

Welsh Government

Integrated Impact Assessment

Title of proposal:	Rebalancing Care and Support Programme: <ul style="list-style-type: none">• National Framework for the Commissioning of Care and Support in Wales• National Office for Care and Support• Part 2 Code of Practice (General Functions)
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Section 1: What is the Welsh Government considering and why?

Introduction

- 1.1. This Integrated Impact Assessment (IIA) relates to the following elements of the Welsh Government's Rebalancing Care and Support Programme:
 - National Framework for the Commissioning of Care and Support in Wales ('the National Framework')
 - National Office for Care and Support ('the National Office')
 - Part 2 Code of Practice (General Functions) ('the Part 2 Code').
- 1.2. These are summarised below, alongside an explanation of why the Welsh Government has developed them.
- 1.3. This IIA is being published to support the laying before the Senedd of a Code of Practice on the new National Framework and a revised Part 2 Code in March 2024, and in advance of the establishment of the National Office in April 2024.
- 1.4. Other elements of the Rebalancing Care and Support Programme, which were also consulted on in the summer 2023, are being taken forward on different timelines and do not therefore form part of this IIA. These are the Social Care Fair Work Forum Pay and Progression Framework; amendments to the Partnership Arrangements (Wales) Regulations 2015 and the Part 9 Statutory Guidance on Partnership Arrangements; and changes to the Part 8 Code of Practice on the Role of the Director of Social Services and the Local Authority Social Services Annual Report Regulations.

Rebalancing Care and Support Proposals

National Framework

- 1.5. The National Framework will be issued as a new Code of Practice under Part 9 of the Social Services and Well-being (Wales) Act 2014 ('The 2014 Act'). It establishes the legislative framework for the commissioning of care and support in Wales by local authorities, Local Health Boards and NHS Trusts. This includes setting out national principles and standards which commissioners must follow when commissioning services for care and support for their local populations.
- 1.6. The National Framework seeks to rebalance the basis upon which the provision of care and support services are commissioned, by focusing on outcomes and social value and by shifting from price towards quality and focusing on outcomes. It provides for greater consistency and transparency within the commissioning cycle.

National Office

- 1.7. The National Office proposals set out the anticipated functions of the National Office, once established. They proposed three core functions for the National Office: managing oversight of and compliance with the National Framework; the development, implementation, and ongoing delivery of the National Care Service; and supporting the Chief Social Care Officer in their role.
- 1.8. It is intended that establishing a single National Office will support the sector in driving forward national once-for-Wales social care initiatives and provide strong leadership from the centre. The National Office will also provide a central guiding hand to the social care sector through driving improvement in the national delivery of social care in Wales to achieve better and more equitable outcomes, access, and service-user experience.

Part 2 Code

- 1.9. The Part 2 Code sets out how persons exercising functions under the 2014 Act should ensure they meet their duties to promote the well-being of people who need care and support and of carers who need support.
- 1.10. This document is an updated version of the existing Part 2 Code, issued in 2015. Changes have been made to restructure the document for greater clarity, particularly around a local authority's duty to promote social enterprises, co-operatives, user-led services and the third sector, in the light of the Welsh Government policy of rebalancing the social care market. A new chapter also gives greater prominence to the need for an approach based on co-production values. Some changes have been made to the chapter on population needs assessments, to reflect learning from previous exercises; and to the chapter on preventative services, where now covers both preventative and early intervention services. These reflect changes to the policy context since the original Code was published, and developing good practice since the 2014 Act was implemented.

Alignment to the Well-being of Future Generations (Wales) Act 2015 – Five ways of working

- 1.11. This section sets out how each of the three elements of the Rebalancing Programme embody the five ways of working outlined in the Well-being of Future Generations (Wales) Act 2015 ('the Future Generations Act'). The following five ways of working are the specific areas that public bodies need to consider in order to show that they have applied the sustainable development principle:
 - a) Long term
 - b) Prevention
 - c) Integration
 - d) Collaboration
 - e) Involvement

Long term

- 1.12. Each element of the Rebalancing Care and Support Programme will be affected to varying degrees by long-term trends, challenges and opportunities impacting the social care sector in Wales. These are summarised below.

Population change and increasing needs

- 1.13. There is an increasing need for social care services in Wales. The proportion of people over the age of 75 in Wales is projected to increase from 9.9% of the population in 2021 to 13.8% in 2041, increasing from around 307,000 people to around 455,000 people. The proportion of people aged 65 years or older is projected to increase from just over one in five of the population in 2021 (or 21.4%) to over one in four of the population by 2041 (or 25.5%). Although future demand for formal care cannot simply be linked to an ageing population, it is likely to result in increased pressure on formal care services. More people are living from birth with conditions that need forms of lifelong care, and there is a high number of looked after children. The pressures brought about by these changes in demographics form part of the context for each of items which are being developed under the Rebalancing Care and Support Programme.

Funding challenges

- 1.14. Social services continue to make up an increased percentage of overall local government expenditure. Commissioning costs and wage inflation account for a significant proportion of increased demands on local authority social services departments across Wales. This issue is particularly pertinent to the National Framework.

