they may need when they are resettled back into the community. The Code of practice sets out how local authorities should implement the new duties under the Act.

By April 2016 local authorities will need to have arrangements in place to assess, and meet, the care and support needs of those in the secure estate. Local authorities will need to apply the arrangements under Parts 3 and 4 of the Act, as well as the general duties under Part 2, to people in custody just as they would for those living in the community.

There are no regulations relating to adults and children in prison, youth detention accommodation or bail accommodation.

In relation to **Ordinary Residence and dispute resolution**, we proposed:

- Specifying adult placements ('shared lives') accommodation alongside care home accommodation in the ordinary residence regulations (Section 194).

^c <http://wales.gov.uk/topics/health/publications/health/guidance/words/?lang=en>

- Making regulations on the procedures for determining disputes about ordinary residence and portability of care and support (Section 195).

Consultation Events

Two consultation events were held as part of the consultation process. The purpose of these was to:

- Promote engagement with the consultation
- Provide a base level of understanding to key stakeholder groups of the areas we were consulting on.

Attendees were asked to participate in discussions on the implementation of the regulations, and also to share information from the events with their wider networks to provoke deeper engagement with the proposals and a wider span of consultation responses.

The events were split to capture a wide range of stakeholders from across the country. The first event was held on 26 November in the Liberty Stadium, Swansea. The second was held on 9 December in Venue Cymru, Llandudno.

Overall the uptake of spaces for the events was positive with capacity reached at both. There were approximately 170 attendees at the event in South Wales and 90 attendees in North Wales. The range of stakeholders included representation from:

- | | |
|--------------------------------------|---|
| • Age Alliance Wales | • Learning Disability Wales |
| • British Deaf Association | • Local Authorities |
| • Cardiff Metropolitan University | • Local Health Boards |
| • Care Council for Wales | • Ministry of Justice |
| • Carers Trust Wales | • National Probation Service – Wales |
| • Cartrefi Cymru | • NOMS in Wales |
| • Children in Wales | • North Wales Police |
| • College of Occupational Therapists | • North Wales Social Services Improvement Collaborative |
| • CSSIW | • Office of the Older People’s Commissioner |
| • Disability Wales | • Public Health Wales |
| • Estyn Llaw | • The Rowan Organisation |
| • G4S Custodial & Detention Service | • RNIB Cymru |
| • Hafal | • Safeguarding Advisory Board |
| • Headway | • Shine Cymru |
| • HMP Swansea | |

- South Wales Police
- UK Home Care Association
- Wales Alliance for Citizen Directed Support
- Wales Community Rehabilitation Company
- Welsh Ambulance Service
- WLGA
- Youth Justice Board Cymru

Workshops were held at the events on each of the parts out to consultation. The content of these workshops was varied and tailored to suit the subject matter, but at the core of each was a presentation from officials and group discussions and activities.

Section 2 - Response to the Consultation Questions

Question 1:

	1. To what extent do you agree that this chapter supports local authorities to undertake the new duties in the Act?				
	Agree	Tend to agree	Tend to disagree	Disagree	Not ticked
Total -	17	16	5	1	12

84% of respondents who ticked a box, agreed or tended to agree with the view that this chapter supported local authorities to undertake the new duties in the Act. Most respondents felt the code of practice set out clearly what the duties on local authorities are under the Act but wanted the code to be more explicit about the delivery model that should be adopted.

Eight respondents (including prisoners themselves) expressed the need to have robust cross border and portability arrangements in place to support inter-prison transfers and offenders when they are being released and wanted the code of practice strengthened in this respect. A number of respondents, including the College of Occupational Therapists and the British Association of Social Workers (BASW) stressed the need for the code of practice to be redrafted to avoid any confusion between the requirements for those serving their sentence in custody in England under the Care Act, and the requirements for those serving their sentence under the Social Services and Well-being (Wales) Act 2014.

A number of respondents, including the Association of Directors of Social Services Cymru, suggested that the Information, Advice and Assistance Service provided within the secure estate should provide information and advice to those serving sentences, staff and families about how the care and support system would operate; and that the code should also set out what support would be available in other local authority areas. Many respondents felt that strengthening the code in this respect would enable offenders to make informed decisions both about their own circumstances when planning for their release, and the needs of their families who may be living in another local authority area.

