Agenda - Y Pwyllgor Cyfrifon Cyhoeddus a Gweinyddiaeth Gyhoeddus

Lleoliad:
Ystafell Bwyllgora 5
Dyddiad: Dydd Iau, 25 Mai 2023
Amser: 09.00

I gael rhagor o wybodaeth cysylltwch a:
Fay Bowen
Clerc y Pwyllgor
0300 200 6565
SeneddCCGG@senedd.cymru

Caiff y cyfarfod hwn ei ddarlledu'n fyw ar www.senedd.tv

Ar 10 Mai 2023, cytunodd y Pwyllgor, yn unol â Rheolau Sefydlog 17.42 (vi) a (ix), i wahardd y cyhoedd o bob eitem, ac eithrio eitemau 1 i 3.

Yn unol â Rheol Sefydlog 17.53, bydd y Pwyllgor yn cynnal cyfarfod ar y cyd â'r Pwyllgor Iechyd a Gofal Cymdeithasol ar gyfer eitemau 1 i 6.

(Rhag-gyfarfod preifat)
(09.00 - 09.30)

1 **Cyflwyniad, ymddiheuriadau, dirprwyon a datgan buddiannau**
(09.30)

2 **Gwerthuso Deddf Gwasanaethau Cymdeithasol a Llesiant (Cymru) 2014: Panel 1**
(09.30 - 11.00) (Tudalennau 1 - 28)
Yr Athro Mark Llewellyn, Athro Polisi Iechyd a Gofal a Chyfarwyddwr, yr Athrofa Iechyd a Gofal Cymdeithasol
Yr Athro Fiona Verity, Ysgol Iechyd a Gofal Cymdeithasol, Prifysgol Abertawe

(Egwyl)

(11.00 – 11.15)

3 Gwerthuso Deddf Gwasanaethau Cymdeithasol a Llesiant (Cymru) 2014: Panel 2

(11.15 – 12:30) (Tudalennau 29 – 37)

Yr Athro Luke Clements, Athro Cerebra y Gyfraith a Chyfiawnder Cymdeithasol, Ysgol y Gyfraith, Prifysgol Leeds

Dr Alison Tarrant, Darlithydd ym maes y Gyfraith, Ysgol y Gyfraith a Gwleidyddiaeth, Prifysgol Caerdydd

4 Gwerthuso Deddf Gwasanaethau Cymdeithasol a Llesiant (Cymru) 2014: Trafod y dystiolaeth

(12.30 – 12.40)

5 Blaenraglen Waith

(12.40 – 12.50) (Tudalennau 38 – 52)

Llythyr ar y cyd at y Gweinidog Iechyd a Gwasanaethau Cymdeithasol gan y Pwyllgor Iechyd a Gofal Cymdeithasol a'r Pwyllgor Cyfrifon Cyhoeddus a Gweinyddiaeth Gyhoeddus ynghylch Bwrdd Iechyd Prifysgol Betsi Cadwaladr

6 Craffu ar Iechyd a Gofal Digidol Cymru

(12.50 – 13.20) (Tudalennau 53 – 86)

Mae cyfyngiadau ar y ddogfen hon

IMPACT | GWERTHUSIAD CENEDLAETHOL O'R DDEDDF GWASANAETHAU CYMDEITHASOL A LLESIANT (CYMRU)

TROSOLWG O'R ASTUDIAETH | MAWRTH 2023

Comisiynodd Llywodraeth Cymru bartneriaeth o academyddion ar draws pedair prifysgol yng Nghymru ac ymgynghorwyr arbenigol i lunio gwerthusiad o *Ddeddf Gwasanaethau Cymdeithasol a Llesiant (Cymru) 2014*, elfen hanfodol o bolisi Llywodraeth Cymru i gynhyrchu 'newidiadau trawsnewidiol' wrth ddarparu gwasanaethau cymdeithasol ledled Cymru. Cynhaliwyd y gwerthusiad cenedlaethol hwn – astudiaeth IMPACT / IMPACT study – rhwng Tachwedd 2018 a mis Hydref 2022.

YR HYN WNAETHON NI

Defnyddiodd astudiaeth IMPACT ddull Michael Patton (2018) 'Gwerthusiad sy'n Canolbwyntio ar Egwyddorion / *Principles-Focused Evaluation*' (P-FE) fel y fframwaith trosfwaol. Mae P-FE yn canolbwyntio ar werthuso sut mae egwyddorion yn llywio gweithrediad ymyriadau neu raglenni mewn cyd-destunau sy'n gymhleth, yn ansicr ac yn 'gythryblus', a beth sy'n digwydd o ganlyniad i hynny. Mae tri chwestiwn canolog yn cael eu hateb mewn gwerthusiad P-FE, ac roedd y rhain yn fframio'r gwaith a wnaed ar draws yr astudiaeth hon:

1. I ba raddau y mae egwyddorion ystyrlon a gwerthusiadwy wedi'u mynegi? (Cysyniadoli)
2. Os ydy egwyddorion wedi'u mynegi, i ba raddau ac ym mha ffyrdd y glynir wrthyn nhw'n ymarferol? (Gweithredu)
3. Os cedwir at hyn, i ba raddau ac ym mha ffyrdd y mae'r egwyddorion yn arwain at y canlyniadau a ddymunir? (Optimeiddio)

Roedd prosiect IMPACT yn rhaglen waith a oedd yn cynnwys 11 astudiaeth unigol. Ar y cyfan, clywsom gan dros 450 o gyfranogwyr yr astudiaeth o bob rhan o Gymru, a darparodd pob un ohonyn nhw adroddiadau manwl a chynhwysfawr o'u profiadau o dan y Ddeddf, o safbwyntiau amrywiol.

YR HYN RYDYN NI WEDI EI GANFOD

- Mae'r ddeddfwriaeth, a'r egwyddorion sy'n sail i'r Ddeddf, yn darparu fframwaith a gefnogir yn dda ar gyfer newid yn yr ymarfer ac yn modd y cyflenwir gwasanaethau cymdeithasol.
- Mae grymoedd ddaeth yn sgil y pandemig byd-eang o ran iechyd cyhoeddus, yr argyfwng yn y gweithlu, argyfwng costau byw a'r heriau tymor hwy o ran demograffeg a chyni wedi newid mewn ffyrdd digynsail y cyd-destun y gosodwyd y Ddeddf ynddo.
- Mae yna dystiolaeth glir a chymhellol o'r gwaith caled mor eithriadol o anhygoel, yr ymrwymiad, addasrwydd ac ewyllys da gaed gan randdeiliaid o ystyried yr heriau maen nhw wedi eu hwynebu, ond mae tystiolaeth gymhellol hefyd o'r problemau sy'n parhau o fewn y system.
- Mae yna gryfderau cyson ac ar draws y rhanddeiliaid wedi'u nodi yng ngham cyntaf bywyd y Ddeddf (fel y cafodd ei deddfu). Mae darlun positif i raddau helaeth, ond ychydig yn gymysg, am yr ail gam pan drosglwyddwyd y Ddeddf o fod yn ddeddfwriaeth 'ar bapur' i gael ei chyflawni (fel y cafodd ei gweithredu). Mae persbectif llawer mwy negyddol yn cael ei ddangos gan ddefnyddwyr gwasanaeth a gofalwyr sy'n methu â chael y canlyniadau fydden nhw'n ei ddymuno o ran y gofal a'r gefnogaeth maen nhw wedi ei gael a hynny mor gyson ag y bydden nhw eisiau (yn ôl eu profiad nhw).
- Arweiniodd hyn at weld nifer o'r rhai a gafodd eu cyfweld ar gyfer yr astudiaeth hon yn profi ymdeimlad o ddatgysylltu oddi wrth addewid yr egwyddorion hynny, y gellir eu priodoli'n rhannol i'r ffactorau sydd wedi effeithio ar wasanaethau cymdeithasol ers rhoi'r Ddeddf ar waith, ac y mae yna rwystredigaeth wedi tyfu yn sgil hyn.
- Dydy'r daith tuag at wireddu nod uchelgeisiol y Ddeddf ddim yn gyflawn. Y cwestiwn, felly, ydy sut olwg sydd ar y camau nesaf yn y siwrnai honno, pwy ddylai ei theithio, i ble mae'r daith yn arwain, a sut y byddwn ni'n gwybod pan fyddwn ni wedi cyrraedd?

RHESTR O WEITHIAU'N DILYN YR ASTUDIAETHAU

Theori newid a diffiniad o'r egwyddorion

- Framework for Change (Verity et al., 2019): Dadansoddiad o'r ffactorau cyd-destunol sy'n effeithio ar weithrediad y Ddeddf yng Nghymru, trosolwg o'r Ddeddf, a disgrifiad o'r cyfarwyddiadau, egwyddorion a nodau arweiniol yn yr 11 rhan o'r Ddeddf.
- Literature Review (Llewellyn, Verity a Wallace, golygyddion, 2020; diweddarwyd yn 2023): Dadansoddwyd 268 o bapurau yn yr adolygiad cychwynnol (2020) ar draws egwyddorion y Ddeddf. Ychwanegwyd 97 o bapurau/adroddiadau yn niweddariad 2023, gan roi cyfanswm o 365 o bapurau/adroddiadau wedi eu hadolygu.

