

SUBJECT: Social Services and Well-Being (Wales) Act 2014

MEETING: ADULT SELECT COMMITTEE

DATE: 19th JANUARY 2016

DIVISION/WARDS AFFECTED: ALL

1. PURPOSE

The purpose of this report is to brief the Adult Select Committee on the Social Services and Well-Being (Wales) Act 2014, which provides the legislative basis for social services in Wales from April 2016. The report also sets out the implementation actions required at a regional and local level.

2. BACKGROUND

In February 2011, the former Deputy Minister for Social Services published, "Sustainable Social Services for Wales – A Framework for Action", the Welsh Government strategy to "renew social services and social care for the next decade". Sustainable Social Services made it clear that radical transformation was needed to address the significant challenges to traditional social services as a consequence of the changed social and financial context. Factors such as changes in family structures, demography, expectations about voice and control for service users, more fragmented communities and the impact of issues like substance misuse meant traditional solutions were not sustainable. Social services departments responded positively to this challenge, developing transformation programmes to achieve a paradigm shift in culture, practice and commissioning. These are programmes of continuous and sustained improvements, moving from deficit based, service led practice towards a person centred approach which focuses on strengths and individually agreed outcomes.

The Social Services and Well-Being (Wales) Act 2014 received Royal Assent and became law in May 2014. The Act provides the statutory framework to underpin the changes in culture and practice. It sets out duties for local authorities corporately and partners in the NHS, as well as social services departments. Authorities are required to integrate social services, to support people of all ages with a focus on well-being, prevention, early intervention, and greater voice and control for people. The Act promotes independence and prevention of the need for commissioned services. By integrating and simplifying the law, the Act seeks to deliver greater consistency, promote equality, improved quality and enhanced access arrangements across Wales.

This paper provides:

- A briefing on the 11 parts in the above Act.

- The local and regional position regarding implementation.

Legal Framework

The Act repeals much of the previous framework of social care legislation in Wales in an attempt to establish a single, clear, modern statute and code of practice that underpins a coherent social care system. It is important to note that some legislation will remain in place including the Mental Capacity Act or will remain in part, including elements of the Children's Act, critically section 47. The primary legislation is supported by regulations (secondary legislation) and detailed codes of practice. The final pieces of the legislative jigsaw are in the process of being put in place. The code of practice in relation to measuring social services performance was issued on 5 October 2015. Following consultation, final regulations and final codes of practice for parts 2 (General Functions), 3 (Assessing the Needs of Individuals), 4 (Meeting Needs), 5 (Charging and Financial Assessment), 6 (Looked After and Accommodated Children), 10 (Complaints, Representations and Advocacy) and 11 (Miscellaneous and General) of the Act, were laid before the Assembly for scrutiny in November 2015. Statutory guidance for part 9 (Co-operation and Partnership) was issued in January 2016. The final codes of practice, in relation to parts 7 and 8 of the Act (safeguarding and the role of Directors of Social Services) will be laid before the Assembly in early 2016, along with regulations in respect of consequential amendments.

The Act is made up of 11 parts. These are briefly summarised below:

1. Introduction – the introduction sets out definitions underpinning the rest of the Act. The Act moves away from definitions in previous legislation which used language such as age, illness and disability to 'people who need care and support' and 'carers who need support'. The definition of carers is far broader than articulated in previous legislation; removing the requirement that carers must be providing 'a substantial amount of care on a regular basis'.
2. General Functions – this part of the Act details overarching duties, duties in respect of well-being outcomes and strategic and operational duties in respect of preventative services.
 - Overarching duties – The Act requires that persons 'exercising functions' under the Act give due regard to the UN Principles for Older People (1991) and the UN Convention on the Rights of the Child.
 - Well-being Outcomes- this duty requires Local Authorities to be proactive in seeking to improve well-being for people who need care and support and carers who need support, when exercising social services functions for a person.
 - Population Needs Assessments - Local authorities and Local Health Boards are required to work together on a regional basis to produce an evidence base in relation to care and support needs and carers' needs. The first population assessment must be produced by April 2017.
 - Preventative services - local authorities **must** provide or arrange for the provision of a range and level of preventative services which they consider will prevent the

people's need for care and support and stop needs from escalating. Authorities should promote well-being in delivering universal services.

