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## Consultation Report - Summary of Responses

### Social Services (Wales) Bill



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## **Introduction**

### **Purpose of the consultation**

On 12 March 2012, the Deputy Minister for Children and Social Services launched a consultation exercise on the proposals being considered for inclusion in the Social Services (Wales) Bill. This new Bill was announced in the First Minister's legislative programme for 2011-16 and supports the achievement of the ambitions identified in Sustainable Social Services for Wales: A framework for Action.

The consultation sought the opinions and views on the draft legislative proposals for the Social Services (Wales) Bill in the following areas:

- Maintaining and enhancing the well-being of people in need;
- A stronger voice and real control;
- A strong national direction and local accountability for delivery;
- Safeguarding and protection;
- Regulation and inspection;
- Services (adoption and transitions for disabled children and young people);
- and
- Implementation of proposed legislation (Impact).

### **Consultation period and distribution**

The consultation ran from 12 March 2012 – 1 June 2012 and in accordance with Welsh Government's policy regarding the Welsh Language, the consultation documents were published bilingually on the Welsh Government's website.

Respondents could complete 1 of 2 response forms – the standard form or the easy read and these could be submitted in either electronic or hard copy format. Please see the webpage link below for copies of the consultation documents:

**<http://www.wales.gov.uk/consultations/healthsocialcare/bill>**

### **Stakeholder Engagement**

The draft proposals were presented to stakeholders at three consultation events across Wales. These were attended by approximately 400 interested parties from across the public and voluntary sectors. In addition, the Wales Council for Voluntary Action hosted a special consultation event on the Welsh Government's behalf, which sought the views of voluntary agency workers in particular.

### **Children and Young People Engagement**

In addition to the standard and easy read consultation documents, the Welsh Government also commissioned a voluntary organisation called Youth Friendly to produce a version of the consultation for children and young people. Youth Friendly worked with groups of children and young people in the development of the document to ensure that they understood what the Bill would mean for them. Included throughout, were a further set of questions which enabled them to feed

their thoughts into the consultation exercise. This version was also made available bilingually on the Welsh Government’s website. (Link above)

The Welsh Government also commissioned two organisations, Voices from Care and Cognition to undertake ‘one off’ workshops with vulnerable groups whose lives would be impacted on by the introduction of the Bill; such as disabled children, looked after children, care leavers and young carers. The findings from these workshops fed into the overall analysis of the responses.

### **Format of Consultation Document**

The consultation document was split into 7 sections, see bullet points on page 3. These sections were separated into subsections which provided details on each of the proposals and ambitions of the legislation. Respondents were requested to provide their opinions on a number of questions, and were informed that not all of the questions within the document needed to be answered; only those sections that they felt were applicable, should be completed.

As stated in the explanatory narrative in the consultation documents, all of the consultation responses will be published separately, in full, where consent has been provided by the respondent.

### **Consultation Responses**

We received 275 written responses in total, varying from brief answers to in-depth narrative on the proposals detailed in the consultation document.

The breakdown of responses, by sector, is as follows:

<b>Sector</b>	<b>Responses</b>
Local Authorities	41
Health organisations	47
3 <sup>rd</sup> Sector organisations	83
Individuals	32
Miscellaneous	72
<b>Total</b>	<b>275</b>

## **Analysis of Responses**

Provided in this chapter, are a general overview of comments for each section; specific examples of responses to each subsection; and the questions that were asked in each subsection of the consultation document. Please note that this Summary of Responses is an analysis of the written responses received from the consultation.

### **Overall Comments on the responses**

Overall, there was broad support for the proposals set out in the consultation document. There were requests for further clarification on certain elements of the proposals and a number of respondents welcomed the opportunity to engage with the Welsh Government to further develop the proposals. The issue of funding and the implication for resources during any change period was identified as a major concern. It was noted that whilst the proposals to bring equity between the social services for children and adults was welcomed, there still needed to be specific criteria for both groups as each have specific needs and issues. The lack of any specific proposal for advocacy services in the consultation was mentioned by a number of respondents. There were also queries about the impact of this new legislation on current Acts i.e. would they supersede elements of the current statute or work alongside them.

## **Section 1: Maintaining and enhancing the well-being of people in need**

### **General comments**

There was wide-ranging support for the concept of maintaining and enhancing well-being but there were concerns that the approach being proposed of early intervention and prevention could lead to increased demand for some services. Although there was support for the principle of “people in need”, the actual term was felt to be negative.

It was felt that the title of the Bill should be amended to reflect that a number of agencies were involved in the provision of social care and the maintenance and enhancement of well-being.

The proposals to have an all age service were welcomed, but there were mixed opinions on having the same services for both adults and children because of the specific needs and issues for children.

Concerns were raised about the cost implications for the proposed changes and whether the Local Authorities (LAs) and their partners have the capacity to make the appropriate changes to current service provision.

## **1.1 Well-being of people in need**

Do you agree with our proposals to base this legislation on the concept of maintaining and enhancing the well-being of people in need?

Do you agree with our working definitions of “well-being” and “people in need”? Do you wish to suggest alternatives?

What are your views on the proposed general duty on local authorities and their partners to maintain and enhance the well-being of people in need in their local areas?

What are your views on the proposals to provide guidance on this area through the Code of Practice?

### **Examples of response statements:-**

The definition of well-being and people in need are clear and holistic, however, there should be a mention of spiritual needs; and there is no mention of health promotion being key to well-being.

Further clarity needed on the general requirement to maintain and enhance well-being as the definition is too broad and encompassing.

No objection to the proposal but Children and Adults’ social services should be separated because of the different areas of work.

Definition of adults in need is not clear as to whether carers can be adults in need.

Welcomes the fact that support to maintain health or well-being is not always dependent on social care and wishes to have clarity about the responsibility of LAs to offer specific services to people who are in need.