Several local authorities supported the need for the National Assessment and Eligibility Tool to be used within the secure estate, just as it is within the community, in order to provide greater continuity for those operating the system. Some local authorities and the Children's Commissioner highlighted the need for better information sharing amongst agencies to better support individuals and reduce bureaucracy.

13 respondents raised the need for additional resources for local authorities to support them in delivering these new duties.

Welsh Government Response

The Welsh Government accepted the majority of the comments made in relation to this chapter. The code of practice has been strengthened to ensure that there is greater clarity over the responsibilities of local authorities under the Act and the partnership arrangements that are needed to support those in the secure estate.

Work is underway, with the support of key stakeholders through a Steering Group and Working Group, to develop a national pathway for both adult and young people in the secure estate. The national pathways will assist local implementation teams to develop their delivery models.

The Social Services Improvement Agency (SSIA) has been commissioned by the Welsh Government to consider ways in which the Information, Advice and Assistance Service can be provided within the secure estate, given the security issues. The Prison Service are supportive of the approach and work is ongoing to look at how initiatives such as the 'virtual campus' and induction courses can contribute to the delivery of these aspects within the various secure settings.

The Welsh Government is ensuring that officials from different directorates with an interest in the secure estate are working closely together to ensure strategies are aligned. Officials are also working with their counterparts in Whitehall to ensure that cross border arrangements will be developed and in place before the Act comes into force in April 2016.

Question 2:

	2. Are there elements of the care and support system that could be better delivered to those in the secure estates through national collaboration between local authorities?				
	Agree	Tend to agree	Tend to disagree	Disagree	Not ticked
Total -	19	15	1	0	15
<p>97% of respondents who ticked a box, agreed or tended to agree that there were elements that could be delivered through national collaboration between local authorities. Respondents saw national collaboration as a means of local authorities, and their partners, working together to develop the best operational response rather than by pooling resources and forming a national team.</p> <p>Approximately 50% of respondents including the Healthcare Inspectorate Wales, Mind Cymru and College of Occupational Therapists specifically identified the need for strong collaborative arrangements between health services and local authorities. Five respondents suggested extending the</p>					

remit of the prison health partnership boards to include local authorities as a statutory member as a means of achieving this.

The Association of Director of Social Service Cymru, the Care Council for Wales and Welsh Local Government Association all stressed the need for the code of practice to be more direct and clearer on the duties placed on partner organisations for those in the secure estate, both while they in custody and in planning for / upon release. ADSS Cymru and many local authorities also called for collaboration within regions to be robust in order that Multi Agency Risk Assessment Conference (MARAC) arrangements are maintained.

Barnardos Cymru suggested that there should be a national training programme on children affected by parental imprisonment, which could be included in the code of practice.

The Older People's Commissioner recognised the need for population needs assessment to include those populations within prison/ secure settings and for the information gathered to be meaningful in directing the plans of a local authority/ region in determining the way in which it must need the care and support needs of its locality.

The Youth Justice Board were sympathetic to having a consistent and collaborative care and support system to support young people with the secure settings.

Many of the respondents requested that the code of practice should be more explicit about the delivery model, and for all agencies to be clear of their role within this model.

Welsh Government Response

The Welsh Government is working with key stakeholders through a Steering Group and Working Group, to support the implementation process and delivery of the code of practice and national pathways. Both groups have been offering advice on the delivery model(s) to be adopted and act as a conduit through which the local authorities can come together to plan and design their response to the new duties under the Act.

The Welsh Government has encouraged and supported local implementation teams to be established in each of the local authority areas. There is nothing in the code of practice that will preclude local authorities from working each other, or with other agencies, to develop a national approach should they feel this is the best approach. The code of practice has been refined to provide greater clarity on the role and responsibilities on local authorities in respect of the new duties and those of their partners.

Specific reference to both Multi Agency Public Protection Arrangements (MAPPA) and Multi Agency Risk Assessment Conference (MARAC) has been made in the revised code of practice as well as to the governance arrangements which will support both the strategic and operational arrangements and ensure that robust co-ordinated systems are developed.

The Social Services Improvement Agency (SSIA) has been commissioned by Welsh Government to consider ways in which the Information, Advice and Assistance Service can be provided, in the secure estate, given the security issues. This will support the adoption of a national approach to be adopted or for local authorities to draw on learning, The Care Council for Wales has been commissioned to produce and lead on a Learning and Development Strategy for Wales, supporting implementation, and a multi agency approach to this will be taken to ensure that staff in partner agencies can also access the same training.