- Social enterprises - local authorities must promote the development of social enterprises and co-operatives and/ or involve people and carers in the design and operation of care and support and preventative services.
 - Provision of information, advice and assistance - Each local authority – with the assistance of Local Health Board partners – must secure the provision of a service for providing people with information and advice relating to well-being, care and support in their area, and (where appropriate) assistance in accessing these.
 - Local authorities must develop registers of sight-impaired, hearing impaired and other disabled people
3. Assessing the Needs of Individuals – The underlying approach of this part of the Act is for adults and children to be assessed for care and support and carers to be assessed for support. The aim is to simplify the assessment process. Assessments should be proportionate. Welsh Government is currently working with key partners to develop a national assessment and eligibility tool.
 4. Meeting needs – The Act sets out duties to respond to identified needs. The national eligibility framework will bring with it an enforceable right for the individual. The final version of codes of the code of practice removes any reference to what had become known as the 'can and can only' test for accessing identified care and support. Care and support plans need to identify the role played by unpaid carers, parents, partners and other family members in an individual's care and support. A care and support plan must identify the personal outcomes and set out the best way to help achieve them. Care and support plans will be portable across Welsh local authority borders. Local authorities have a duty to explore innovative ways people's needs might be met through direct payments. A significant change is that direct payments can be used to purchase care and support direct from their local authority.
 5. Charging and Financial Assessment – This part of the Act identifies the circumstances in which a local authority may charge for providing or arranging care and/ or support including when an authority may charge for preventative services and provision of assistance. It also sets out how charges can be set, paid and enforced.
 6. Looked After and Accommodated Children – Part 6 of the Act largely re-enacts the provisions in part 6 of the Children Act (1989) relating to looked after children and the various extensive duties on local authorities to meet the care and support needs of 'looked after' children and care leavers.
 7. Safeguarding – Safeguarding is a theme that runs throughout the Act. A new duty to report is introduced for relevant partners in relation to safeguarding children. There is also a new duty for relevant partners to report adults who may be at risk. A new statutory framework for adult protection is introduced. Authorised officers of the local authority will be able to apply to the court for an adult safeguarding and support order. This will confer a power of entry to speak to an adult at risk, but not a

power to remove. New structures for safeguarding boards are mandated, with board areas and lead partners prescribed through regulations.

8. Social Service Functions – Part 8 of the Act specifies the social services functions of Local Authorities. Local Authorities must appoint a director of social services who must demonstrate competencies specified by Welsh Ministers. The code of practice in relation to the role and functions of the director of social services is the subject of a current consultation. This part of the Act also provides for grounds for intervention by Welsh Ministers in the exercise of social services function, where a local authority is failing.
9. Well-being Outcomes, Co-Operation and Partnership – Statutory guidance has been issued in respect of part 9 reflecting that it related to partnership arrangements between organisations rather than the level of individual and organisational practice guidance. The guidance sets out arrangements for partnership arrangements and regional partnership boards. The statutory guidance requires regional partnership boards to prioritise integration of certain areas: older people with complex needs and long term conditions (including dementia), integrated family support services, learning disabilities, children with complex needs and carers (including young carers). In addition, the guidance now requires the establishment of pooled funds in specific areas: the exercise of care home accommodation functions, the exercise of family support functions and functions that will be exercised jointly as a result of an assessment carried out under section 14 of the Act or any plan prepared under section 14A.
10. Complaints and Representations – this part of the Act has three chapters – complaints and representatives, complaints about private social care and palliative care and advocacy services.
11. Supplementary and General – This part of the Act includes various miscellaneous and general provisions, one of which is a new duty to meet the care and support needs of adults and young people detained in the secure estate. By April 2016 LAs will need to have arrangements in place to assess, and meet, the care and support needs of those in the secure estate. This also includes the provision of information advice and assistance. This has significant implications in Monmouthshire as it is the local authority in which the prison is based which has responsibility for assessing and meeting the ‘care and support’ needs of prisoners whether they are from Wales, England or another nationality.

Social Services and Well-being Act Implementation

Regional Implementation

Welsh Government has made available a specific grant, the Delivering Transformation Grant (DTG) in each region of Wales to support implementation of the Act. A regional transformation team has been appointed, hosted by Torfaen CBC, for this purpose. Each region in Wales has been required to develop a high level regional implementation plan,

against a nationally determined priority areas. A regional implementation plan has been developed for the Greater Gwent area. This is included as **Appendix 1** to this paper. The Regional Implementation Plan sets out high level aims and objectives; below this there have been development of Operational Action Plans that provide more detail in key areas.

Local Implementation

Whilst much of the activity to develop appropriate responses, policy and procedures is being co-ordinated at a regional level with the support of the regional transformation team, operational implementation needs to take place at a local level. There are considerable workforce, ICT and financial implications for local authorities and significant new duties in the Act which individual authorities need to ensure compliance with. Select Committee will need assurance that robust process are in place within the authority to ensure that everything that needs to be is in place by April 2016. Synergy between Social and Services and Well-being Act implementation and work to implement the Well-being of Future Generations (Wales) Act is critical. Equally, the fit between local transformation programmes to deliver cultural and practice change and Act implementation is fundamental.

As final codes of practice are issued, baseline assessments are being undertaken at a local (as well as regional level) completed by the appropriate officers across the Council to develop action plans where necessary which can be reported to Senior Leadership Team, Select Committees and Cabinet. Action plans to address any deficits are also being developed.

Workforce Development

Local Authority Social Care Workforce Development (SCWDP) Grant was top-sliced in 2015/16 and allocated to the Care Council for Wales to develop a national learning and development resource to ensure the workforce is supported and informed to deliver social services in accordance with the Welsh law. The Institute of Public Care (IPC) was commissioned by the Council to develop training modules. Training to priority staff (team managers and senior practitioners) is commencing in January 2016 on 4 modules. The second tranche of training will commence in April 2015. Workforce Development Managers across the region have been working under the leadership of the Director of Social Services from Blaenu Gwent CBC , detailing how training will be delivered

3. RECOMMENDATION

Adult select committee are asked to consider the content of this report and the actions required to implement the Social Services and Well-being Act in Monmouthshire County Council by April 2016.

4. AUTHOR

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