The idea of a Code of Practice will standardize quality and equity of provision and this document needs to be in a user friendly language and informed to everyone.

## **1.2 Defining social care services**

What are your views on the proposed broad power for local authorities in Wales to provide or make arrangements for the provision of social care services?

What are your views on our proposed definition of “social care services”?

### **Examples of response statements:-**

Accepts that the potential increased workloads will be offset against the reduction in high level interventions although this will occur over a large period of time.

A general duty is essential to the long term planning and commissioning of social services and meeting areas of previously unmet needs.

Risk of duplication if LAs have to undertake a needs assessment as this is being done in the single planning frameworks.

Agree that LAs will have to fund additional costs and this will be mitigated over time through a reduction in intensive services, but not sure the new systems will develop without up front investment.

Welcomes the proposal for the simplification of social care provision as the LAs and Health Boards have many silos/procedures/jargon which is hard for carers, and also the organisation has to contact many departments.

Welcomes the simpler clarification and the combination of a single power for social care and social workers. Fully supports the single/flexible service for both children and adults.

## **Section 2: A stronger voice and real control**

### **General comments**

The majority of the responses agreed with the proposals regarding making information, advice and assistance more accessible for all. Many stated that information should be disseminated at local level. There is potential for the overlapping between existing systems for provision of information; and the various information systems for both the social care and health areas should be streamlined or integrated.

There was general support for users and carers to have the right to a person-centred, needs-led assessment; that assessments should be proportionate and focused on outcomes for individuals. Most favoured a prescribed assessment as they felt it would be more equitable and would reduce variations across authorities. Respondents saw the role of self assessment as being a valuable and essential part of a wider assessment process, but not as a stand-alone assessment and it was identified that there was a role for supported assessment. There were some concerns as to how self assessment could be undertaken for children.

Most respondents positively welcomed the portability of assessments and emphasised it as key to ensuring continuity of care and support when a person moves into a new area. There was acknowledgement that any savings made will be small, but the greater gain is in the improvement of customer experience. There was also reference to the fact to consideration for cross-boarder issues.

All respondents who expressed a view supported a statutory system for care and support plans, their review, and that the focus should be on 'person-centred planning'. Many felt that prescribing the plan and placing explicit duties on other agencies for supporting the care and support plans would improve the quality of and consistency of practice across Wales.

The principle of a national eligibility framework was welcomed, however it was felt this was contingent on the threshold being set at a low level in order to mainstream preventative care into the social services regime. The majority of respondents felt it had to be set by Welsh Ministers, with the LAs applying the criteria, and to apply to all people - children and adults. Many also felt the system would become more equitable; it would remove the post code lottery, reduce complexity, help transparency and produce greater clarity. Most felt the current four-level definition



of eligibility: “critical, substantial, moderate and low” to be a helpful way of categorising eligible need, but recognised the challenges and limitations of its application.

The majority of respondents agreed with the proposal to adopt the definition of “carer” from the Carers (Wales) Measure. Some felt that the rationale for widening the definition of carer to include those in receipt of payments was insufficiently made in the consultation document. There was widespread disagreement with the proposal to provide local authorities with discretion to consider requests for a carer’s assessment from foster carers, adult placement and shared lives carers.

There was general support for consolidating the legislation on Direct Payments and for citizen directed support. There was also support for the use of brokers for services, and holding service users’ budgets; particularly independent brokers including social enterprise. The benefit of advocacy services to support service users was also highlighted. The ability to use Direct Payments for Continuing Healthcare arrangements was supported, particularly for those who have previously received Direct Payments through social care. A minority of concerns included impact upon continued sustainability of LA provided services, governance arrangements, quality assurance and resource implications.

## **2.1 Information, advice and assistance**

Do you agree that we need to make a significant step forward in making information, advice and assistance accessible?

Do you think that the legislation should specify any particular organisation form for this, such as an information hub?

Do you think that the legislation should specify more clearly how local government and the NHS should work more closely together in the provision of information, advice and assistance?

### **Examples of response statements:-**

Support proposal to place requirement on LAs to provide information on services available and who is providing them and work with other agencies.

There is a lack of information at the moment for the public and it is a great idea to have an information hub.

Do not agree with the information hub - information should be distributed on a local level but agencies need to demonstrate how they do this.

NHS and LAs should be integrated as much as possible - there are significant political barriers failing to do this. The Bill will make it unavoidable.

No, thoughts are: place national standards for information and advice including a requirement for information sharing at local level for all agencies - all done at local level, as many agencies already have their ways of communicating information.

The legislation should specify clearly how LAs and NHS work closely together re information.

## **2.2 Assessment of need**

Do you agree there should be a single right of assessment?

Do you agree the new system will benefit service users and their carers, as well as professionals in understanding their duties of assessment? If not, why?

Do you agree that law and policy should provide for proportionate assessments i.e. a formal prescribed assessment for people who have social care needs?

Is it helpful to prescribe the assessment process and who should be involved?

What information do you think should be included within the “common core” of a new integrated assessment?

Will the new system be more efficient and provide local authorities with greater flexibility?

Do you see a role for self assessment and if so, how would this work?

### **Examples of response statements:-**

Assessments should be need led not service led.

There is opportunity for self assessments to be used to a greater degree but this needs to be scrutinised to prevent abuse.

While a more understandable assessment will make their access easier and clarifies the responsibilities of the different parts of the social services to carry them out, do not agree in the case of a carer's assessment that these should be delegated to others while LAs can decide whether a person is eligible for their services.

Should be proportionate assessments. Assessments for social care needs should promote a degree of equity. The process should focus on the outcomes that both service users and carers wish to achieve. If process is too prescribed they think there is a danger the process will become formulaic and a tick box exercise.

Would be difficult to prescribe who should be involved in the assessment process as some needs won't be identified until the process starts therefore certain agencies could be excluded.