The Welsh Government acknowledges that there are differences in the way in which local authorities must respond to those in the secure estate depending if they are adults or young people. The Welsh Government is strengthening the code of practice to ensure that these duties are set out clearly and that the legal remit of partner agencies are covered within the code. Ensuring that the revised code of practice and the statutory guidance, issued by Department of Health to accompany the Care Act in England, are complementary will also assist in the development and delivery of the cross border arrangements.

The membership/ structure of the Prison Health Partnership Boards will be reviewed and the Welsh Government will encourage the Boards to extend an invitation to local authorities to join. This will ensure that there are closer tripartite partnership working is established between local authorities, health and prison services.

The code has been strengthened in relation to the need for local authorities conducting their population needs assessment to include prison populations within the data gathering and analysis. Both the code of practice for Part 2 and Part 11 have been cross referenced to ensure this point is emphasised consistently.

Question 3:

How can the code of practice on Part 11 better support the involvement of families of offenders to minimise the impact of custodial sentences on the wider family?

The majority of respondents acknowledged the need for families of those in the secure estate to be supported to minimise the impact of custodial sentences on the wider family. Many recognised that the National Probation Service and the Community Rehabilitation Company Wales have a key role in supporting those in the secure estate both in custody and upon release, and will play a crucial role in working with families of those in custody.

Hywel Dda Local Health Board, along with many other respondents from both the statutory and third sector, recognised that adopting a more holistic approach can only improve and minimise the impact on families and carers.

The Children's Commissioner, Powys local authority and Barnardos Cymru

referred to research evidence that shows that children of parents in prison do significantly less well than their peers, and that there is a need for local authorities to identify these children and families in order that more support can be offered. Health Inspectorate Wales welcomed the arrangements under Part 11, particularly in terms of the positive impact they were likely to have on families of those imprisoned. Many respondents suggested including examples of good practice from existing projects such as Invisible Walls Project and the Family Group Model within the code of practice, as well as providing further reference to family and carer engagement within the code.

The Association of Directors of Social Services Cymru, Welsh Local Government Association and the Children's Commissioner suggested that the Information, Advice and Assistance Service would be a key resource enable to those in the secure estate to access their care and support as well as their family members, whether they were living in the same local authority as the prison where their partner was detained, or whether they were living in other local authority areas.

Welsh Government Response

The Welsh Government recognises that Probation Services are being transformed with the creation of the National Probation Service and the Community Rehabilitation Company Wales; and that these are key partners in the delivery of care and support for those in the secure estate, and their families, going forward. The code of practice has been strengthened to ensure that the partner arrangements between the local authorities and the probation services are clear and that duplication of effort is avoided.

Supporting families, and especially children of those in the secure estate, is a priority for the National Offender Management Service (NOMS). Welsh Government recognises that there is already considerable amount of 'good practice' being undertaken by third sector organisations working in prisons to support children and families. Barnardos Cymru, working with PACT, are operating the Invisible Wales project at HMP Parc which seeks to support children affected by parental imprisonment, and the Welsh Government will be supporting additional work over summer 2015 to identify ways in which local authorities can identify and support these children and their families that can be incorporated in the final code in the autumn.

The code of practice has been strengthened to ensure that local authorities recognise the need to tailor the Information, Advice and Assistance for those in secure settings. Welsh Government has commissioned the Social Services Improvement Agency to undertake a piece of work to support local authorities drawing on the prisons 'virtual campus' and opportunities for secure emails.

The Welsh Government are working closely with colleagues in NOMS to ensure consistency of approach is taken in redrafting the code of practice to align with arrangements in England under the Care Act 2014 and to establish workable cross border arrangements which will need to be agreed at a national level for those moving between settings both through inter-prison transfers or for planned release.

Question 4:

	4. To what extent do you agree that the Code of Practice covers all relevant aspects of ordinary residence and dispute resolution? Are there any other issues which need to be included?				
	Agree	Tend to agree	Tend to disagree	Disagree	Not ticked
Total -	18	12	4	0	17

The ADSS Cymru, WLGA and the Children's Commissioner all reported that the draft code covered all relevant aspects of ordinary residence, and the general view of respondents was also positive.