Gwerthuso'r Broses

- Workforce perspectives on implementation of the Act (pre-COVID) (Llewellyn et al., 2021): Arolwg Cymru gyfan o sefydliadau/ rhwydweithiau rhanddeiliaid allweddol (ymatebion n=30). Astudiaethau achos haenedig ar 'ôl troed' pedwar awdurdod lleol yn cynnwys cyfweliadau (n=140) gyda thair 'haen' wahanol o'r gweithlu: arweinwyr strategol ac uwch reolwyr; rheolwyr gweithredol; a staff rheng flaen. Cyfweliadau â sefydliadau allweddol rhanddeiliaid cenedlaethol (n=12).
- Persbectif y gweithlu ar weithredu'r Ddeddf (ar ôl COVID) (Wallace, Verity, a Llewellyn, 2023): Cyfweliadau yn ailymweld â'r pedair ardal a gynhwyswyd yn yr astudiaeth gychwynnol fu'n gwerthuso proses i asesu effaith COVID-19 ar weithredu'r Ddeddf (n=60 o gyfweliadau).

Tystiolaeth gwerthuso gan y defnyddwyr gwasanaeth a gofalwyr

- Expectations and Experiences of Service Users and Carers (Llewellyn et al., 2022): Tystiolaeth defnyddwyr gwasanaeth a gofalwyr (n=170) ar eu disgwyliadau a'u profiadau o ofal cymdeithasol.
- Black, Asian and Minority Ethnic service users and carers' expectations and experiences (Llewellyn, 2022): Adroddiad wedi'i gynhyrchu mewn 13 iaith i sicrhau hygyrchedd i gymunedau Du, Asiaidd a Lleiafrifoedd Ethnig. Roedd deunydd y ffynhonnell yn grŵp ffocws (n=10 o gyfranogwyr) a gynhaliwyd gyda phobl hŷn a gofalwyr o gymunedau Du, Asiaidd a Lleiafrifoedd Ethnig.

Adroddiad Terfynol a phapurau tystiolaeth ategol

- Adroddiad Terfynol (Llewellyn et al., 2023): [yn cynnwys fersiwn Cryno ac un Hawdd ei Ddeall]
- Llesiant (Lyttleton-Smith, Anderson, Read, a Harris, 2023): Astudiaeth ansoddol gyda chyfranogwyr sy'n ddefnyddwyr gwasanaeth (n=26) ar draws pedair carfan o wahanol oedran (plant 5 i 13, oedolion ifanc, oedolion 20 i 64 oed, a phobl hŷn), gan ganolbwyntio'n benodol ar lesiant. Dadansoddiad meintiol o ddata Arolwg Cenedlaethol Cymru o ran cwestiynau SYG/ONS am lesiant personol.
- Atal ac Ymyrraeth Gynnar (Read, Verity, a Richards, 2023): Dadansoddiad Dogfennol o Adroddiadau Blynyddol Cyfarwyddwyr Gwasanaethau Cymdeithasol Awdurdodau Lleol a 22 o Gynlluniau Cyngor/Corfforaethol neu Adroddiadau Perfformiad sy'n canolbwyntio ar atal.
- Cyd-gynhyrchu (Andrews, Calder, Blanluet, et al., 2023): Gweithdai (n=13) a chyfweliadau (n=4) gydag amrediad o gyfranogwyr (rheolwyr sefydliadol mewn awdurdodau lleol a sefydliadau darparu, ymarferwyr, defnyddwyr gwasanaeth, gofalwyr di-dâl a'r rhai sy'n eu cefnogi) i drafod a deall y 'newidiadau mwyaf arwyddocaol' yn eu profiad o gydgynhyrchu.
- Llais a Rheolaeth (Llewellyn, Saltus a Kent, 2023): Adroddiad sy'n crynhoi mewnwelediadau ar yr egwyddor hon ar sail yr adolygiad o lenyddiaeth a gyhoeddwyd, yr adroddiad ar *Ddisgwyliadau a Phrofiadau* defnyddwyr gwasanaeth a gofalwyr, ac astudiaeth ymchwil ar brofiadau Cynorthwywyr Personol a gyflogir i gefnogi pobl â Thaliadau Uniongyrchol (the experiences of Personal Assistants employed to support people with Direct Payments).
- Gweithio Aml-asiantaethol (Wallace a Garthwaite, 2023): Dadansoddi data eilaidd o dystiolaeth o'r adroddiadau *Gwerthuso Proses a Disgwyliadau a Phrofiadau*, ochr yn ochr â dull adeiladu consensws ar-lein o fynd ati er mwyn deall cydrannau allweddol o'r gwaith aml-asiantaeth (n=26 o gyfranogwyr).
- Goblygiadau Ariannol ac Economaidd (Phillips, Prowle, Harris a Llewellyn, 2023): Tystiolaeth ar gostau y gellir eu priodoli oddi wrth sampl o dri awdurdod lleol wedi'i gosod ochr yn ochr â'r hyn sydd ar gael yn genedlaethol ar ddefnydd o'r gwasanaeth ac ar alldro refeniw.