Assessments should be carer neutral. Should not be an assumption about what carers should or shouldn't do as part of the care plan. The level of the carer's involvement must be mutually agreed and negotiable when things change.

## **2.3 Portability of assessments**

Should the Bill impose a general duty on local authorities and their partners to provide social care services to a person in need who resides in their area?

Do you agree that portability of assessment will bring greater consistency of care for service users? Do you agree that it will lead to savings?

When someone moves into a new local authority area, what do you think is an acceptable period for which to require that the new authority must maintain the assessment of a service user before it reviews the case?  
Do you agree with our proposals for notification and transfer of information?

Examples of response statements:-

Yes but needs to be clarity on responsibility/role to avoid duplication in respect of portability of care plans. Residency rules may need to be re-clarified so that there is synergy between health and social care.

If the Bill achieves the provision of equitable services across Wales then the portability of assessments can be achieved and this will in effect audit the equity of services if they are working to the same Code of Practice.

Regarding mobile assessments, there could be challenges if poorer LAs have to provide the same services as those LAs with more funding.

It will improve consistency of care services and saves costs e.g. less assessments.

Not clear on cost savings due to the differing thresholds of eligibility which may increase.

Portability depends on the existing care providers and availability of providers to provide same services in other areas.

## **2.4 Management and review of care plans**

Do you agree that the statutory duty changes we have outlined in the consultation document are the right ones to improve care and support plan and review systems?

Do you agree that it will be important to prescribe, in the regulations and guidance, the different arrangements for the different needs?

Examples of response statements:-

Supports person centred planning and the changes proposed will improve care and support but there is a need to ensure how this will be equitable across Wales.

Consistent approach would be beneficial for those Local Health Boards that cover a number of LAs.

Potential separation around the proposed care and support plans.

The changes state a detailed format yet highlight a need to be flexible and tailored to the service user's needs.

Different needs require different care and so it requires different arrangements.

Thinks it's a good idea but maybe not achievable as individual people can have complex/overlapping needs so difficult to prescribe specific arrangements for specific needs.

## **2.5 National Eligibility Framework**

Do you think that a new national eligibility framework will be beneficial?  
What do you see as the local authority's role in setting criteria for eligibility and what do you see as the Welsh Government's responsibilities?  
Do you believe that the current four-level definition of eligibility: "critical, substantial, moderate and low" is a helpful way of categorising eligible needs?  
Do you agree the new framework should extend to all categories of people in need – both children and adults?  
Do you envisage any particular barriers in operating a single eligibility threshold? How would you overcome these barriers?  
Should people be able to self assess for access to services? If so, how would you see this working?

### **Examples of response statements:-**

Welcomes the National Eligibility Framework which will bring equity of service. Consideration and assessment must be given to the financial implications. The Welsh Government to set eligibility and LAs to work to those criteria in an equitable and fair manner.

LAs should set their own criteria which should be audited by the Welsh Government.

Sees the role of setting the eligibility lies with the Welsh Government to improve movement of care. The Welsh Government set the framework and the LA decided how to implement them within the framework, Council's priorities and the range of services available. Potential tension between eligibility and early intervention.

LAs implement eligibility fairly to ensure resources are appropriately applied. Welsh Government to monitor its execution and fit for purpose, and listen and support changes to assist LAs to work with eligibility to ensure fairness. LA's role to avoid making "blanket rules on eligibility". They should determine eligibility based on decisions after assessments done and whether they have a statutory duty to provide them. The Welsh Government should ensure the eligibility criteria are fair and equitable and the LAs have sufficient resource to meet the needs.

## **2.6 Rights of carers**

Do you agree that the proposed definition of a carer should be based on the one referred to in paragraph 2.6.8 of the consultation document?  
Should we allow local authorities to include some carers who receive payments or have a contract for the care they provide within the definition of a carer, where the relationship is not a commercial or ordinary volunteering one? (In order that carers can receive an assessment and benefit from other support provided to unpaid carers).  
Are there other groups of carers that are not covered but should be included?

Should local authorities be allowed discretion to consider requests from Foster Carers or Adult Placement/Shared Lives Carers to be classified as a 'carer' and be entitled to request a carers' needs assessment?

Do you agree that there should be a duty placed on local authorities to publish information on carers' rights and the services offered to carers in their local areas?

Do you agree that local authorities should be required to offer a carer's assessment to anyone who appears to the authority to be a carer with substantial caring responsibilities?

#### Examples of response statements:-

The definition of carers should be the one used in the Carers Strategies (Wales) Measure 2010. This was supported in previous consultations and feel that the two underlying principles are of importance.

Carers/parents and families should play a full part. Assessment tools should be developed so that the 'needs not wants' are addressed and the priority given to those with the highest needs.

Definition doesn't distinguish between natural occurring care roles such as wife or parent and that of a "paid" carer therefore doesn't improve or remove dilemmas over who is a carer.

Concerns about the proposal to allow LAs to have the discretion to class people as carers who may receive some payment or contract for the care - Carers strongly feel about being classed as a 'care worker' i.e. being paid rather than providing the care out of love/loyalty.

As the Carers Strategies (Wales) Measure was passed in 2010, there is not enough evidence to change the definition and without that cannot support the changes.

Strongly disagree with the LA having the discretion to establish who is a carer and also to give foster carers the right to have carer's assessments as this possibly could increase the number of carers and dilute the services they provide.

## **2.7 Direct Payments**

Do you agree with the proposal to use this Bill to bring together legislation regarding the provision of Direct Payments in Wales?

Do you agree with the proposals to allow Welsh Ministers broad powers to extend the existing Direct Payments arrangements so that they can introduce an effective model of self-directed support and control that also encourages a greater uptake of Direct Payments arrangements in Wales?