The main issue of concern related to the reference in section 194 of the Act to, 'Where an adult has needs for care and support which can only be met if the adult is living in accommodation of a type specified in regulations.' It was suggested that there should be a clear link to Parts 3 and 4 of the Act, on assessing and meeting needs, to ensure that people do not get trapped in accommodation which may no longer be suitable for their needs.

Welsh Government Response

The Welsh Government considers that the regulations and code of practice relating to Parts 3 and 4 of the Act provide a robust framework for assessing and meeting the needs of individuals for care and support, including those need which must be met by the provision of targeted social care services, including care home accommodation. Individuals should only be placed in residential care homes if this is the best way of meeting their assessed needs, and such placements should be kept under regular review. Reassessments will be triggered by any change in the individual's circumstances, to ensure that they are placed appropriately and that the package of care and support services continues to meet their needs. The provisions in section 194 are limited in scope to determining where an individual who is placed in such accommodation is deemed to be ordinarily resident, and which local authority therefore has continuing responsibility for that individual.

Question 5:

	5. To what extent do you agree that adult placement ('shared lives') accommodation should be included in the regulations on specified accommodation?				
	Agree	Tend to agree	Tend to disagree	Disagree	Not ticked
Total -	23	7	0	1	20

Although third sector organisations were broadly supportive of this, and did not anticipate any problems, in their joint consultation response the Association of Directors of Social Services (ADSS) Cymru and the Welsh Local Government Association (WLGA) expressed the view that where the accommodation was provided under a tenancy agreement between the individual and the accommodation provider, the normal rules of ordinary residence should apply. In these circumstances, there is no reason for them to be 'deemed' to be ordinarily resident elsewhere.

Welsh Government response

The Welsh Government has discussed this issue further with the WLGA and ADSS Cymru, to clarify the extent to which adults in shared lives arrangements have tenancies. These discussions have confirmed that adults who live in shared lives arrangements, except for short breaks, have tenancy agreements to allow them to claim housing benefit from the local authority in which they are living. This suggests that the ordinary and natural meaning of ordinary residence should apply in these cases – i.e. the individuals have moved home and are, therefore, ordinarily resident in their new area and eligible for care and support from the local authority for that area. Where a placement is for a short break only (e.g. as a form of 'respite' provision), then the placement costs would continue to fall to the placing authority, as at present.

These discussions also concluded that local authorities in Wales are already developing regional approaches to the provision of care and support in areas such as shared lives provision. For example, the Gwent authorities operate a regional Shared Lives scheme, ensuring a greater choice for individuals who would benefit from this type of living arrangement. There are also clear resolution procedures under the Part 11 regulations and code of practice for any disputes which do occur, and the code makes clear the importance we place upon collaborative approaches and co-operation between authorities in meeting the care and support needs of their local populations.

In the light of these considerations, the Minister for Health and Social Services has decided not to include shared lives within the specified accommodation regulations. Except for short breaks, the care and support needs of an individual in a shared lives arrangement will be met by the local authority in which the accommodation is situated.

Question 6:

Do you think the dispute resolution procedures need to be strengthened in any way? Are there any omissions, or any aspects which cause you concern?

No major issues were identified other than the tenancy issue dealt with under Question 5 above.

Question 7:

Is there any other type of accommodation you think should be included in the specified accommodation (e.g. supported living)? If so, please explain why you think it should be included, any issue this might raise and how they might be addressed.

This question elicited the most responses and debate. Various reasons were given why supported living should be included in the specified accommodation regulations. These included:

- Disputes regarding ordinary residence can already arise when people have moved or are considering moving to supported living schemes, and many local authorities in Wales already operate as though supported living schemes were included.
- Potential difficulties with cross-border arrangements if the definitions of specified accommodation in Wales are narrower than in regulations made under the Care Act in England.
- Many organisations provide supported living arrangements to meet a variety of needs, and it does make sense to exclude these living arrangements from specified accommodation as they are there to help meet individuals' care and support needs.
- If supported living is not included, this will severely restrict the opportunities for people living out of area to develop and maintain their independence.

A number of respondents thought that we were being too restrictive in our specification of particular types of accommodation.