Care and support market challenges

- 1.15. The care estate in Wales consists mostly of smaller private providers with narrow margins and limited funding reserves. More adults are receiving care and support at home wherever possible, in line with what matters to them. This has created a level of demand that outweighs the volume of domiciliary care provision available. Often the greatest proportion of delayed transfers of care from hospitals has been attributed to people waiting to return to their homes with packages of domiciliary care services in place. These issues are particularly pertinent to the Part 2 Code, in respect of how the updated Code sets out more clearly the context of Welsh Government's policy of rebalancing the social care market.

Commissioning and complexity

- 1.16. 'Commissioner' is the term used to describe staff from a local authority or a health board who have responsibility for ensuring that the right type of care is available for people in their area. Social care commissioners analyse

need, plan and design appropriate service provision, secure that provision and monitor the quality and delivery of the provision on an ongoing basis.

- 1.17. Commissioners in Wales mainly procure services and undertake contract management arrangements. This is challenging, due to the complexity of the market, and has resulted in under- or over-provision of care and support services.
- 1.18. To respond to the above challenges, the National Framework aims to bring about consistency of commissioning practices, ensuring that commissioning is undertaken following nationally set standards and principles.

Prevention

- 1.19. The previous section summarises the key challenges in social care relating to these proposals. No single intervention or product can fully address these underlying causes. However the individual items under the Rebalancing Care and Support Programme will contribute towards preventatively addressing and responding to these as follows:

National Framework

- 1.20. The National Framework may bring about potential efficiencies in the longer term through proactively driving improved consistency in commissioning processes. In addition, the National Framework seeks to rebalance the basis upon which care and support services are commissioned through focusing on outcomes and social value and by shifting from price towards quality. This shift to an outcomes-focussed, quality-centred model may have a preventative effect in terms of the provision of higher quality care that better matches people's individual needs potentially leading to better outcomes for people in the longer term. This could result in consequent reductions in their needs for more extensive care and support in the future, due to the National Framework meaning their needs are better identified and managed.

National Office

- 1.21. A key objective of the National Office will be to promote and support early intervention and prevention. The National Office will enable, advise, support, and take action to ensure delivery of such a priority.
- 1.22. The National Office will also seek to bring about expertise and capacity to support implementation of national policies and bring transparency and clarity on national priorities. To do this, the National Office will facilitate the system / shared learning working together in synergy with local / regional partners to share best practice whilst still supporting local / regional innovation. The National Office will also provide direction at a national level to support social care system leadership, facilitating and supporting the sector and if necessary, providing a stronger guiding hand to the sector on improvement and transformation in line with national proprieties and standards.

Part 2 Code

- 1.23. The Part 2 Code contains a chapter specifically setting out the requirements on local authorities and partners to provide or arrange a range of integrated preventative and early intervention services. The revised code has sought to strengthen and clarify the requirements in this chapter, particularly in the light of the new models of integrated care.
- 1.24. The revisions also give greater prominence to the need for co-production with service users and carers in the design and delivery of care and support and preventative services. Co-producing care and support services with service users can have a preventative impact as services designed in partnership with service users are generally better aligned to their care and support needs, thus more likely to meet their needs over the longer term and reduce the change of their health and well-being deteriorating.
- 1.25. The revisions also aim to clarify the duty on local authorities to promote social enterprises, co-operatives, user-led services and the third sector. Promoting greater involvement of the third sector within the social care market will have a beneficial effect on prevention and early intervention, as many of these services are delivered by or in collaboration with third sector partners.

Integration

- 1.26. The Rebalancing Care and Support Programme links to and progresses several key Programme for Government commitments. These are listed by individual item below:

National Framework

- 1.27. The National Framework contributes to a range of Programme for Government commitments including reforms within children services, and care services being part of the Foundational Economy in Wales; and will be a significant key first step towards a National Care and Support Service. This Code will support local authorities and the NHS to commission services in line with the ambitions of the 2014 Act and improve outcomes for the people of Wales. The National Framework will set out the principles and standards for commissioners to follow when commissioning services to meet the needs of local populations and will therefore exemplify the five ways of working within the Future Generations Act and align to the vision set out in the 2014 Act.

National Office

- 1.28. The National Office will align with and, wherever applicable, enable the delivery of cross-system objectives including:
 - Programme for Government commitments
 - Co-operation Agreement commitments