Do you have views on other ways in which Direct Payments could be extended beyond the current scheme? For example, should they be extended to allow the purchase of residential accommodation or to allow a local authority or independent organisation to be an agent or a broker for services and hold a budget on the service user's behalf?

### Examples of response statements:-

Yes but there is a risk that "less able" individuals will find it difficult to commission the services they need and therefore rely on the LA's services which may become unavailable if resources are going into direct payments which "able" people benefit from.

Hopes that an effective model of self support will be developed and implemented in Wales, however this must not add to the burden of family carers. To encourage greater take up there must be a concomitant development of an effective support infrastructure.

The Bill is to make things more open and transparent and to do this LAs and individual organisations should be joint agents as management brokers for the service and hold a budget on the service user's behalf.

Agree to this and especially the use of agents/brokers who hold a budget but should not be involved with the provision of services. This can achieve better outcomes than LA brokers.

Due regard has to be paid to the administration costs of the managing agent (on behalf of the user) and careful attention has to be made to ensure governance is maintained. Efficiencies and monitoring gained from LA commissioning services should be given to service users via direct payments if LAs act on a person's behalf.

Yes, scope to widen options for using direct payments. There needs to be improved policies/management services to ensure monies are there and are protected for that specific need especially if being used to fund residential placements.

## **2.8 Complaints and the Public Services Ombudsman**

Do you agree with the proposal that people funding their own social care should have their complaints considered by the Public Services Ombudsman for Wales (PSOW)?

Do you agree that the PSOW's remit should be extended to care homes and domiciliary care agencies only, or that a wider extension to his remit should be considered?

Do you agree that the PSOW's remit should be extended to independent palliative care services?

Do you agree with the proposal to allow the PSOW to consider complaints about matters arising, prior to the PSOW's powers being extended?

We are not proposing that "information sharing powers" between CSSIW and the PSOW be included in the proposal, and expect that a protocol between the two bodies will be established. Do you agree that this is sufficient, or should information sharing powers be considered?

Do you agree that individuals who have complaints about independent Palliative care services should also be able to access advocacy services?

### Examples of response statements:-

Support need of those who fund their social care to have access to an ombudsman which should be extended to palliative care providers. In order to do this, the PSOW should have appropriate additional funding to ensure their role across sectors is not compromised.

Agree with the proposals to extend the powers of the PSOW, interim arrangements and the protocol with CSSIW.

Yes, in public eyes they act on behalf of health organisations therefore need to account to an ombudsman.

Unsure about whether the ombudsman should look at complaints that had come into effect prior to be given this new power.

Information sharing should be considered and independent services should be available.

Services are key provider of care at a difficult time in a person's life. Advocacy would be welcomed if resources are available.

## **Section 3: Strong national direction and local accountability for delivery**

### **General comments**

There was general support for each element of Section 3, with very strong support for specific elements such as an 'improvement duty' and developing a Code of Practice. There were however, mixed responses to the elements on performance measures and the proposals for the Director of Social Services.

### **3.1 National Outcomes Framework and Standards for Social Services**

Do you agree that there should be a duty on Welsh Ministers to encourage improvement in social services and social care services (as defined in this Bill) in Wales?

Do you agree that Welsh Ministers should have a duty to publish (from time to time) and review (periodically) a statement of national outcomes for social services and social care services?

Should there be a power to specify performance standards to be met by local authorities and social care service providers to sit beneath the national outcomes framework?

Should the standards be measured through performance indicators?

### Examples of response statements:-

Agree that to ensure robust governance all things proposed in the Bill should be in place. Commend the development of the National Framework and for it to provide transparent information to the public regarding social service performance. Outcomes and personal indicators need to be realistic and meaningful.

Yes, the publication of outcomes could be a useful tool for social services inspection purposes.

There should be a power which incorporates the local needs and priorities. Standards should be measured through performance indicators but not solely. Feedback from others should be taken into account.

Careful consideration needs to be given of the number and type of outcomes to show they are the correct type and not new bureaucratic processes that just replace the current performance framework. The framework also needs to be advised by a defined timeline for each section of the Bill - different issues of measurement for different timelines.

No, focus should be on service users' experiences not number crunching.

Yes in principle, but the value will depend on whether or not performance indicators measure what matters to service users and carers.

### **3.2 Code of Practice**

Should there be a duty on Welsh Ministers to prepare a Code of Practice to bring together statutory guidance on social services matters?

Should Welsh Ministers be required to consult on the contents of the Code of Practice before it is introduced?

Should Welsh Ministers be required to consult in advance on any substantial amendments that they propose to make to the Code of Practice?

Should the Bill specify that the Code of Practice must be followed by authorities acting under the legislation and can only be deviated from where there are good reasons to do so (although this proviso would not give the freedom to take a substantially different course)?

In addition to the Code of Practice, should Welsh Ministers retain their existing power to issue directions on certain matters, such as policy or practice guidance?

#### Examples of response statements:-

There is a duty on Welsh Ministers to prepare a Code of Practice. A consultation is needed but question whether this should be a full public consultation or limited to partner organisations.

There does need to be flexibility for LAs to deviate from the Code of Practice, but only in special circumstances which should be rare, documented and transparent.

The Welsh Government should consult with Directors of Social Services and retain existing powers to issue guidance in partnership with the Directors of Social Services.

Supportive of the concept of the Code of Practice which will aid setting of standards/benchmarks in Wales - no more postcode lottery. Consultation is important and should include stakeholders.

The establishment of guidelines/minimum requirements in service provision is important.

Regarding the Code of Practice, LAs shouldn't deviate from the document with out valid reason and this should be monitored by regulatory bodies.



### **3.3 Directors of Social Services**

Do you agree that we should place the requirement to appoint a Director of Social Services on the face of the Bill and have powers to specify the competencies that a Director of Social Services should have?

Do you agree that local authorities should be able to share a Director of Social Services?