Welsh Government response:

It must be emphasised that the specified accommodation regulations serve

a particular limited purpose – i.e. they establish that a person’s ‘ordinary residence’ is deemed to be in a local authority area other than that in which they have their place of domicile in certain specific circumstances. The regulations do not seek to restrict the type of accommodation in which that person can be placed, or to limit the individual’s choice. The framework for assessing and meeting an individual’s needs for care and support under Parts 3 and 4 of the Act will establish what type of accommodation can best meet that person’s needs and the choices open to that person.

Having considered this issue further, the Welsh Government has decided to maintain the current situation in respect of specified accommodation. This means that the ‘deeming’ provisions will only apply where an individual is placed in care home accommodation. Where a person moves into accommodation under a tenancy agreement (which includes supported living accommodation and most shared lives arrangements), it would seem sensible to apply the ordinary and natural meaning of ordinary residence and accept that the individual has chosen to move home. As tenants they can apply for housing benefit (if eligible) and other housing support from the local authority in which they are now living, and there would seem to be no justification for ‘deeming’ them to be living elsewhere for the purposes of receiving care and support.

Question 8:

	8. To what extent do you agree with the dispute resolution procedures?				
	Agree	Tend to agree	Tend to disagree	Disagree	Not ticked
Total -	16	14	0	0	19

There was general agreement with these procedures. The response of the Children’s Commissioner for Wales captured the general mood, that the dispute resolution procedures ‘appear to be very clear and benefit from timescales and clear expectations upon local authorities as to what evidence they should be providing in relation to disputes’. Also, ‘I am pleased that the code ensures that where ordinary residence is being disputed, there is clear guidance for local authorities to ensure that services are provided to individuals and that the person does not go without care whilst the dispute is resolved between authorities. I am also pleased that there is a mechanism in place for the Welsh Government to make a determination where local authorities are unable to resolve matter themselves.’

Welsh Government response:

The Welsh Government is pleased that the dispute resolution procedures are considered to be fit for purpose.

Question 9:**Do you think the dispute resolution procedures need to be strengthened in any way? How?****Summary**

There were various specific suggestions for improving the procedures or the code, including (for example) explicitly acknowledging the role of providers in ensuring the continuity of care for an individual during a dispute.

Welsh Government response:

We have considered the specific suggestions for improvement, and have made some minor changes to the code where this has appeared necessary (for example, recognising the role of providers).

Question 10:**Do you think that the proposals in this consultation will have any positive impacts on groups with protected characteristics? If so, which and why/why not?****Summary**

Many of the responses received, including several local authorities and the North Wales Social Services collaborative, suggested that the regulations and code will have a positive influence on individuals, particularly where individuals may need bespoke care and support. The responses indicated that the proposals to assess and meet the care and support needs of those in prison should have a positive impact on those individuals.

Responses, including those from Mind Cymru, stated that the proposals, in particular the areas covering information, advice and assistance and family engagement, will also ensure that people with protected characteristics are better served. This will mean improved access to services and service delivery which in turn will allow for a more informed choice and an enhanced quality of life.

Other responses, including those from Scope Cymru, highlighted that while the proposals aim to positively impact those with protected characteristics, it is important that

	<p>disabled people have the same rights as non disabled people. Some responses also stated that it will be the practical application of the proposals that will be key to identifying any positive impacts.</p> <p>Welsh Government response</p> <p>The proposals within Part 11 for those in the secure estate have been designed to support all individuals, ensuring that a person’s care and support needs can be assessed and their needs met within the new system. This will ensure that those with protected characteristics are afforded the same rights and because there is no longer a need for an individual’s needs to be deemed eligible before they receive support will have a positive impact.</p> <p>The proposals on ordinary residence, particularly in respect of specified accommodation, simply seek to clarify responsibility where an adult is placed in a particular type of accommodation (care homes). The way in which local authorities assess and meet an individual’s need will be governed by the provisions in Parts 3 and 4 of the Act.</p>
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Question 11:

Do you think that the proposals in this consultation will have any negative impacts on groups with protected characteristics? If so, which and why/why not?

Summary

Some responses indicated that there was a potential for the proposals to negatively impact on those with protected characteristics, as the local authority where an individual is an ordinary resident may not be best placed to support that individual with their needs. It was suggested that this may be improved by ensuring that the communications and links between local authorities be strengthened. Other responses, urged caution that the regulations should not complicate access to suitable accommodation for vulnerable groups.

Welsh Government response

In respect of those in the secure estate the code sets out clearly the responsibilities on local authorities for adults and children and young people. Welsh Government is actively supporting those involved in delivering these duties to design and develop appropriate mechanisms to discharge these duties.