Fideos

- Gellir gweld ffilm fer yn disgrifio'r astudiaeth
- Cyflwyniad wedi'i adrodd gan arweinwyr yr astudiaeth, yr Athro Mark Llewellyn, Cyfarwyddwr Sefydliad Iechyd a Gofal Cymdeithasol Cymru (WIHSC) ym Mhrifysgol De Cymru ynghyd â'r Athro Fiona Verity, Prifysgol Abertawe.

IMPACT: Gwerthusiad Cenedlaethol o'r Ddeddf Gwasanaethau Cymdeithasol a Llesiant (Cymru) 2014

Arweinyddion yr Astudiaeth: Mark Llewellyn and Fiona Verity

Tîm yr Astudiaeth: Pippa Anderson, Nick Andrews, Catrin Awoyemi, Heulwen Blackmore, Noreen Blanluet, Megan Elliott, Gideon Calder, Tony Garthwaite, Lisa Griffiths, Ceri Jenkins, Jen Lyttleton-Smith, Marina McDonald, Alison Orrell, Ceri Phillips, Malcolm Prowle, Jonathan Richards, Roiyah Saltus, Sion Tetlow, Carolyn Wallace, Sarah Wallace a Wahida Kent

Partneriaid: Sefydliad Iechyd a Gofal Cymdeithasol Cymru | Prifysgol De Cymru, Prifysgol Abertawe, Prifysgol Bangor, Prifysgol Metropolitan Caerdydd

Sefydliad Iechyd a Gofal Cymdeithasol Cymru | Prifysgol De Cymru, Pontypridd, CF37 1DL | wihsc.southwales.ac.uk | mark.llewellyn@southwales.ac.uk

"Ydy gwasanaethau cymdeithasol Cymru'n gwireddu addewidion deddfwriaeth allweddol?" astudiaeth IMPACT yn gofyn

Mae Llywodraeth Cymru wedi cyhoeddi adroddiad terfynol gwerthusiad pedair blynedd o 'Ddeddf Gwasanaethau Cymdeithasol a Llesiant (Cymru) 2014'. Roedd yr astudiaeth IMPACT, dan arweiniad Sefydliad Iechyd a Gofal Cymdeithasol Cymru (WIHSC) ym Mhrifysgol De Cymru (PDC), yn cynnwys academyddion ar draws pedair prifysgol yng Nghymru. Roedd y bartneriaeth yn cynnwys cydweithwyr o Brifysgolion Metropolitan Caerdydd, Abertawe a Bangor, a Chanolfan PRIME Cymru.

Mae'r canfyddiadau'n cydnabod ymrwymiad ac ymroddiad y gweithlu gofal a chymorth, a'u gallu i addasu, ond mae hefyd yn rhoi tystiolaeth o heriau sy'n parhau wrth gyflawni dyheadau'r Ddeddf. Roedd y rhaglen waith yn cynnwys 11 o astudiaethau unigol. Rhoddodd 450 o gyfranogwyr o bob rhan o Gymru gyfraniadau manwl a chynhwysfawr o'u profiadau dan y Ddeddf, o amryw safbwyntiau. Mae'r adroddiad terfynol yn un o wyth dogfen sy'n cael eu cyhoeddi. Mae'r lleill yn canolbwyntio'n fanwl ar egwyddorion allweddol y Ddeddf, ochr yn ochr ag adroddiad sy'n archwilio effaith barhaol Covid-19 ar y gweithlu, a diweddariad o'r adolygiad llenyddiaeth.

Mae'r adroddiad yn nodi 19 o gwestiynau 'prawf', yn seiliedig ar dystiolaeth, i Lywodraeth Cymru ac ystod o randdeiliaid eu hystyried. Mae'r cwestiynau hyn yn gofyn i'r sector gyfan ystyried beth sydd angen ei wneud i wella gwasanaethau cymdeithasol, gan gynnwys safon a digonolrwydd gofal cymdeithasol. Mae hyn hefyd yn ymwneud â sicrhau y gwrandewir ar bobl, a sicrhau y gallan nhw wir fod yn rhan o benderfyniadau ar y gofal a'r gefnogaeth maen nhw'n eu derbyn.

Mae rhagor o fanylion am yr astudiaeth – gan gynnwys dolenni i bob un o'r adroddiadau, ffilmiau sy'n adrodd y canfyddiadau, a deunydd ategol arall – ar gael yma:
Gwerthuso Effaith Deddf Gwasanaethau Cymdeithasol a Llesiant (Cymru) 2014 | Prifysgol De Cymru

Mae rhagor o wybodaeth wedi'i rhannu ar Twitter:
https://twitter.com/De_Cymru/status/1641351428525416448

"Are social services in Wales delivering on the promises of key legislation?" IMPACT study asks

The Welsh Government has published the final report from a four-year evaluation of the 'Social Services and Well-being (Wales) Act 2014'. The Impact (IMPlementation of the ACT) study, led by the Welsh Institute of Health and Social Care (WIHSC) based at University of South Wales (USW), involved academics across four universities in Wales. The partnership included colleagues from USW, Cardiff Metropolitan, Swansea and Bangor Universities, and PRIME Centre Wales.