#### Examples of response statements:-

Agree that the Welsh Government should specify the requirement for a Director of Social Services and their job competencies. These should have essential requirements but shouldn't stop professionals from other sectors applying. Welcome the suggestion of shared Directors of Social Services. Sharing a Director could cause practical difficulties e.g. large areas of population/land.

### **3.4 Collaboration in integrated social services**

Do you agree with the proposal to introduce a single consistent set of powers relating to the creation of formal partnerships in Wales, for the purpose of delivering integrated services?

Do you agree with our proposal to introduce powers to define in Regulations and guidance the parameters for developing formal partnerships and pooled budgets, and to set out how and when there will be used?

#### Examples of response statements:-

LAs must demonstrate they are responsive to local conditions. Needs to be considered in the context of the democratic process and local autonomy and capacity to meet local needs. National guidance may be a more constructive route than legislation. It is not suggested that conformity should be in existence across a range of delivery methods - variations may be helpful. Agree wholeheartedly with the principle of integration but disappointed in the insufficient detail on how the statutory powers will ensure a greater level of partnership working. More detail in form of regulation, guidance on parameters of budgets, partnerships, operation and performance management is essential to success. Development of integrated services depends on a shared vision, agreed priorities, trust and open and accountable partnership working. Formally imposed partnerships could undermine locally developed joint solutions and meeting the needs of local citizens through effective collaboration. Pooled budgets are tools to support the jointed working.

## **Section 4: Safeguarding and Protection**

### **General comments**

There was very broad support and endorsement for our proposal to establish a National Board, but it was felt that greater clarity on the role, function and accountability was required. There was agreement with the Welsh Safeguarding Children Forum's proposals for a National Board which would create a strategic and national focus and which would be able to provide a clear and consistent steer to agencies. Respondents stated the Board could play a valuable role in evaluating effectiveness of guidance; identifying training needs; gathering data to identify national trends; and identifying and sharing best practice. It should also be independent, strategic and at arms length from Government and agencies, with clear lines of accountability. There was general welcoming for the proposals to place arrangements for adults and children on an equal footing, although caution was expressed on the need to ensure that clear differences existed between the agendas.

The vast majority of respondents agreed that service user representation was important and were united in the view that it would be a significant challenge to ensure that this was meaningful. Suggestions for this to occur were given, for example consulting with third sector organisations to nominate representatives, or existing user groups and forums.

The majority of respondents were supportive of the creation of Adult Protection Boards (APBs) and Safeguarding Children Boards (SCBs) with broad endorsement on their proposed functions and membership. There was also support for the development of a funding formula, with several suggestions given on how this could be actioned. A small but significant number of respondents raised issues over some of the proposals outlined in the consultation document, particularly on the proposed creation of 6 Safeguarding Children Boards and (less so) on 6 Adult Protection Boards; and the proposals to merge the two boards at some point in the future. There were mixed views on having independent chairs on the local boards

There was considerable support for the proposals to introduce a coherent legal framework, with all questions receiving strong endorsement. There was some contention around 'intervention powers' where the majority of respondents favoured some level of intervention, even though the consultation had expressed the view that we were not planning to consider taking powers at this stage. These arguments are rehearsed further in this analysis.

#### **4.1 A National Independent Safeguarding Board**

Do you agree with the view of the Welsh Safeguarding Children Forum on the role and function of the National Independent Safeguarding Board?  
What type of organisation do you think the Board should be? How would the relationship and accountabilities with Welsh Ministers and Safeguarding and Protection Boards be constructed (see section 4.2 of the consultation document – Safeguarding and Protection Boards)?

How should the Welsh Government achieve service user representation on the Board?

Examples of response statements:-

Supports the views of the Safeguarding Children's forum to promote the voice for both adults and children while providing accountability for performance and delivery of plans via regional bodies. Welcomed equal status for both adults and children.

Agree the proper strategic and national focus on safeguarding agenda and agree in principle with the role and majority of functions identified by the Welsh Safeguarding forum but attention is needed to identify the differences in adult and children's services.

Yes, development of national outcomes framework will encourage cohesion and alignment. Lack of funding formula has caused difficulties for the board - boards should meet obligations and agencies should contribute financially, except voluntary organisations. Clarity needed on budget, should be centrally resourced.

Agree that the new 6 children's boards running parallel with the adult boards is positive, however must ensure that any new board/configurations do not destabilise or have an unintended adverse impact. The long-term plan to merge them is sensible and will improve consistency.

Board should be independent and should be able to challenge and hold account member organisations and government. Communication between the Welsh Government and boards should be direct but via the national board.

To get true service user representation, the boards should follow examples set by other bodies e.g. The Older People's Commissioner/Children's Commissioner. Boards could have meetings that are open to the public or arrange supported groups.

#### **4.2 Safeguarding and Protection Boards**

What do you think the functions of the Adult Protection Boards and Safeguarding Children Boards should be?

Do you agree that a funding formula is needed? What approach should be taken to devising this formula?

Do you think that the existing statutory membership of LSCBs is sufficient for Safeguarding Children Boards? What additional members should be included within the membership of Adult Protection Boards?

Should there be a requirement that all Safeguarding and Protection Boards have independent chairs? Please explain your rationale.

Examples of response statements:-

Functions of the board should be co-operation between agencies, continual monitoring and review of policy/results.

Unclear why there are six boards for adults as this doesn't mirror Health Boards or Police arrangements but welcomed the fact there are going to be less boards as this reduces complexity and duplication.

Doesn't disagree with the functions set out but thinks they should be placed at a National Board level. Support the fact that adult safeguarding should be equal to the children's safeguarding but are of the view they should be separate.

Funding formula which agrees relative rates of shared contribution should be developed. Without a funding formula, it is difficult for agencies to develop amicable and fair financial plans; this could cause tension over time especially as there are increasing public sector financial pressures.