Many of those in the secure estate have protected characteristics, just as they would if they were living in the community. The duties under Part 11 ensure that their care and support needs can be assessed and met on a consistent basis across Wales, and this offers a positive rather than negative impact.

Local authorities are required to undertake an assessment of need and to provide a provision of care and support which meets an individual's care package. The code of practice on ordinary residence will help to dispel any barriers in the decision – making process about who is responsible for an individual's needs, particularly when an individual is required to move areas. Decisions about assessing and meeting an individual's need for care and support will be made in accordance with the regulations and codes of practice under Parts 3 and 4 of the Act. The dispute resolution procedures will also help to minimise disputes between local authorities regarding payment of care and this is seen as a more of a positive impact, rather a negative impact.

Question 12:

Re-balancing the care and support system to deliver the new legal framework will require reprioritisation of resources. What are the key actions that need to be taken to achieve this?

Summary

Many of the responses signposted towards three key areas to action the proposals.

These were:

- To build upon baseline provision and explore new ways of to improve workforce and collaboration
- Training for all those involved, including (where appropriate) training or at minimum advice and support for the public
- Funding and other resources to support the implementation of the proposals.

Other responses highlighted that local authorities will need to consider budget and resource balancing and that an 'invest to save' approach may be required to realise the potential of the proposals.

Other areas of consideration were:

- Careful consideration of the impact of proposals on children must be undertaken and recommends that a Children's Rights Impact assessment be conducted and published
- Provide more information on what would constitute reasonable grounds to depart from any requirements in the code of practice. This is to ensure that local authorities and the public are clear on when any departure from practice may occur and under what circumstances.
- Ensure that local authorities do not close down other essential services to resource the new proposals.
- A clear national message from all those involved that they are committed to implementing the proposals.

Welsh Government response

There is recognition that the new system will require local authorities and their partners to change their practices. Supporting greater early intervention and prevention and ensuring that individuals, and their family and carers, know where to obtain information, advice and assistance and their rights to have an assessment of their care and support needs, whatever their circumstances is important.

	<p>The Welsh Government is supporting local authorities to come together through regional collaboration to re-design and develop new processes. The Care Council for Wales is working to develop comprehensive training packages and setting up knowledge and learning hubs and the transitional grant funding is enabling local authorities to support the transition in an effective manner.</p>
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Question 13:

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to tell us about them.

<p>Summary</p>	<p>Other issues raised were:</p> <ul style="list-style-type: none"> • A need for clear and unambiguous acceptance of the cost implications of any new duties on local authorities. • Clear information for citizens • Clear information on how codes will be evaluated. • More information in the code of practice on the transition planning for those moving from youth justice systems to adult systems, with particular focus on the continuity of care plans. • More explicit guidance on cross border relationships with England particularly in regards to young people/adults from Wales that may be in secure estates in England. • References to mental health in codes must be clear to avoid disputes as to the interpretation of statutory guidance. <p>Welsh Government response</p> <p>The Welsh Government is aware of the need for links between the Part 11 code of practice and the Mental Health (Wales) Measure code of practice. Policy colleagues are working to strengthen the relevant sections.</p> <p>The Welsh Government is working with colleagues in Whitehall to consider cross border arrangements whether that is for inter- prison transfers or for those being released to resettle in England or Wales.</p> <p>Code of practices for each part of the Act will be cross-referenced and will form a suite of codes for the application of the statutory requirements of the legislation and to support the delivery of the whole system of change that the Act introduces.</p>
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Welsh Government Analysis

Those in the secure estate

The responses received confirmed that there was positive support for the code of practice in relation to those in the secure estate. The willingness of stakeholders to engage with the Welsh Government in the development of the code of practice has been a key factor in this stance being taken. The contributions from a broad range of individuals and organisations during the consultation itself, including prisoners, has enabled the Welsh Government to further enhance the code.

Respondents welcomed the whole direction of the code of practice, notably enabling those in the secure estate to have their care and support needs met just as they would if they were living in the community. The strong focus on well-being outcomes, prevention and a strong voice and control for individuals in this situation was welcomed and recognition given, to the way in which, this would better support individuals on release.