- The five ways of working set out in the Future Generations Act
 - Meeting legal duties under the Welsh Ministers' Welsh Language Standards, the National Office will play a key role in supporting and promoting Welsh language and culture, recognising Welsh belongs us to all and the importance of language choice and need in delivering quality care and support aligned to the More Than Just Words Framework
 - A Healthier Wales.
- 1.29. The National Office will work to and promote the Future Generations Act, improving the social, economic, environmental, and cultural well-being of Wales. It will promote improved working with people and communities and with partners and look to prevent problems and to take a more joined-up approach.
- 1.30. The Future Generations Act includes a 'sustainable development principle' and the sustainability of social care and support services is therefore paramount. We intend that the National Office should act in a manner which seeks to ensure that better meeting the care and support needs of the present also enhances the prospects of generations to follow.
- 1.31. The vision for the National Office will be tested to ensure the continued alignment with the requirements of the Future Generations and Wellbeing Act, which is consistent with 'A Healthier Wales', our long-term plan for health and social care. The National Office will also embody the four fundamental principles of the 2014 Act: voice and control, prevention and early intervention, well-being, and co-production. This will be achieved through the core functions of the National Office and additional roles and responsibilities, such as data and intelligence gathering, which will come under the office.
- 1.32. The National Office will embed and support the strategic framework for Welsh language, *more than Just Words 2022-27*. In doing so, the National Office will strengthen Welsh language provision in social care services, supporting Welsh speakers to receive care in their first language.
- 1.33. The National Office will embed change through the promotion of the Strategic Equality Plan 2020-2024, the Anti racist Wales Action Plan, and the LGBTQ+ Action Plan to embed meaningful changes and values as part of Welsh life. The Anti Racist Wales Action Plan will act as the lever to deliver demonstrable leadership at all levels to meet existing commitments and to challenge against racism and in the provision of equitable, culturally appropriate services, recognising intersectionality and differences among groups. LGBTQ+ rights are embedded in the Welsh Government's Programme for Government commitments and are a key component of the Co-operation Agreement with Plaid Cymru. The LGBTQ+ Action Plan, developed with the aim of making Wales the most LGBTQ+ friendly nation in Europe, sets out social care and welfare actions and the National Office will have a key role in ensuring successful delivery of this plan.

- 1.34. To contribute to the Future Generations Act, the National Office will be alert to the net zero target for the public sector by 2030 and will promote decarbonisation action plans and social value by way of achieving this.

Part 2 Code

- 1.35. Revisions to the Part 2 Code include updating the requirements around carrying out population needs assessments, which must be carried out jointly by local authorities and health boards on a regional footprint. In addition to assessing need for care and support, these assessments must also set out the range and level of services which will be required to meet those needs, and must include integrated services and approaches. The revision also strengthens the requirements and guidelines around delivering integrated preventative and early intervention services.
- 1.36. The population needs assessments are undertaken on a regional footprint, and Chapter 2B is statutory guidance for local authorities and health boards in undertaking and publishing these joint reports. One of the strategic objectives of the Regional Partnership Boards (RPBs), as set out in the Partnership Arrangements (Wales) Regulations 2015, is to ensure that the partnership bodies work effectively together to respond to the population needs assessment and implement the joint area plan. These Regulations and the Part 9 Statutory Guidance on Partnership Arrangements are also being revised as part of the Rebalancing Care and Support Programme, and will be laid before the Senedd in the autumn term.

Collaboration

National Framework

- 1.37. As this Code relates to the commissioning of care and support services, the statutory partners that will have a shared interest will be local authorities and the NHS as they are responsible for commissioning services to meet local needs. As a high proportion of social care services is undertaken by private and third sector providers, a range of service providers will also have a shared interest in this Code and commissioners may be required to discharge some aspects of the Code to their service providers through their contractual arrangements. Similarly, due to the content of the Code and the standards set within it there will be a number of key stakeholders who will have a shared interest. These include, for example, Social Care Wales and Care Inspectorate Wales from a regulatory perspective; national organisations involved with health and social care service delivery; as well as regional and local organisations.
- 1.38. To develop the policy, the Welsh Government worked with a National Technical Group of representatives from organisations with experience and expertise in commissioning and procurement of social care services. The Technical Group informed the content of this Code and made recommendations about its content. The consultation provided an

opportunity for all partners, stakeholders and people who use services to shape the Code.

National Office

- 1.39. To aid the establishment of the National Office, a Steering Group was formed. This Steering Group acted as an advisory forum during development stages of the National Office, and consisted of representatives from the following stakeholders:
- NHS Executive
 - Care Inspectorate Wales
 - ADSS Cymru
 - WLGA
 - Welsh NHS Confederation
 - Social Care Wales
 - National Commissioning Board, Executive Board
 - NHS Local Health Boards
 - Care Forum Wales
- 1.40. Critically, going forwards the National Office will work closely with the 22 local authorities and their social services teams. Local Government has the statutory responsibilities for the provision of sufficient care and support to meet people's wellbeing needs. Social care has its roots in local government, so enabling a complex system, including the role of the NHS in commissioning significant levels of care and support, to work synergistically, is central to our vision.
- 1.41. The National Office will involve equally people who use social care services and their carers, the social care workforce, and stakeholders through seeking feedback and input into the work of the National Office. This will be achieved through supporting the Chief Social Care Officer in their role. The National Office will directly support the Chief Social Care Officer in setting the strategic direction for the sector and strengthening national leadership across the social care sector to support quality improvement and to improve outcomes for people.
- 1.42. Alongside supporting the Chief Social Care Officer, the National Office will engage and co-design with people who receive services and with the social care workforce to identify and drive improvements. The partnership working relationship with Social Care Wales will also be critical. Social Care Wales is the workforce regulator, and it has key improvement functions. The National Office will work with Social Care Wales to amplify both positive messages about working in social care, and improvement activity consistent with its own role in overseeing the implementation of the National Framework and through gathering data and wider sector intelligence.
- 1.43. Working in tandem with the NHS Wales Executive, the National Office will promote integration of services to create seamless health and social care

services, providing national direction to enable improved national, regional, and local outcomes.