Yes to independent chairs, appointment should be transparent with a fixed term. Individual performance should be against competencies.

Existing statutory membership sufficient but needs to have flexibility in respect of agencies for board members on local levels.

No convincing evidence that an independent chair is beneficial. Need to consider costs versus benefits - independent chair seen as an unnecessary expense - solution would be for the chair to be elected from within the board on a rotational basis.

#### **4.3 Adult Protection – a new legal framework**

Is the scope of what would constitute an 'adult at risk' reasonable?

Should the duties on agencies to protect adults at risk be based on someone being the victim, or potentially the victim of 'harm'?

Should the definition of an 'adult at risk' also take account of where, or in what circumstances, the abuse has taken place and whether someone is unable to safeguard themselves as a result of their health and social care needs (paragraph 4.3.9 of the consultation document.)?

Is the range of agencies that the Bill will place duties on appropriate? Are there any other agencies that should be considered for inclusion in this framework, and if so, why?

Should a duty to report apply to all the agencies encompassed by other duties? If not, why not? Who should the duty apply to?

Should the legislation include powers of intervention? If so, what should be the nature of these powers?

#### **Examples of response statements:-**

Concerned about the absence of legislation for adult advocacy. Would like the Bill to provide a duty for independent advocacy for adults at risk and give them the right to ask for an independent advocate.

The scope of what constitutes an adult to be at risk is reasonable within the description of the All Wales POVA policies and procedures. Agree with the potential introduction of a third category and believe the list of agencies to be appropriate. Welcome the introduction of a duty to investigate as they recognise significant concerns exist regarding a level of response when alleged abuse has been identified.

Delighted that the Welsh Government has published a set of proposals and has identified that there is intent to introduce a legal framework for the protection of adults. List of personal characteristics should be included in the Code of Practice not the Bill.

Growing opinion that the term "adult at risk" should be used rather than vulnerable adult as all adults are vulnerable at one stage of their life. The Law Commission (2010) recommends that the definition should be changed.

A robust definition of harm is welcomed to support the consistent application of policies to determine thresholds for initiation of adult protection policies and procedures.

Adult protection relies on effective interagency working which would need joint procedures for all agencies.

Believes that the duty to protect needs to be drawn widely where practitioners and professionals have duties placed on them to report concerns and where there is an expectation for agencies to do all the work to support an investigation.

Powers of intervention should be rooted in a Human Rights Act approach and determined by whether the person can or cannot protect their interests.

## **Section 5: Regulation and Inspection**

### **General Comments**

The majority of the responses were supportive of the proposals cited in section 5, whilst identifying matters that need to be taken into account in order to maximise the benefits that can be achieved. Respondents felt that the proposals were necessary to create flexibility for the regulation of the workforce in the context of new and emerging service models. The proposals were seen as important in underpinning the professionalisation agenda across the whole social care workforce, ensuring that staff are consistently and sufficiently trained and employed in appropriate roles.

There were issues raised regarding the cost of implementing the proposals and the need to preserve flexibility and agility in the workforce within social care; as well as coherence with other related sectors. Some respondents questioned the need for additional regulation beyond the framework already in place. However, there was an enthusiasm to engage in discussion about how to take the proposals forward.

Those consultees that responded to this section felt that it was appropriate for Welsh Ministers to be able to extend regulation to new service categories. It was thought appropriate to extend regulation to social work services to ensure a whole systems approach to social care regulation and was seen as a move which would enhance the standing of the services and encourage continuous improvement within them. There was also agreement for the continuation of the requirement for registered managers of services to also register on the social work register of the Care Council for Wales. This was seen as increasing the professionalism of this group of workers and providing a direct link with service provision.

Of those who responded to this section, there was agreement in principle to the introduction of time limited registration. This was seen as helping to ensure high standards of provision by requiring providers to re-register periodically; as a method of helping to address complacency, poor performance and bad practice that exists amongst some providers; and of encouraging local authorities to increase the length of contracts if time limits were set at an adequate duration, in order for providers to introduce improvement to services.

Respondents agreed that the proposed register should contain specified information about providers, as this offered a consistent, relevant and accessible way of providing information to users and their carers. It was also seen as a way of offering them a level of assurance through increased transparency and accountability. Information sharing powers between regulators was welcomed, given the variability of practice which currently exists in this area. It was seen as aiding commissioners' ability to drive forward service improvements and of ensuring that service users and their carers were in possession of all of the facts with regard to a provider or service when making their choices.

Respondents supported the suggestion that the reports should be made public to assist individuals in making decisions, as this would assist them to make informed decisions about their care and support and of helping to increase transparency and accountability in the sector. Such reports should have a common format and information content, to make it easier for individuals to make comparisons and as a result, make more informed choices about their care.

There was general support for the proposal to remove "minimum" from the National Minimum Standards as it was seen as assisting social care to achieve excellence and focussing beyond that which was regarded as acceptable.

A majority of respondents were not supportive of certain services being exempt, as it was seen that there was no identification of services which would be exempt.

## **5.1 Workforce registration**

Do you believe that the current definitions of social care workers in the Care Standards Act 2000 are broad enough to capture workers in new models of service delivery?

Do you agree that the Care Council should have powers to regulate the training of all social care workers, not only social workers?

Do you agree that Welsh Ministers should have powers to make regulations that reserve certain activities to staff with certain specified qualifications?

Do you have views about what activities should be reserved to staff with certain specified qualifications?

### Examples of response statements:-

Should be clarity about the groups of people who are termed as 'working in a social care setting', as this term is generally used to describe a number of professionals.

No, all various professionals' titles need identifying.

Agree that Care Council for Wales should be given powers to regulate the training of all social care workers which would give the public assurance to the skills, knowledge and level of training of staff. Link in with professional health care bodies where they are part of a social care role.