There was a call for greater clarity on how these new duties (particularly Information, Advice and Assistance, Assessment and Care Planning) would operate in practice. It was clear from the responses that many felt the code should be strengthened to highlight the different arrangements for children and adults in the secure estate and Welsh Government has taken this on board both in the code and in further developing pathways for adults and children/ young people.

There was recognition that the Act/code of practice placed new duties on local authorities to provide care and support in the secure estate and to support those planning for, and on release. The need for additional resources to establish the delivery model, and provide information, advice and assistance in the secure estate (equipment as well as training) was raised consistently and Welsh Government has begun working on estimates of funding required to support this work.

The potential for national collaboration between local authorities did not elicit strong views and greater focus was put on the need for greater clarity on the model(s) which might need to consider in custody and resettlement planning; as well as for adult and children. The direction taken by Welsh Government is to support local authorities, with prisons within their boundaries, to lead work on local population assessments and local delivery models.

Some respondents did call for more emphasis on arrangements to support children and families of those with parental imprisonment. Welsh Government acknowledges evidence which shows that children with parents in prison do less well than their peers and the code of practice has been strengthened in terms of directing local authorities and their partners to look for opportunities for identifying and supporting family members of prisoners.

The code of practice acknowledges the application of the portability arrangements for inter-prison transfers in Wales: and requires local authorities and other agencies need to work together to support prisoners and their families when moving within the secure estate..

The code of practice has been strengthened in respect to safeguarding policy for adults and children and young people within the secure estate. Clarity on the roles and responsibilities for safeguarding prisoners has been included in respect of adults and work is continuing with key stakeholders in respect of children and young people. :

Training and the development of skills within the workforce required to support implementation of new duties was universally highlighted in the responses. While this is a common thread across all codes of practice not just Part 11, the Welsh Government are aware of the need to include those working directly within the secure estate into some of the training packages. Care Council for Wales is developing the Learning and Development Strategy and will be addressing these needs

The need for cross border arrangements between England and Wales, either to facilitate easier inter-prison transfers or when an individual is released from prison and resettles across border, was seen as a strong requirement. This is outside the code of practice but the Welsh Government is working with its Whitehall counterparts to consider what can be developed.

The Code has been revised in light of the consultation responses and outcomes from the ongoing work of the Steering Group for those in the secure estate.

Ordinary residence

The consultation shows that the code of practice on ordinary residence and dispute resolution is broadly thought to be clear and comprehensive. The dispute resolution procedures have been particularly well-received by stakeholders.

The main area of concern was around which types of accommodation should be included in the specified accommodation regulations. A number of responses expressed concern that the reference in section 194 to 'care and support which can be met *only* if the adult is living in accommodation of a specified type' might limit the choice of accommodation which is provided to meet an individual's needs. It needs to be emphasised that section 194 of the Act is not about protecting an adult's right to have his or her care and support needs met in the most appropriate way, but about which local authority responsible for meeting (and funding) them in certain specific circumstances.

Part 3 and 4 of the Act set out the arrangements for assessing an individual's care and support needs, and for ensuring that they are met in the most appropriate way, and kept under review.

The intended effect of the Care and Support (Ordinary Residence) (Specified Accommodation) (Wales) Regulations is to ensure that where an adult is accommodated in care home accommodation, and the adult has care and support needs which can only be met by living in this kind of accommodation, that adult is treated as ordinarily resident in the local authority area where the adult was ordinarily resident before moving into the care home. The specific policy intention behind the legislation is to clarify which local authority has responsibility for meeting the care and support needs of an adult who has been placed in a care home in another local authority area – i.e. that responsibility continues to rest with the ‘placing’ authority rather than the authority in whose area the care home is situated.

The draft Regulations also included adult placements (shared lives accommodation) within the specified accommodation. This would have meant that an adult whose care and support needs could only be met through an adult placement would continue to be treated as ordinarily resident in the local authority area where they were living immediately before they moved into the adult placement, regardless of where that adult placement was located. However, following discussions with local government (Association of Directors of Social Services Wales and the Welsh Local Government Association) we have decided not to include adult placements with the regulations. The reason for this is that adults who live in adult placements (except for short breaks) are tenants and as such may be eligible for housing benefit. This would be administered by the local authority in which the adult placement is located, even if the adult were treated as ordinarily resident in another local authority area in respect of care and support. In other words, the costs of meeting the individual’s housing needs, and the costs of meeting his or her care and support needs, would potentially be met by different local authorities if the adult placement were in a different area to where the adult was living immediately before entering the placement. It would be more straightforward if, where there is a tenancy agreement, an adult’s ordinary residence was taken to have its ordinary and natural meaning – i.e. that the adult is ordinarily resident where he or she is living. This would mean that an adult who moved into an adult placement scheme or into supported living would be ordinarily residence in the local authority area where that accommodation is situated. The adult’s care and support needs and housing needs would therefore be met by the same local authority. Short breaks in shared lives accommodation would be unaffected (i.e. responsibility for meeting that adult’s care and support would remain with the authority which arranged the short break).