The findings recognise the commitment, dedication, and adaptability of the care and support workforce, but also provides evidence of challenges that remain in delivering the aspirations of the Act. The programme of work constituted 11 individual studies. In all, 450 study participants from across Wales provided detailed and comprehensive accounts of their experiences under the Act, from a range of perspectives. The final report is one of eight documents that are being published. The others focus in detail on the key principles of the Act, alongside a report examining the lasting impact of Covid-19 on the workforce, and an update of the literature review.

The report sets out 19 evidence-based 'test' questions for Welsh Government and a range of stakeholders to consider. These questions ask the whole sector to look at what needs to be done to improve social services, including the quality and sufficiency of social care. This is also about ensuring that people are effectively listened to, and can genuinely share, decisions about their care and support.

More detail about the study – including links to all of the reports, films narrating the findings, and other supporting material – can be found here:
Evaluating the Impact of the Social Services and Well-being (Wales) Act 2014 | University of South Wales

Further information has been shared on Twitter:
https://twitter.com/UniSouthWales/status/1641349816671150081

Submission to The Health and Social Care Committee concerning the state of social care in Wales.

In anticipation of the Committee's hearing on the Thursday 25 May.

Ann James and Luke Clements[1]

Background

Notwithstanding the fanfare that heralded the implementation of the Social Services and Well-being (Wales) Act 2014 (the '2014 Act') seven years ago, the post implementation years have shown that the delivery has not matched the rhetoric. The Coronavirus Pandemic has thrown into sharp relief the weaknesses inherent in the social care system in Wales: weaknesses which were amplified during the height of the pandemic and continue.

In fulfilment of the co-operation agreement between the Welsh Government and Plaid Cymru, the Minister for Social Services announced the establishment of an Expert Group to advise on the development of a National Care Service for Wales. The Expert Group were presented with Terms of Reference and given a very short timescale in which to complete this work, but the deadline had to be extended on two occasions.[2] The Expert Group presented their final report to the Minister in November 2022.[3] The Minister has made a brief response to the completion of the work of the Expert Group and we now await a full response to the report.[4]

In evaluating the impact of the 2014 Act it is appropriate to comment on aspects of the Report of the Expert Group and on the state of social care in Wales.

The Report and its recommendations read like a passive acknowledgement of the fragile nature of social care in Wales and of the continuing challenges faced by the Government to develop a well-functioning service, despite its ambition and the cumulative plans, strategies, and organisational changes that have taken place since 1998.

It would be regrettable if the floating of the concept of a National Care Service is fastened upon as a panacea for the accumulated ills in social care provision in Wales; it would be unfortunate if the proposal became a device used to throw into the 'long grass' the imperative of addressing the many conspicuous weaknesses that need to be addressed now.

The Expert Group has accepted as 'a given' (and premised its Report on) an uncritical view of the 2014 Act. It, with respect, exaggerates the vision, values and principles underpinning the Act. The Report seems to convey the exceptionalism of the Wales Act without acknowledging that the Act in Wales, as in England, arises from the Review undertaken by the Law Commission and whose Report forms the bedrock of the Acts in both countries. The commonalities between the legislation in

[1] Ann James is a retired social worker, social work academic and was formerly a Manager in the Care Council for Wales. Ann was a carer for her son Rhydian; Luke Clements is the Cerebra Professor of Law and Social Justice at the School of Law, the University of Leeds. Luke was the Special Advisor to the joint Parliamentary Committee that scrutinised the draft Bill that became the Care Act 2014.
[2] Welsh Government *Written Statement: National Care Service – Expert Group Report* (2022).
[3] Expert Group *Towards a National Care and Support Service for Wales* Report of the Expert Group (2022).
[4] Welsh Government *Written Statement: National Care Service – Expert Group Report* (2022).

Wales and England are far greater than the differences especially when one looks at the 'Principles' enshrined in the legislation. It should also be noted that there are significant concerns about aspects of the regulatory regime underpinning the 2014 Act - not least the framing of the Welsh Eligibility Criteria regulations.[5]

The 2014 Act and Care Act 2014 were drafted, enacted and implemented within the strictures of a residual welfare state and in truth, the differences between these primary statutes are minimal.

The Spirit of the Act

The report is peppered with references to 'what matters', 'co-producing', 'voice' and 'control' as integral to achieving the social care service that will meet the needs of the citizens of Wales. With the exception of 'control' these 'principles' do not get specific mention in the 2014 Act.[6] The Expert Group, concedes (para 24) that more work is needed to deliver the 'spirit' of the Act.

