

WELSH HEALTH CIRCULAR



Llywodraeth Cymru
Welsh Government

Issue Date: 24/09/2015

STATUS: INFORMATION

CATEGORY: POLICY

Title: *Implications of the Social Services and Well-being (Wales) Act for NHS University Health Boards and Trusts*

Date of Expiry / Review

N/A

For Action by: *University Health Boards and NHS Trusts*

Action required by:

N/A

Sender:

Welsh Government

Albert Heaney – Director of Social Services and Integration

HSSG Welsh Government Contact(s) :

Social Services Wellbeing Act Implementation Team (SSWBIMPLEMENTATION@wales.gsi.gov.uk)

Health Strategy Unit (healthstrategyunit@wales.gsi.gov.uk)

Enclosure(s): *None*

INTRODUCTION

The [Social Services and Well-being \(Wales\) Act 2014](#), which received Royal Assent on 1 May 2014, creates a new legislative framework that brings together and modernises the law governing social care in Wales. It aims to improve well-being outcomes for people who need care and support, and carers who need support, through better co-ordination and enhanced partnership working by public authorities.

The Act will ensure that people have access to clear information, advice and assistance and will place their voice at the centre of decisions about their care and support. The Act will introduce, for the first time, a strong statutory framework for the protection of adults, and national leadership arrangements for safeguarding people. The Act also promotes the importance of both prevention and early intervention to help people live independently.

In many respects, the Act shares similarities with the principles of Prudent Healthcare. These principles touch on the core of social services in Wales, mirroring the focus on citizen voice, user control and co-production set out in *Sustainable Social Services: A Framework for Action* (2011). The challenge in social care, as in healthcare, is to develop sustainable models of service, both in terms of financial and workforce resources, to help us effectively manage demand whilst being equitable and fair for all.

The Act has been developed through close working between NHS and social services colleagues and with the active involvement of the national Partnership Forum and Leadership Group, in both of which the health sector in Wales plays a significant part. Fundamentally, the Act seeks to promote integration between two sectors to the greatest extent possible, and will rely for its success on all partners delivering their responsibilities under it. To this end, there are a number of duties expressly placed on Health Boards and NHS Trusts by the Act.

NHS colleagues will also need to be aware that while the core components of the new legislative framework are set out on the face of the Act, the Act is enabling in nature and consequently is supplemented by a suite of subordinate legislation - regulations, codes of practice and guidance - to fill in the detail of the new system and support its operational implementation.

IMPLEMENTATION TIMESCALE

The Welsh Ministers have agreed that the Act should **come into force on 6 April 2016**. The regulations and codes of practice under the Act also commence on this date.

- **Subordinate legislation package:**

- Regulations under the Act have been produced in two tranches: the first was introduced into the National Assembly for Wales in summer 2015; the second tranche is to be introduced in November 2015.
- All codes of practice developed under the Act will be laid before the National Assembly for Wales in November 2015, with a view to issuing them before the end of December 2015.
- Statutory guidance prepared under Part 7 (Safeguarding) and Part 9 (Co-operation and Partnership) will also be published in November 2015.
- **Communications package:** Awareness-raising activities aimed at health and social care professionals in Wales commenced in summer 2015, with a national public-facing campaign from January 2016.
- **Training package:** Two-tier approach being led by the Care Council for Wales with training in the four core modules (General Functions; Assessing and Meeting Needs; Looked after Children; Safeguarding) for social workers and direct care staff commencing in January 2016 and training resources adapted for wider use, to be made available on the Care Council's [Get in on the Act!](#) Information Hub

COLLABORATIVE DELIVERY

Joint working between local authorities and their partners, including Health Boards, will ensure successful implementation of the new approach. Implementation work is being led by teams across 6 regions (based on the health board footprint, with the Mid and West region combining local authorities within the Hywel Dda and Powys boundaries) through joint leadership arrangements, mirroring those put in place on a national level.