Yes, any form of regulation should co-ordinate with other regulatory bodies and their Codes of Practice.

Yes, but needs to be determined by professional body and aligned with UK regulation.

There is room for improvement even for those with specialised qualifications.

They are all involved with the care of service users and no-one should be exempt from training.

### **5.2a Extending regulation to new service categories**

Do you agree that Welsh Ministers should be able to bring appropriate new service delivery models into the scope of the regulator?

Do you agree that social work services should become a regulated service?

Do you agree that the registered manager of the service must be registered in the social work register of the Care Council for Wales?

#### Examples of response statements:-

No, the role of the regulator is to regulate, not service delivery.

New ways of working to support care means it is considered appropriate that Welsh Ministers bring these under the remit of regulators. Regulating social worker services is considered to be a positive step.

No, some social workers are managed by para-professionals, have a Care Council for Wales register but not specifically social work.

### **5.2b Revising the registration model for social care services**

Do you agree that there should be powers to make registration time limited?

If so, should this be introduced in a staged way?

Should certain services, as a matter of principle, be exempt from this provision? If so, why?

What sectors/services do you believe would be particularly suited to this model?

What issues do you think this model would raise?

#### Examples of response statements:-

Time limited registration is appropriate but need clarity of this issue.

Support a model that improves quality and good governance. Re-registration allows for compliance against standards; however there is a financial implication for this.

Exceptions should be made for services like care homes for elderly although there could be people aged under 65 years living in a care home. Grant schemes could be suited to this model.

Have concerns about the registration lapsing before alternative placements are found.

Change is not always accepted but it is required for this case.

Need for further development of specialist knowledge and development in order to improve service.

### **5.2c The Register**

Do you agree that the register should contain specified information?  
Do you think that this approach will enable service users and their carers to make decisions about services they use or may wish to use?  
Do you agree that there should be information sharing powers afforded to the regulator?  
Do you agree that this approach will drive up improvement?

#### Examples of response statements:-

Be open and honest.

Would like some safeguards in to prevent inappropriate information being released and allow a right of reply.

Provision of the register regarding individual's information must be handled in line with the Data Protection Act.

### **5.2d Organisational governance and quality assurance mechanisms**

Do you agree that these reports should be publically available?  
Do you agree that we should specify matters for public reporting?

#### Examples of response statements:-

Agree with the proposals and need for transparency. Must be deliverable to the citizen for need of understanding. Keen to see a reduction in the burden of data collection and report writing. A duty should be placed on LAs and partners for a provision of a point of care record integrated between social care and health.

### **5.2e National Minimum Standards**

Do you agree that we should remove the word 'minimum' from sections 23 and 49 of the Care Standards Act 2000.



### Examples of response statements:-

Concerned that providers feel that the national standards are all they have to provide for retaining registration. Hope there is an intention to work with service providers and statutory commissioners to agree standards. It would be helpful to have jointly agreed health and social care standards for nursing home care.

Agree with removal of the term "minimum" and the drive towards higher standards.

Removing the word minimum could impact in several ways, no benchmark to work to, providers not knowing if whatever they develop is going to be registered. Absence of guidance leads to uncertainty and will not be positive.

## **Section 6: Services**

### **General comments**

The majority of respondents supported the broad policy proposals for a National Adoption Service. Respondents suggested that a National Adoption Service would highlight and alleviate inconsistencies in adoption services across Wales. It was suggested that a National Adoption Service would enable a consistent and standardised service, addressing the issues of children and adopters having access to a varying service, which is currently dependent on the resources and skills of particular local authorities. It was also felt that through the Bill's work, it would be an opportunity to review adoption provisions in Wales, making sure that existing good practices and achievements are not diluted or overlooked.

Some of respondents were concerned with the resourcing arrangements, particularly as local authorities are trying to make savings under the current financial climate. They wanted reconsideration as far as the details of the national functions were concerned, together with a requirement for the regional collaboration of adoption services. It was suggested that the development of the existing four partnership arrangements would cause the least disruption, whilst still allowing the expansion of services in North; Mid West; South; and South East Wales.

The focus on measures to improve arrangements regarding policy proposals for transitions for disabled children and young people were welcomed, although there were a number of issues raised for further consideration. Respondents welcomed the suggestion to increase the age to 21, although a number suggested this be further extended to 25. There were some reports of good work already underway and in particular the critical value of good transition planning as well as Transition Key Workers.

There were a wide variety of suggestions for the types of entitlements that could be extended which included respite care, access to leisure services, suitable daytime activities and a variety of support to enable independent living. A number of respondents expressed that other provisions proposed within the Social Services Bill such as well-being, assessment, portability and eligibility provide opportunities

to improve arrangements for disabled children and young people going through transition from children's to adults services. A number of respondents expressed the view that proposals for assessment and defining "people in need" whatever their age should mean that transition from children's to adults services should in the future be improved.

All respondents identified the critical need for effective multi agency working and transition planning.

Respondents identified that 17/18 years of age is too late to begin transition planning, whilst others expressed concerns that by raising the age at which children transition to adult services could delay the transition rather than improve arrangements. There were also concerns raised that young disabled adults should be supported as such rather than continue to be identified as children.

A number of respondents also raised concerns that "complex needs" has a focus on physical disability and the medical model. There were a number of suggestions from respondents regarding ongoing work and offers to be involved in any future discussions to develop policy proposals.

## **6.1 The establishment of a Nation Adoption Service**

Do you agree the functions that a National Adoption Service will be responsible for, as set out in paragraph bb of the consultation document?  
Do you suggest any additional functions that should be included?  
Are there any other barriers to the current arrangements that should be considered in the development of the Social Services (Wales) Bill?  
Do you have any other comments that you wish to make about our proposals for a National Adoption Service?

### Examples of response statements:-

It will be difficult to see how these aims are realised in practice. Essential to consider the diversity of Wales in Bill, Welsh speakers should be specifically addressed.