Part 2 Code

- 1.44. The proposed revisions to chapter 4 of the Part 2 Code, on a local authority's duty to promote social enterprises etc., were developed in discussion with the Task and Finish Group on Engagement and Voice. The new wording around the 'social / added' value drew upon work commissioned from Campa's (formerly the Wales Co-operative Centre) and was road tested both with the Task and Finish Group and the Technical Group developing the new National Framework for commissioning care and support. The revised code reiterates the need for each region to have a forum or forums bringing together commissioners and section 16 organisations to share good practice and take advantages of market opportunities to expand and promote this sector. The new chapter 5 on co-production was developed with the help of the Task and Finish Group on Engagement and Voice, which included service user and unpaid carer members of Regional Partnership Boards. This Task and Finish Group also helped develop the material on engagement and co-production in the Part 9 Statutory Guidance, helping to ensure common definitions and approaches to co-productive practice at regional and local level.

Involvement

National Framework

- 1.45. As part of the development of the National Framework, organisations and partners representing those who receive care and support were asked to give their views and to shape the draft Code.
- 1.46. What matters to people is key within the context of commissioning services and the following statement contained in a number of other Codes of Practice under the 2014 Act has been further adapted and is central to the ethos within the draft Code:
- "My care is planned by me, with people working together, to understand me, my family and carers (and our needs), with my best interests central, giving me voice, influence and control, bringing together services and support networks that will achieve the outcomes important to me."*
- 1.47. Commissioning for outcomes is therefore key within this draft Code as well as ensuring sustainable commissioning practices.
- 1.48. More broadly the work led by the National Technical Group and the Task and Finish Groups had membership from across the sectors in Wales. We have taken account of the responses to the 2023 consultation, and of what commissioners have told us following completion of a commissioning survey undertaken by the Association of Directors of Social Services Cymru.

- 1.49. As well as significant collaborative working with members of the National Technical Group, we also held two consultation events in the summer of 2023: a virtual online event with stakeholders from North Wales and a face-to-face event in Cardiff. At both events, the Welsh Government policy leads delivered a presentation giving an overview of the National Framework which was then followed by a question-and-answer session.
- 1.50. At the Cardiff event there were two workshops where participants were given the opportunity to discuss the proposed principles and standards with colleagues from across the sector to help inform their formal consultation response and for Welsh Government to clarify any queries. These workshops involved a more detailed overview of the principles and standards in the National Framework. The workshops had a broad representation from across the sector.
- 1.51. Stakeholders provided positive support for the principles and standards but raised challenges in relation to the impact on funding and the workforce, as well as around implementation.
- 1.52. Additional meetings were arranged in addition to these main consultation events. These included the Deputy Minister meeting with the Future Generations Commissioner and officials meeting with Age Alliance Wales, Community Housing Cymru, other housing associations and Age Cymru, at which stakeholders' views and issues were discussed. Officials have also met with Amanda Mutlow, the Strategic Director of Llais at which important discussions were held about how to ensure voices of health and care services are captured in the consultation. Table 1 below summarises the meetings held. Officials have also presented on the Rebalancing Care and Support programme at the Fair Work Forum meeting.
- 1.53. A list of the stakeholder engagement undertaken by the National Framework policy team can be found at Table 1 attached to this IIA.

National Office

- 1.54. An advisory steering group, made up of stakeholder representatives (listed in the 'Collaboration' section above) have been involved in the development of the National Office as part of the Rebalancing Programme in its current form. Prior to this, stakeholders and citizens had the opportunity to respond to the Rebalancing Care and Support White Paper consultation in January 2021 through the question specifically focused on the establishment of a National Office.
- 1.55. More broadly, to develop our understanding of the form and function of a National Office we have also engaged with:
- Directors and Deputy Directors within HSS Group, Welsh Government
 - NHS Executive programme leads
 - Foster Wales and National Adoption Service

- National Commissioning Board Executive Board
- WLGA
- CIW
- ADSS Cymru
- Welsh NHS Confederation
- Social Care Wales
- NHS Local Health Boards
- Care Forum Wales

Part 2 Code

- 1.56. The revised Part 2 Code has a new chapter on engagement, voice and co-production, which updates, strengthens and gives more prominence to material in the existing code. This chapter draws upon material from the existing chapter 4 of the Code as published in 2015, and was discussed by the Task and Finish Groups on Rebalancing the Social Care Market and on Engagement and Voice. The responses to the consultation agreed that these messages are clearly set out and will be particularly relevant to the way local authorities exercise their duties. Similar messages have been incorporated into the revised Part 9 Statutory Guidance on Partnership Arrangements, which is aimed at local authorities, health boards and the Regional Partnership Boards (RPBs).

Impact

- 1.57. In addition to the five ways of working above we have also considered the potential impact of the proposals, including the main arguments for and against the proposals.