In support of implementation and preparedness, from 2013/14 the Welsh Government provided regional and national partnerships with access to the Delivering Transformation grant. This funding enables local government and its partners – including Health Boards – to put in place the requirements of the new Act. In 2015/16 the level of funding was doubled to £3m. Subject to budgetary decisions this is expected to continue through to April 2017, to support the embedding process.

SECTIONS OF THE ACT (AND RELEVANT SUBORDINATE LEGISLATION) RELATING TO HEALTH OR THE PROVISION OF HEALTHCARE SERVICES

PART 2 – General Functions

Section 14: The assessment of needs for care and support, support for carers and preventative services

The Act imposes general and strategic duties on local authorities and Health Boards to gain a better understanding of the characteristics and needs of their

local populations, in order to effectively plan and provide a sufficient range and level of care and support services.

This section requires local authorities and Health Boards to jointly assess the extent to which there are people who need care and support, or carers who need support in their area. They should also assess the extent to which these needs are not being met, and the range and level of services required to meet identified needs.

The joint assessment must also identify the range and level of preventative services required within their area (under section 15, described below) and consider how all services under the Act will be delivered through the medium of Welsh.

Section 14 also seeks to ensure that this population assessment is taken into account as part of broader integrated planning frameworks, for example, within new Local Well-being Plans and Integrated Medium Term Plans. The assessment will also inform local authorities in meeting their section 16 duty to promote social enterprises.

Local authorities and Health Boards must jointly produce and publish a report of the outcome of their population assessments, the first one being prepared and submitted to the Welsh Ministers by 1 April 2017.

Section 166 of the Act enables the Welsh Ministers to make regulations requiring a combination of local authorities and Health Boards to enter into partnership arrangements for carrying out specified functions. By virtue of regulations, one of these specified functions will be undertaking population assessments (see below).

Section 15: Preventative services

This requires local authorities to plan and provide services designed to prevent, delay or reduce needs for care and support. Health Boards are required to have regard to the importance of achieving these preventative purposes when exercising their functions.

Section 17: Provision of information, advice and assistance

A Health Board or an NHS trust is required to provide the local authority with information about the care and support it provides in the respective local authority's area.

The code of practice on Part 2 of the Act (General Functions) was [consulted upon](#) in draft between 6 November 2014 and 2 February 2015. The finalised code will be laid before the National Assembly for Wales in November 2015.

[The Care and Support \(Partnership Arrangements for Population Assessments\) \(Wales\) Regulations 2015](#)

PART 3 – Assessing the Needs of Individuals

Section 29: Combining needs assessments and other assessments

A local authority may carry out a care and support needs assessment for a person at the same time as it, or another body, carries out another assessment. The local authority may carry out the other assessment on behalf of, or jointly with, another body (for example the Health Board or NHS trust).

The code of practice on Part 3 of the Act (Assessing the Needs of Individuals) was [consulted upon](#) in draft between 6 November 2014 and 2 February 2015. The finalised code will be laid before the National Assembly for Wales in November 2015.

[The Care and Support \(Assessment\) \(Wales\) Regulations 2015](#)

PART 4 – Meeting Needs

Section 47: Exception for provision of health services

This section specifies that local authorities cannot provide or arrange services or facilities that would be required under the NHS (Wales) 2006 Act or the NHS Act 2006, unless doing so would be incidental or ancillary to other actions within the local authority's powers.

The code of practice on Part 4 of the Act (Meeting Needs) was [consulted upon](#) in draft between 6 November 2014 and 2 February 2015. The finalised code will be laid before the National Assembly for Wales in November 2015.

A consultation on the Care and Support (Provision of Health Services) (Wales) Regulations 2015 will open at the end of September 2015. It will run for a period of 4 weeks.

PART 7 - Safeguarding

Sections 128 and 130: Duty to report adults or children at risk

This section requires Health Boards and NHS trusts (as relevant partners) to inform local authorities if they have reasonable cause to suspect that an adult or child within their area is at risk.

Section 134: Safeguarding Children Boards and Safeguarding Adults Boards

This section relates to the establishment of Safeguarding Children Boards and Safeguarding Adults Boards. Regulations set out those areas in Wales where there will be Safeguarding Boards and the respective Health Boards and NHS trusts will be partners and therefore will have representatives on the Boards.