There are clear resolution procedures under the Part 11 regulations and code of practice for any disputes which do occur, and the code makes clear the importance we place upon collaborative approaches and co-operation between authorities in meeting the care and support needs of their local populations.

Annex A - List of respondents

No	Confidential Y / N		Name	Organisation/On behalf of
1.		✓	Kristina Martinsson	
2.		✓	-	HIW
3.	✓			
4.	✓			
5.		✓	Lynne Doyle	NPTCBC
6.		✓	Dr Catrin Edwards	Sense Cymru
7.		✓	Sarah Jennings	Hywel Dda UHB
8.		✓	Dr Jake Hard	Royal College of General Practitioners Wales Secure Environments Network
9.		✓	Parry Davies	Cyngor Sir Ceredigion
10.	✓			
11.		✓	Nigel Champ	Welsh Medical Committee
12.	✓			
13.		✓	Morwena Edwards	Gwynedd Council
14.		✓	Peter Llewelyn	Hywel Dda UHB
15.		✓	Deborah Driffield	Swansea Social Services
16.		✓	Gareth Llwyd	Cyngor Sir Ynys Mon
17.		✓	No name	No orgainsation
18.		✓	Jacqueline Davies	Powys County Council
19.		✓	Ruth Crowder	College of Occupational Therapists
20.		✓	Ceri Williams	Care Council For Wales
21.		✓	Ruth Coombs	Mind Cymru
22.	✓			
23.		✓	Hywel Ap Dafydd	Child Commissioner for Wales
24.		✓	Dr Sam Clutton	Barnardos Cymru
25.	✓			
26.		✓	Caroline Hawkings	Scope Cymru
27.		✓	Robin Moulster	BASW Cymru
28.		✓	Holly Towell	Headway
29.		✓	Nicola Evans	Older People's Commissioner for Wales
30.		✓	Bethan Edwards	North Wales Social Services Improvement Collaborative
31.		✓	Dusty Kennedy	Youh Justice Board
32.			Mr Phil Evans	Vale of Glamorgn Council
33.	✓			
34.		✓	Erin Rodgers	The Disabilities Trust
35.	✓			
36.		✓	Sue O'Grady	Adult Social Care Powys County Council
37.		✓	Stuart Moncur	Dyfed Substance Misuse Area Planning Board

38.	✓	Helen Evans	Neath Port Talbot Council for Voluntary Services
39.	✓	Rosanne Palmer	Age Cymru
40.	✓	Edwin Jones	LDAG
41.	✓	Mair Kromei	Hywel Dda UHB
42.	✓	Judith Brookes	Bridgend County Borough Council
43.	✓	Gary Beynon	HMP Prescoed
44.	✓	Andrew Griffiths	
45.	✓	Mark Duffy	
46.	✓	Anonyous	
47.	✓	Andrew Patterson	.
48.	✓	Mark Downey	HMP Prescoed
49.	✓	Joshua Grace	
50.	✓	Anonymous	
51.	✓	Matthew Thole	HMP Prescoed
52.	✓	Elfed Jones	HMP Cardiff
53.	✓	Sian Walker/ Tony Young	City of Cardiff Council
54.	✓	Sara Harvey	Western Bay Programme
55.	✓	Marshall Phillips	Wales Sub -Committee of Association of HM District Judges
56.	✓	Katie Dalton	Gofal
57.	✓	Bobby Bolt	Aneurin Bevan University Health Board
58.	✓		Sense Cymru
59.	✓		Prisoners & Families, Family Support Wing, Parc Prison
60.	✓		AWHOCs
61.	✓		Cymru Older People's Alliance (COPA)
62.	✓		Vocies from Care
63.	✓	Anselm Benedict	Law Society