National Framework

- 1.58. The 2014 Act puts a duty on local authorities and their partners to promote the well-being of people who need care and support and carers who need support in Wales. It defines well-being and places a duty on Welsh Ministers to issue a statement of well-being outcomes to be achieved. This statement defines well-being outcomes for all people who need care and support and carers who need support in Wales including people in protected groups.
- 1.59. The National Framework, through the setting of national commissioning principles and standards aims to further enable local authorities and partners to deliver their functions so that people who need care and support and carers who need support can achieve their well-being.

Strengthening the aims of the Act

- 1.60. By placing further statutory requirements and guidance on local authorities, Local Health Boards and NHS Trusts in relation to focussing commissioning on quality and outcomes the Code will help to accelerate the intended aim of

the 2014 Act to shift to an approach which puts people at the centre, the outcomes they wish to achieve, and in giving them greater voice and control.

- 1.61. The Framework's provisions in relation to pay will help the broader Welsh Government aims to provide support greater consistency of the workforce providing care and support. The provisions in the Framework to support the social care workforce are important as continuity of the social care workforce has a significant impact on the achievement of people's outcomes. By supporting the workforce the National Framework aims to facilitate less turnover which will allow people to build relationships with people that provide care and support, feel safe and more secure, thus improving quality of social care and well-being outcomes. This means that people are more likely to see the same person, increasing their ability to maintain relationships which can reduce loneliness and isolation, and lead to higher quality of care.
- 1.62. The introduction of national commissioning principles and standards aims to reduce complexity and simplify processes which will enable partners to make better use of collective resources, across local authority boundaries, in response to population needs and outcomes. The removal of some duplication and inefficiencies in the commissioning process can free up commissioners' time to develop other elements of the commissioning cycle which have been identified as being less developed than other parts. The principles and standards focus on social value will help to ensure social value commissioning supports people to achieve their outcomes, and fully utilises the assets that exist in local communities.

National Office

- 1.63. Consultation responses from the Rebalancing White Paper January 2021 consultation indicated mixed responses from respondents regarding a National Office. Those who were hesitant to the idea cited concern of added complexity without added value, or unnecessary duplication of roles. To address this, the National Office establishment has carefully considered, in partnership with key stakeholders, where value can be added, what functions are necessary for the office and how to mitigate duplication. We have worked closely with stakeholders since the Rebalancing White Paper 2021 consultation, and have involved stakeholders in the establishment plans of the National Office, and through wider engagement via the Rebalancing Programme consultation in 2023. Co-production, stakeholder engagement and input from service users will continue to be key mechanisms for considering and measuring impact as the National Office matures.

Part 2 Code

- 1.64. The overall impact of the changes to the Part 2 Code will be relatively limited in themselves, as this has been primarily a consolidation exercise. However, the revision of the chapter on the section 16 duty to promote social enterprises, co-operatives, user-led services and the third sector, and

clarifying the language and expectations around rebalancing and ‘social / added value’ should help local authorities and their partners, including relevant providers, to embrace the opportunities for developing and expanding this segment of the social care market. The new chapter on co-production should also have a positive impact in promoting the involvement of people in the planning and delivery of integrated services, especially when combined with the strengthened emphasis on engagement, voice and co-production in the Part 9 Statutory Guidance on Partnership Arrangements.

- 1.65. Following consultation on the Welsh Government’s White Paper on Ending Homelessness in Wales (closed on 16 January 2024), and the need to ensure a strategic regional response to homelessness, it was decided to add ‘people experiencing homeless’ to the list of priority population groups in Chapter 2 of the Part 2 Code. This means that population needs assessment report must include an assessment of the health, care and support needs of homeless people. The list of core population groups is also reflected in the statutory and supplementary guidance on joint area plans, which will be similarly updated before the next plans are produced in 2028.

Costs and Savings

National Framework

- 1.66. The statutory requirements and guidance in the Code are designed to improve the way care and support services are commissioned which in turn is intended to support the existing overall aims of the system established by the 2014 Act i.e. to secure well-being for people who need care and support and carers who need support. This will include moving commissioning away from price towards quality and social value and further facilitating joint commissioning between health and social services. Within the context of social care being highly reliant on its workforce, and the need to improve the remuneration for the workforce and as a minimum paying the real living wage to the workforce, it is likely that by shifting the commissioning process to focus on quality and ensuring that the workforce is properly remunerated that the cost of delivering care will increase. These costs will need to be reflected by local commissioners when commissioning services.

Regulatory Impact Assessment

- 1.67. A Regulatory Impact Assessment (RIA)¹ was developed for the 2014 Act and the expected impacts the National Framework will have on people are the same as those set out in that RIA. The National Framework aims to increase the pace at which these impacts are realised.
- 1.68. A specific Regulatory Impact Assessment (RIA) has also been completed for the National Framework and is set out in part 2 of the Explanatory

¹ <https://senedd.wales/media/gedp1r55/pri-ld9181-em-r-e.pdf>

Memorandum. For the purposes of assessing the costs, benefits and risks of the Framework, the 7 principles and 10 standards in the Code have been grouped into the following three themes:

- **Theme 1:** Commissioning underpinned by the key values within the 2014 Act (co-production, collaboration, early intervention and long-term planning)
- **Theme 2:** Evidence-Informed Decision Making
- **Theme 3:** Value-Based Commissioning and Ethical Practices

1.69. The RIA has considered two options – **option 1: do nothing** in which commissioners would continue to commission care and support in line with the existing provisions in the Act and the preferred and recommended **option 2: proceed** with the creation of the National Framework.