More emphasis should be placed on the need for post adoption training and support. Hopes the Bill will address the needs for additional resources to ensure that the placements are successful, otherwise they might breakdown. Agree with the reform of the adoption process, in particular the legal process, but the changes to adoption should not be at the expense of other forms of permanence such as long term care for Looked After Children.

Do not feel an All Wales adoption service will improve services for children and potential adopters. Useful to have a national approach to raise standards and training of social workers but the recruitment and training of adopters should be on a more local level.

The geography and issues such as poor transport links are a challenge in Wales, it's tempting to either centralise things or provide sub-centres in other areas but could be isolating for practitioners and marginalising service users.

The management of the service will need to ensure proper oversight of practice and effectiveness of the service. Need clear definitions of roles and responsibility of functions and duties between new board and existing agencies with clear procedures and guidance. If LAs retain responsibilities as adoption agencies then it is essential that they are not hindered by an additional layer of management.

Essential that the eradication of delay of children waiting for placements occur for the child's well-being and success of adoptive families.

A national service will bring greater benefits and work to "propelling" adoption forward and improve services. Enable practitioners to share their skills and knowledge with Welsh colleagues, created in a way to bring equality of opportunity for staff.

## **6.2 Transitions for disabled children and young people**

Are there any key, identifiable entitlements that disabled children receive that would be of continued benefit beyond age 18 for those with most complex needs? Please provide details and rationale.

Do you have any suggestions for how we might define "complex needs".

### Examples of response statements:-

The Act will improve any unidentifiable needs.

This area needs further work to be developed through multi-professional group. Needs clarity on what both the NHS & LAs can provide to meet complex needs, there is an opportunity for jointly defining/agreeing complex health and social care needs and how these are delivered jointly, and when the complexity determines eligibility for the continuing healthcare.

The extension of social service entitlements for disabled children is positive and equitable with Looked After Children, but not in line with age of transition for others and not in line with Welsh Government's definition of Young People which is 25.

Not explicit on what is meant by assessed complex needs and whether this involves NHS assessment. One single age of transition would be helpful with flexibility for special circumstances. Not clear on how the age extension would improve transition unless there is more support from adult social services.

Need to strengthen the integrated working between health and social care so there are no surprises at 18 years old. 18-25 may be a more realistic age range as this provides opportunity to complete education which is more difficult for disabled young people. Defining complex needs is difficult but needs to be referenced back to the eligibility criteria framework.

Difficult to provide a response regarding the definition without fully understanding the requirements for the additional provision for these people.

## Section 7: Implementation of proposed legislation (Impact)

### General Comments

The purpose of this section was to identify any impact of the proposals which had not been previously raised in earlier sections of the consultation, both financially and through implementation. There were mixed responses to this section with the majority of respondents commenting on the impact of the Bill previously.

Concerns were raised that the financial impact will not be as cost neutral as implied in the consultation, and that the proposals will not meet the objectives of Sustainable Social Services.

Throughout this document we have identified the impacts of the proposals we would like to include in the Bill. Do you have any comments on the impacts that we have identified?

Do you agree with our analysis of the impacts? If not, why?

What do you think the potential cost implications are for the new proposals?

Could the new duties be met through minor changes to current arrangements etc.?

Are there other areas of impacts we should be considering?

### Examples of response statements:-

Doesn't feel that the implementation of minor changes would enable the achievement of key Sustainable Social Services for Wales's objectives. Delivery of collaborative, integrating and new proposals would have to be considered in line with financial implications - seen as service delivery enhancing not cost cutting.

Believes it to be challenging to accurately measure the potential cost of the proposals, the benefits for citizens and partner agencies are worth striving for. Proposed legislation intends to widen the scope for NHS and partners to meet needs of "people in need" - the costs and organisational impacts could be considerable depending on the scope of responsibility set in the Code of Practice. The provision of early prevention/intervention, while being in a situation where high demand and reducing budgets and resources, is a challenge.

Requires political and professional leadership at national and local level to divert resources from traditional health and social care services to develop new models.

Hopes that the Bill, in time, will improve public perception and actual experiences of social services.

## Final Consultation Question

### General comments

The final consultation question gave respondents the opportunity to provide additional comments on the consultation.

The majority of respondents were positive about the Bill's proposals with specific areas of work being identified for comment. However, there were concerns that some issues were not covered within the Bill and could provide opportunities to address key subjects.

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please let us know.

### Examples of response statements:-

Welcomes the Bill and particularly the proposals for carers/services in the private sector.

Welcomes the fact that the sharing of information will be done in accord with WASPI. Welcomed an inclusion of a statutory duty to share information as this will be easier than getting the owners to consent and how it will be achieved. It will also allow agencies to identify what can or can't be shared.

Bill would ensure protection of core services from outsourcing services to ensure LAs maintain control of service provision thus reducing the decrease or loss of services.

Disappointed that re-enablement is not a key feature in the Bill, the Bill needs to strengthen the re-enablement service core principles with the proposal of aligning delivery of services with LAs and partners.

Welcomes the Welsh Government's commitment to simplify current arrangements but hopes consideration will be given to create a clearer pathway between statutory and voluntary services. Social services should have information on the services and benefits provided by voluntary sectors.

Responding effectively to adult social care is welcomed but concerned that the assessment of needs should take into account that the needs of individuals with respiratory issues can vary from day-to-day i.e. if they are having a good day then they could be excluded from the support they need. Welcome the commitment to support carers.

Bill should emphasise the current legal position that there is not a legal requirement to be a carer for an adult. Bill to address issue of what actually is a service to a carer and whether you can charge for it such as with services like respite.

The Bill is an ideal opportunity to legislate for the removal of reasonable chastisement. The omission of this in the Bill states a failure to pay due regard to the UNCRC.