[The Safeguarding Boards \(Functions and Procedures\) \(Wales\) Regulations 2015](#)

[The National Independent Safeguarding Board \(Wales\) Regulations 2015](#)

[The Safeguarding Boards \(General\) \(Wales\) Regulations 2015](#)

Statutory guidance on Part 7 was [consulted upon in draft](#) between 6 November 2014 and 2 February 2015. The finalised guidance will be published in November 2015.

PART 9 – Co-operation and Partnership

Part 9 of the Act relates to co-operation and partnership, and provides the Welsh Ministers with several regulation making powers.

The focus of these regulations is on **improving outcomes and the well-being of people**. The regulations will also seek to improve efficiency and effectiveness of service delivery. The starting point for this is through section 14 (under Part 2, discussed above), which requires local authorities and Health Boards to jointly undertake a population assessment which will inform the planning and delivery of care and support, and (by virtue of section 15) preventative services within their area.

The regulation making powers within Part 9 enable the Welsh Ministers to ensure the appropriate structures (partnership arrangements and partnership boards) and resources (including staff/multi-disciplinary teams and pooled budgets) are in place to enable the provision of integrated services to respond to the joint assessment.

Section 162 requires local authorities to make arrangements with their 'relevant partners', which include Health Boards, to promote co-operation. This co-operation is required in relation to adults with needs for care and support, and adults who are carers. This includes improving well-being, quality of care and support and protecting adults at risk of abuse or neglect.

All relevant partners must co-operate with the local authority in making arrangements under this section and may provide staff, goods, services, accommodation, establish and maintain a pooled fund and share information with one another. The local authority and its relevant partners must also have regard to any guidance given by the Welsh Ministers.

Section 163 makes amendments to the Children Act 2004 and sets out arrangements (mirroring those required by section 162) for local authorities to promote co-operation with their relevant partners, including Health Boards. This includes improving well-being, quality of care and support and protecting children at risk of abuse, neglect or other kinds of harm.

Section 164 requires Health Boards to co-operate with and provide information to local authorities when requested – except where to do so would be incompatible with their own duties or otherwise have an adverse effect on their own functions – to enable them to exercise their social services functions.

Section 165 provides that a local authority must exercise its social services functions with a view to integrating care and support provision with health provision and health-related provision where it would:

- promote the well-being of children, adults with needs for care and support and carers with needs for support;
- contribute to the prevention or delay of care and support needs and support needs;
- improve the quality of care and support and support including the outcomes to be achieved.

Section 166 enables regulations to be developed to specify the partnership arrangements between local authorities and Health Boards. The regulations allow the Welsh Ministers to specify:

- which local authorities and Health Boards should have partnership arrangements;
- the form of the partnership arrangements;
- the operation and management of these arrangements, including information sharing.

Section 167 provides for regulations to enable local authorities and Health Boards to pay towards any expenditure incurred in relation to partnership arrangements under section 166. This could include making payments directly or by contributing to a pooled fund. A local authority and a Health Board may also provide staff, goods, services, accommodation or other resources in connection with partnership arrangements.

The regulations will make provisions which require a pooled fund to be established, for determining the contributions to be made by partners to the pooled fund, for expenditure in relation to posts, services, administration or any other costs related to partnership arrangements.

Section 168 provides for regulation making powers to establish partnership boards, in relation to partnership arrangements. The regulations will specify the membership of partnership boards (including Health Boards), the objectives, functions and procedures, the form of reports, their content, timing and publication.

Section 169 requires the Welsh Ministers to issue and periodically revise guidance about partnership working in relation to section 166. This will apply to partners, which include local authorities and Health Boards. The guidance will also apply to a team or person carrying out partnership arrangements and any partnership boards established under section 168.

The code of practice on Part 9 (Co-operation and Partnership), the Partnership Arrangements (Wales) Regulations 2015 and the associated statutory guidance were all [consulted upon in draft between 8 May and 31 July 2015](#).