Seven years on from implementation of the Act – and despite growing levels of inequality in the countries of the United Kingdom, Brexit[7] and a Pandemic – the Report presents an unwarranted level of optimism. It is a Report that fails to reflect the context of life in Wales and its concomitant impact on the need and provision of social care. The words / phrases 'poverty', 'social exclusion', 'social justice' do not appear in the report and there is but a cursory reference to human rights.

Objectively, it is difficult to understand how – without a contextualising of a Country with high levels of poverty[8] and social exclusion, and an ageing population[9] – it is possible to respond adequately to the social care needs of the citizens of Wales.

The role of the Welsh Government

In this brief submission, although we do not attempt to provide a detailed resume of the findings of the various reports that have sought to analyses the effectiveness of the 2014 Act, we consider that three observations are appropriate. Firstly, that we do not question for one moment the genuine *bona fides* underpinning the Welsh Government's endeavours to deliver better social care for those in need in Wales. Secondly, that the Welsh Government is to be congratulated for commissioning and publishing independent reviews as to the workings of the 2014 Act.[10] Thirdly we commend the excellent resume provided by Senedd Research[11] – and the quality of its analysis generally on this issue.

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[5] The so called 'can and can only' test in The Care and Support (Eligibility) (Wales) Regulations 2015 1578 (W. 187) see generally L Clements *The Social Services & Well-being (Wales) Act 2014* (2022) p.16 and see also L Clements 'Social Services and Well-being (Wales) Act 2014: a critical overview' (2017).

[6] Section 16 does however require that authorities 'promote' the involvement of persons for whom care and support or preventative services are to be provided in the design and operation of that provision.

[7] Marmot,M et al *The Marmonet Review 10 Years on* Institute of Health Equity (2020).

[8] Public Health Wales *Cost of living crisis in Wales A public health lens* (2022).

[9] ONS *Population and household estimates, Wales: Census 2021* (2022).

[10] Most recently, *Welsh Government From Act to Impact? Final Report of the Evaluation of the Social Services and Well-being (Wales) Act 2014* Social Research Number: 36/2023 (2023)

[11] A Clifton *The Social Services and Well-being (Wales) Act 2014* Senedd Research (2023).

Objectively, the predominant 'take away' message of these reviews is one of failure. In some areas this is a failure attributable to developments outside the Welsh Government's control and that has to be acknowledged. However, there are many failings for which the Government must take responsibility and – as a consequence of this review – address.

One 'Wales specific' problem concerns 'size'. As we have referred to on a previous occasion, Welsh local authorities are comparatively small. The 'average English social services authority is over two and a half times larger: indeed the biggest Welsh authority (Cardiff City) is smaller than the average English social services authority'. [12] The consequence of this reality, is that many authorities are too small to have the strategic resources to develop the necessary local policies, practices and template materials to deliver their legal responsibilities under complex legislation. They need the Government to provide them with the practical 'fine grained, fit for purpose' guidance and template materials that could enable them to achieve the aspirational legislation the 'centre' has enacted. In so many areas this has simply not happened. Tarrant has referred to a 'lack of both experience and legal competence' and a ''perceived disconnect' between the stated policy aims of the Welsh Government and local and national support for implementation', [13] and Clifton to 'underlying structural, financial or capacity pressures'.[14] It is simply unacceptable for a legislature to enact major rights based social welfare legislation of this kind and for the Government to fail (due to lack of ability, resources or otherwise) to provide the detailed guidance and other materials necessary to ensure that the legislation has its intended impact at the coalface.

We refer, below, to situations where significant detriment has resulted from the Welsh Government's failure to provide adequate guidance or template materials of this kind. At this stage, however, reference to the 'Codes' that accompany the Act is instructive. For those of us who consider practical social care legal problems in both England and Wales, on a regular basis, it is incontestable that the overall depth and detail of the guidance provided in England to the Care Act 2014 is (by many degrees) more informative and accessible than that provided in Wales to its 2014 Act. In England there is one consolidated set of Statutory Guidance[15] whereas in Wales there are a number of discrete Codes that in general provide far less detail. In order to find out which Code contains material on (say) 'Eligibility Criteria' one would need to laboriously search (or already know) that this is primarily located in the Code Part 4 'Meeting needs' or to find detail on 'Ordinary Residence', that this is in Code Part 11 (Miscellaneous and General). This may seem a petty point – but guidance of this kind is vital for ordinary citizens in order that they can understand their rights and where necessary challenge those in power. If, for example, one correctly identifies the Code that contains the guidance on Direct Payments – it will be seen that the relevant section runs to 10 pages (just under 4,000 words). This is half the length of the guidance on the same topic in England. A response to this analogy might be that a country the size of Wales has not the Civil Service resources

[12] See L Clements 'Social Services and Well-being (Wales) Act 2014: a critical overview' (2017).
[13] A Tarrant 'Devolution and the difficulty of divergence. The development of adult social care policy in Wales' Critical Social Care Policy (2022) 1-21 at 12 & 14 citing L Cowie, & I Rees Jones *Adult social care social enterprises and the foundational economy in Wales* (2017) Report, WISERD, Cardiff University, UK, June p.57.
[14] A Clifton The Social Services and Well-being (Wales) Act 2014 (Senedd Research 2023).
[15] Department of Health and Social *Care The Care and Support Statutory Guidance* (updated 2023).

of England to produce such guidance. If this is the case, then it clearly raises more questions than answers. It would also fail to explain why the (2011) Welsh Assembly Guidance on Direct Payments[16] (that the Code replaces) ran to 81 pages (and just over 27,000 words).