1.70. For **Option 1: do nothing** it was concluded that:

- a) there are no additional costs in maintaining the status quo but the current costs of the existing system would continue to be incurred;
- b) it is not beneficial to maintain the status quo given the anticipated benefits of the Toolkit; and
- c) without the intended benefits and strengthening of the care and support system that the Code is expected to bring the inconsistent commissioning practices that have been identified will continue and the objectives of the Rebalancing Care and Support Programme will not be met.

1.71. For **Option 2: proceed** it was concluded that:

- there are no additional costs resulting from the codes provisions under the first two themes as they strengthen but do not go further than the principal requirements in the Act; however, fully implementing all aspects of the Codes provision under Theme 3 are likely to have cost implications for commissioners;
- there are monetary costs associated with the establishment of the National Office funded by Welsh Government including staffing costs of approximately £465K and £25-30K for awareness raising and training for commissioners (funded by the social care reform budget).
- the platform and training costs for the toolkit will be cost-neutral as it will be hosted on a digital community platform hosted by the Welsh Government sponsored body - Social Care Wales;
- the **benefits** of the key principles of the Act (co-production, collaboration, early intervention and long-term planning) are clear from the available evidence however the evaluation of the Act demonstrates the clear gap **between** the principles and how consistently and effectively they are implemented across Wales;
- the Code will have a beneficial impact on the provision of care and support given that:
 - a) it creates a renewed focus on these aspects of the Act and support commissioners to apply these principles more consistently and effectively

across Wales.

- b) a toolkit will also be produced alongside the Code to provide additional resources to support commissioners to meet these requirements;
- c) is specifically focussed on commissioning which is the over-arching process by which care and support is delivered (and not specifically referred to in the Act); and
- d) consolidates the key principles and standards for effective commissioning into one document, providing a legal framework for this role;
- e) it provides details beyond that in the Act or other Codes about how commissioners must and should plan to meet the needs of people who need care and support in Wales, with a focus on building relationships;
- the risks arising from the provisions under themes 1 and 2 are inherent risks in the system as these provisions are already embedded in the Act and therefore the Framework together with the toolkit and support of the National Office should help to mitigate some of these risks by providing further guidance and clarity on how the overarching duties and principles in the Act can be delivered;
- the significant on-going issues statutory partners face in terms of rising demand, workforce, funding and resources present a real risk to the ability and **capacity** of commissioners to meet the provisions under theme 3 therefore this aspect of the Code will need to be monitored carefully by the National Office during the implementation period and the evidence from that monitoring and evaluation fed into the biennial review of the Code and addressed through the periodic introduction of supplementary non-statutory commissioning guidance.

1.72. As set out above we therefore expect there to be relatively minor transitional administrative costs to local authorities, Local Health Boards and NHS Trusts. These will include staff training costs i.e. commissioners and other related members of staff involved in delivering and operating in line with the Code and for the dissemination of information.

National Office

1.73. The National Office must operate at optimal effectiveness and efficiency, providing value for money. The National Office will use its allocated resources in an affordable and sustainable manner, and within its agreed allocated limits and in accordance with Welsh Government policies relating to financial management, forecasting, and reporting.

1.74. The main anticipated additional cost will likely be linked to resourcing arrangements. Any recruitment activity associated with the National Office will be in line with Welsh Government resourcing processes and comply with wider civil service policy, and the Civil Service Commission. Whilst some additional funding may be required to carry out new functions to be brought under the National Office, (i.e. oversight of the toolkit for the Commissioning Care and Support Code of Practice), this is likely to fall within existing remit(s) of agreed Welsh Government budget and so any potential additional costs incurred will likely be minimal.

Part 2 Code

- 1.75. There are no specific direct cost implications for local authorities associated with the revision of the Part 2 Code. The changes either update the code in the light of already existing supplementary guidance and practice (e.g. around population needs assessment), or strengthen and give greater focus to existing requirements and guidelines (e.g. on the section 16 duty to promote and on co-production). There would be no new burdens placed upon local authorities, and the changes are not significant enough to bring with them any additional implementation costs.
- 1.76. This is not to say that there are no costs for local authorities in fulfilling the requirements of the Act, including meeting the requirements in the Part 2 Code: as the consultation responses from local authorities and the Regional Partnership Boards made clear, there remain significant resourcing issues across social care, and additional resources of time, people and money will be needed if local authorities are to continue to deliver high-quality care and support in line with the principles of the Act. However, this light-touch revision of the Part 2 Code should not add to or exacerbate those ongoing resourcing pressures
- 1.77. The decision to add ‘people experiencing homeless’ to the list of priority population groups to be included in the population needs assessment reports should not place any additional financial burdens on local authorities. Part 2 of the Housing (Wales) Act 2014 requires local authorities to produce a homelessness strategy for the purposes of preventing and responding to homelessness, and the Part 2 Code published in 2015 already says that the population needs assessment should inform the production of this strategy, given that people affected, or at risk of being affected, by homelessness will likely have care and support needs. Specifically adding homeless people to the list of priority population groups will help strengthen these guidelines, and also ensure that the Regional Partnership Boards (RPBs) are able to exercise strategic regional oversight of provision of care and support to this group of people.