The finalised code of practice will be laid in November 2015, and the statutory guidance also published at this time. The regulations will also be finalised and laid before the National Assembly for Wales on in November 2015.

PART 10 – Complaints, Representations and Advocacy Services

Section 171: Complaints about social services

This section allows for regulations to make provision for the consideration of complaints relating to services provided by local authorities. This includes services under section 33 of the National Health Services (Wales) Act 2006 or section 75 of the National Health Service Act 2006.

Section 179: Investigation of complaints about privately arranged or funded social care and palliative care

This section gives effect to Schedule 3 of the Act. This inserts a new Part 2A, Part 2B and Part 3A in to the Public Service Ombudsman (Wales) Act 2005 which gives the Ombudsman powers to investigate complaints about certain kinds of social care and palliative care.

Section 180: Independent advocacy services for complaints about privately arranged or funded palliative care

This section makes amendments to section 187 of the National Health Service (Wales) Act 2006 to make it clear that the duty to provide independent advocacy services applies only in relation to health care complaints to the Ombudsman. This includes complaints about independent palliative care providers.

[The Social Services Complaints Procedure \(Wales\) Regulations 2014](#) are relevant to section 171.

IMPLICATIONS FOR HEALTH BOARDS AND NHS TRUSTS

In readiness to comply with the significant duties imposed upon Health Boards and NHS trusts by the Act, you are advised to note the content of the sections of the Act referred to above and the associated regulations, codes of practice and statutory guidance. It is important that Health Boards and NHS trusts now consider how – working jointly with the local authorities within their regional collaboratives – they will implement these duties, prior to the commencement of the Act on 6 April 2016.

Under arrangements supported by the Delivering Transformation grant (as described above) implementation work is being driven on a regional basis, led by Regional Implementation Managers, a list of whom can be found below. You are advised to contact your respective Implementation Manager in the first instance if you require further information as to implementation activity within your area. The Welsh NHS Confederation, in conjunction with the Association of Directors of Social Services Cymru and WLGA, is leading on delivery at a national level. The lead contact is Jane Green (jane.green@welshconfed.org).

Region	Implementation Manager
Cardiff & Vale	Nichola Poole (Vale of Glamorgan) npool@valeofglamorgan.gov.uk
Cwm Taf	Sian Nowell (Rhondda-Cynon-Taff) Sian.Nowell@rctcbc.gov.uk
Gwent	Mark Saunders (Torfaen) Mark.Saunders@torfaen.gov.uk
Mid & West Wales <i>(inc Powys)</i>	Martyn Palfreman (Carmarthenshire) MJPalfreman@carmarthenshire.gov.uk
Western Bay	Sara Harvey (Swansea) Sara.Harvey@swansea.gov.uk
North Wales	Bethan M Jones Edwards (Denbighshire) bethan.m.jonesedwards@denbighshire.gov.uk

FURTHER INFORMATION

The infographic below lists the main elements of the Act which relate to health or the provision of healthcare. This is an example of the awareness-raising materials under development to inform the wider workforce.

Social Services and Well-being (Wales) Act

Partnership working

- Partnership Boards will be established
- Local Authorities and Health Boards will need to work in partnership to ensure resources are available and effectively utilised



Assessing the person

- The range of assessments of a person by organisations such as Local Authorities, Health Boards and NHS Trusts can be carried out at the same time
- These assessments can be completed by one body on behalf of others



Assessing the area

- Health Boards and Local Authorities will together assess the amount of people who need care and support
- They will:
 - Also assess how many carers need support
 - Determine where needs are not being met
 - Decide what services are needed



Providing information

- The Local Authority must be told what care and support is provided in that area
- Information will need to be shared between organisations

Safeguarding

- If there is reasonable cause to suspect an adult or child is at risk, this must be reported to the Local Authority



How will the Act affect those who work in health and social care?



Co-operating

- Local Authorities will co-operate with partners to improve well-being, the quality of care and support, and child protection
- Local Authorities will make arrangements with partners on how to promote co-operation
- Partners will include Health Boards and NHS Trusts



Llywodraeth Cymru
Welsh Government