This failure by Central Government impairs the ability of local government to implement the legislation as the Assembly intended; it also provides latitude for authorities to implement it in a way that was not intended. The net effect in either case is that disabled, elderly and ill people, and their carers lose out.

Workforce

Wales has had an Assembly Sponsored Body the Care Council for Wales (CCfW) and its present iteration, Social Care Wales (SCW) with the specific focus on Workforce, since 2001. Its remit is for the entire social care workforce unlike its predecessor body (The Central Council for Education and Training in Social Work). Training, development, post qualifying training and registration of the entire workforce (not just social workers) have been seen as the priorities of the organisation. Notwithstanding the funding provided for the programmes initiated by CCFW / SCW, often at the request of the Welsh Government, it is clear that they have not delivered the workforce required in social care.

Renumeration is undoubtably a significant factor, but it is unlikely to be the sole factor that has led to attrition in the workforce and difficulties in recruitment and retention. In seeking answers to this problem, one wonders if the right questions are being asked? For example, questions concerning whether the culture of managerialism within local authorities (of 'target driven', command and control and a wariness of 'professionals') impacted on the workforce; questions as to whether the failure of the Welsh Government to address the importance of senior managers in local authorities being professionally qualified in social work has impacted on the culture of delivery; questions as to whether the outsourcing of social care services and (in practice) cost being the primary factor in determining the delivery of services has created a hostile environment for care workers, dashing between a succession of 15 minute home visits, on zero hours contracts and the minimum wage.

Provision

One of the most innovative provisions in the 2014 Act concerns the requirement in section 16 that local authorities promote the development in their areas of third sector organisations (including social enterprises and co-operatives) that can provide relevant services.

Support for such organisations – especially 'not for profits' – is generally considered to be an imaginative idea capable of driving up the quality of support services[17] as well as the terms / conditions and satisfaction of their care workers. Research suggests, however, that significant strategic action is required to being about such a transformation, not least support enabling such organisations to overcome the not

[16] WAG Direct Payments Guidance Community Care, Services for Carers and Children's Services (Direct Payments) (Wales) Guidance 2011.
[17] R Millar, K Hall and R Miller 'A story of strategic change: becoming a social enterprise in English health and social care' in *The Journal of social entrepreneurship,* (2013) 4(1), 4-22.

inconsiderable barriers to entry into this 'market'.[18] 2017 research highlighted the need for (among other things) professional business support, accessible sources of financing and awareness by local authorities of how to develop commissioning arrangements.[19]

The Report of the Expert Group signals a renewed interest in bringing back social care services into the public sector and this has in part been prompted by the current cost of residential child care in the private sector. This may prove difficult to achieve given the side-lining of residential childcare provision and its workforce by Welsh Government over the last 20 years, especially in the wake of the Waterhouse Inquiry. The failure to invest in (and fully support) a workforce that can deliver complex care, infrastructure and more importantly valuing the importance of residential childcare has brought us to this difficult situation in Wales.

In the medium term, there appears to be a powerful case for rebalancing the way social care is delivered through a planned (piloted) programme that rebuilds the role of the public sector and nurtures the 'not for profit' sector. As we have already noted – given the small size of most local authorities in Wales – positive change of this kind cannot take place without the Welsh Government grasping the nettle and developing practical programmes for reform (including addressing 'the basic funding question of social care'). Without action of this kind, the promotion of 'social enterprises as a policy panacea'[20] and the re-emergence of public provision, will remain nothing more than high sounding rhetoric.

Social Care 'free at the point of need'

The Welsh Government has recognised the urgent need to address the costs borne by disabled people for their care since 2006/7. The Scottish decision to offer free personal care in 2002 provided an impetus for this initiative as, no doubt, did the 1999 Royal Commission on this issue[21] many subsequent discussions in England concerning the general funding of social care. Although in England the Care Act 2014 contains measures to implement a 'cap on costs' the Welsh Government (wisely in our view) decided against this.

In its consideration of these questions, the Expert Group drew on a wide range of reports including those commissioned by the Welsh Government, but not (for reasons that are unclear) the Holtham Report.[22] The Report of the Expert Group provides options for paying for non-residential care and residential care with the ultimate aim being free social care.