Mechanism

- 1.78. The proposals within the Rebalancing Care and Support Programme consist of a range of legislative and non-legislative proposals. These are described individually within the ‘Introduction’ section of this document.
- 1.79. The National Framework will be issued as a statutory Code of Practice under Section 145 of the 2014 Act and will also constitute guidance under Section 169 of the 2014 Act and guidance under Section 2 of the NHS (Wales) Act 2006. To ensure the Code has comparable force in relation to local authorities, local health boards and NHS trusts, the Welsh Ministers will direct local health boards and NHS Trusts under the NHS (Wales) Act 2006 to exercise their relevant functions in accordance with the requirements in the Code.

- 1.80. The Part 2 Code of Practice will be a statutory code issued under section 145 of the 2014 Act and will revoke the Part 2 Code of Practice (General Functions) issued in 2015. Chapter 2B on population needs assessments is statutory guidance for local authorities and health boards issued under section 169 of the 2014 Act.
- 1.81. Explanatory Memorandums containing full Regulatory Impact Assessments will be published for the National Framework Code of Practice and for the Part 2 Code when these are laid before the Senedd in March 2024.

Section 7: Record of full impact assessments required

- 7.1. The following full impact assessments have been prepared and will be published alongside this IIA:
- a) Children’s Rights Impact Assessment
 - b) Equality Impact Assessment
 - c) Welsh Language Impact Assessment

Section 8: Conclusion

How have people most likely to be affected by the proposal been involved in developing it?

- 8.1. The ‘Collaboration’ and ‘Involvement’ sections within Section 1.3 of this document describe how each of the three elements under consideration were developed with the participation of key stakeholders, in the lead up to the formal consultation in 2023. This has included involving people through a range of Technical and Task and Finish Groups convened to co-develop and inform the proposals.
- 8.2. The formal 12-week consultation was an opportunity to engage with and seek feedback from stakeholders on each element of the Rebalancing Programme. The responses were carefully considered by Welsh Government officials, and a [Summary of Response report](#)² was published on 27 November 2023.

What are the most significant impacts, positive and negative?

- 8.3. The most significant impacts within the proposals are set out within the ‘Impact’ section within Section 1 of this document.

National Framework

- 8.4. The Framework has the same aims and objectives as the Act which is widely regarded as being the right legislation if implemented effectively. Some of

² <https://www.gov.wales/rebalancing-care-and-support-programme>

the barriers to that implementation lie in the lack of consistency and complexity in the commissioning of care and support. Therefore because the Framework aims to reduce complexity, increase consistency and rebalance care and support to focus on quality and outcomes instead of cost it is, if implemented effectively, expected to break down some of those barriers and help statutory partners realise the aims of the Act. This is expected to be the biggest positive impact that the Code will have.

- 8.5. We expect the most significant positive impacts of the National Framework to arise from:
- a) the Codes provisions to further strengthen the duties in the Act on statutory partners;
 - b) the application of the Code to both local authorities and health boards and NHS Trusts which will help to facilitate the consistency in commissioning across the sector that the Code seeks to achieve i.e. that people in need of or in receipt of care and support services receive consistency regardless of who that service is being commissioned from;
 - c) the further embedding of equalities and human rights to strengthen the overarching duties in the Act and in other legislation including children rights which as set out in the Equalities Impact Assessment and the Children's Rights Impact Assessment is expected to have a positive impact on ensuring that care and support services support the upholding and realisation of rights;
 - d) the principles and standards for commissioning which are expected to be a key factor in achieving the Code's aim to reduce complexity, facilitate national consistency of commissioning practices and rebalance commissioning to focus on quality and outcomes;
 - e) the Codes alignment to the provisions in the Part 2 Code: General Functions and Part 9 Guidance on Partnership Arrangements which will help to have a positive impact on integration, collaboration and partnership working; and
 - f) alignment and contribution to support wider policy objectives such as fair work, the transformation of children's services and Welsh Government programmes on data and decarbonisation.

8.6. No negative impacts have been identified.

National Office

- 8.7. The most significant positive impacts of the National Office relate to its strategic objectives, including promoting integration to create seamless health and social care services. Other potential positive impacts of the National Office include providing national direction to enable improved national, regional, and local outcomes. No potential negative impacts have been identified.

Part 2 Code

- 8.8. The most significant positive impacts of revising the Part 2 Code are likely to be clarification of the Section 16 duty to promote social enterprises, co-operatives, user-led services and the third sector, and a greater emphasis on citizen engagement, voice and co-production. Another important impact is the attempt to align these messages in the Part 2 Code more closely with the regional partnership arrangements in the updated Part 9 Statutory Guidance, which also forms part of the Rebalancing Programme. Taken together, these should encourage and stimulate greater joint working and innovation around rebalancing the social care market, leading to the provision of care and support and preventative services that better meet the needs of individuals, and that help them achieve what matters to them. No significant negative impacts have been identified.

In light of the impacts identified, how will the proposal maximise contribution to our well-being objectives and the seven well-being goals; and/or, avoid, reduce or mitigate any negative impacts?

- 8.9. The consultation offered an opportunity to test the assumptions of the impacts set out in our initial assessment. Further potential impacts were considered in the light of the consultation responses, and have helped shape the final versions of the National Framework and the Part 2 Code, as well as inform our plans for setting up the National Office. This included mitigations for any negative impacts.
- 8.10. We have set out above the key impacts of the proposals, which are mostly positive, including alignment with the well-being goals. For the main negative impacts in terms of the implementation challenges, we will support and work closely with stakeholders to ensure that any implementation burdens are minimised as far as practicable.

How will the impact of the proposal be monitored and evaluated as it progresses and when it concludes?

- 8.11. Proposals within the Rebalancing Care and Support Programme are monitored internally via a programme board. This oversees the implementation and development of these proposals along with the programme governance.

National Framework

- 8.12. The National Office for Care and Support will have a key role in the implementation and on-going monitoring and evaluation of the National Framework. The National Office will play a key role in reviewing and updating the Code approximately every 2 years to ensure it aligns with current commissioning practices with non-statutory guidance to be provided (if required) in between the formal 2-year review of the Code. The National office will continue to engage with European Human Rights Commission to ensure that the National Framework is being effective in ensuring that

commissioning practices are promoting and improving equalities and human rights matters.

- 8.13. To support the implementation of the Framework we will put in place a national digital toolkit of good practice documents to support commissioners to deliver against the principles and standards set out in the code. This Toolkit will be reviewed and updated on a live and on-going basis to ensure that it is effectively supporting commissioners to deliver the Code. The monitoring function of the National Office support and lead on the updating of the Toolkit.
- 8.14. The reviewing of the effectiveness of the National Framework will include an on-going assessment of testing whether the conclusions that have been made on the expected impact were correct. All relevant impact assessments will be revised and updated accordingly in line with this monitoring and an updated version will be published at a minimum every 2 years in line with when the Code is considered for amendments.

National Office

- 1.1. Ongoing commitment to and active co-production, stakeholder engagement and input from service users will continue to be key mechanisms for considering and measuring impact as the National Office matures.

Part 2 Code

- 8.15. There are various sources of intelligence which will help the Welsh Government to review whether the revisions to the Part 2 Code are supporting local authorities in fulfilling their general duties under the Act. These are set out in the Explanatory Memorandum / Regulatory Impact Assessment (Section 8), which is being published separately. In line with established good practice on secondary legislation, the Welsh Government will undertake a review of how the revised Part 2 Code is being implemented in three years' time (by June 2027).

Section 9: Declaration

- 9.1. I am satisfied that the impact of the proposed action has been adequately assessed and recorded.

Name of Senior Responsible Officer:

Albert Heaney, Chief Social Care Officer for Wales

Date: 15 March 2024

Table 1

National Framework – Stakeholder Engagement

Meeting date	Stakeholder	Content
28 June 2023	Range of stakeholders including local authority, Local Health Board, RPB members	Welsh Government rebalancing care and support consultation event - North Wales (virtual)
6 July 2023	Derek Walker, Future Generations Commissioner	Introductory meeting with Deputy Minister - discussed consultation areas including RPB/PSB link up, and commissioning framework.
10 July 2023	Age Alliance Wales	Flagged rebalancing consultation live and encouraged completing formal response. Focus on commissioning and third sector issues.
11 July 2023	Range of stakeholders including local authorities, Local Health Boards, RPB members	Welsh Government rebalancing care and support consultation event - South Wales (in-person).
13 July 2023	Cymru Older People's Alliance (COPA)	Presentation on plans for social care reform / highlighted the consultation.
19 July 2023	Community Housing Cymru and other housing associations	Update on rebalancing care and support programme - presentation from WG officials then Q&A.
21 July 2023	NCB Executive Board, ADSSC, Care Forum Wales, NHS Confederation	National Office Steering Group meeting - flagged consultation during discussions.
25 July 2023	Amanda Mutlow, Strategic Director, Llais	Discussed how to ensure voices of health and care services were aware of work, and were encouraged to respond to consultation - Angela agreed to circulate materials to regional offices.
5-12 August 2023	National Eisteddfod	Update on Rebalancing Care and Support programme to include in social care PowerPoint presentation displayed on WG stall.
10 August 2023	Age Cymru - engagement event with older people	Update on Rebalancing Care and Support programme- presentation from WG officials on Teams then Q&A.
27 February 2023	Fair Work Forum meeting	Second update on the Rebalancing Care and Support programme.
29 February 2023	Meeting with Unison and Wales TUC.	Discussion around workforce issues relating to the National Framework.