The commitment to free social care at the point of need is laudable. Like 'world peace' it is hard to express opposition to such an aspiration: almost every argument in favour of a 'free at the point of need' NHS applies with equal force to social care

[18] R Millar, K Hall and R Miller 'A story of strategic change: becoming a social enterprise in English health and social care' in *The Journal of social entrepreneurship,* (2013) 4(1), 4-22.
[19] L Cowie and I Rees Jones *Adult Social Care Social Enterprises and the Foundational Economy in Wales* WISERD Research Reports Series WISERD/RRS/0 (WISERD 2017).
[20] L Cowie and I Rees Jones *Adult Social Care Social Enterprises and the Foundational Economy in Wales* WISERD Research Reports Series WISERD/RRS/0 (WISERD 2017).
[21] Royal Commission on the Funding of Long Term Care. With respect to old age: long term care—rights and responsibilities. London: Stationery Office; 1999. (Cmnd 4192-1.)
[22] Gerald Holtham(2018) Paying for Care – report Commissioned by the Welsh Government.

(as do almost every argument against a 'free at the point of need' NHS). It is not surprising therefore that both the left leaning parties have made this a manifesto aim or have set out their stall by commissioning reports and raising this as a matter of core importance. It is, however, surprising that the Expert Group Report did not have a discrete discussion concerning the political and economic context in which this consideration was taking place.

The current commitment to free social care appears to be inextricably linked to the development of a National Care Service and this seems both unnecessary and indeed, disconcerting. Scotland has been able to make good progress towards a free social care system without nationalising social care and objectively, the development of a 'National Care Service' that lives up to its name will take very many years. A cynic might suggest that linking free social care with the establishment of a National Care Service is simply a political device to throw the most pressing issue of the cost of care for those most in need, into the long grass?

At the same time, however, it could be argued that in the context of austerity and a cost of living crisis that impacts on the poorest in society and those facing the additional costs of chronic illness and disability, the immediate challenge is to ensure that costs of care are not a barrier for this group of individuals.

There is a discussion to be had about whether the provision of across the board 'free social care' is the most important priority for a country that is unable to provide a comprehensive health and social care service. Barriers to comprehensive assessment and stringent eligibility criteria leave many in need of care and support and who are left dependent on unpaid carers who are often left with no services or inadequate services to meet their needs.

Free social care can paradoxically shore up inequality, with those who have some assets or significant assets to contribute to their care costs being treated like those who cannot. Social inequality is shored up as assets are moved down generations. Free social care (without compensatory fiscal measures) will enable the passing down of assets by those who may previously have had to pay for care and this will do little to make Wales a fairer country. It follows that the question of funding social and social care charging regimes, falls to be considered in the context of a more general taxation discussion.

Taxation and social care

There may be a fairer way of managing care costs in Wales and the Holtham report offered options for consideration including options that consider inter-generational equality.

The Welsh Government has had tax rising powers for a number of years but (unlike Scotland) as not chosen to use these powers[23] – for example, to raise money for the NHS or to fund Social Care.[24] This, despite the Minister for Health and Social

[23] Scotland has used its powers to raise taxes for higher earners / second homes etc to pay for improved public services – see https://www.gov.scot/news/tax-changes-to-support-scotlands-vital-public-services/

[24] See also The Bevan Foundation *Tax for Good: Devolved taxes for a better Wales* (2016).

Services warning in 2023, that due to the finding shortfall, the NHS may have to do less in the future and called upon people to do more to mitigate poor health. [25]

It is also arguable that the Welsh Government has the power to impose capital taxes. The home care charges for people receiving care and support are capped at £100 per week regardless of their capital (unlike the position in England).

A capital threshold of £50,000 applies to those in residential care but this can include the capital value of their home – which is not the case for people receiving home care. These are all, in reality, rules that 'tax' (or don't tax) individuals on the basis of their capital.

In terms of social care, the current charging arrangements are, arguably, highly regressive. The imposition of a maximum charge for non-residential care at £100.00 per week[26] has had the perverse effect of reducing the charges for wealthier people but not for the poorest. Since poverty would appear to be one of the greatest barriers that disabled people and carers face in their struggle to 'live independently' it is vital that the Government gets this right. In terms of the obligation to have a rational policy that progressively realises the international human rights obligations of Governments,[27] such a policy appears to be the antithesis of what is required.[28] £100.00 per week is a very considerable sum for someone living on benefits. It might however be argued that few people living on means tested benefits would be required to pay this full sum. If this is so – then there is a compelling case for making it unlawful to charge persons in receipt of means tested benefits for their care and support.

The decision of the Welsh Government to raise the saving limit to £50,000 for residential care was a political decision – just as its decision to allow local authorities to charge up to £100 per week for people on benefits or its decision to cap it at £100 for people with considerable wealth.

The current incremental move towards free home care in Wales has other negative 'feedback loops'. Take for example, individuals with significant wealth who are objectively in need of residential or nursing care. The current charging policy creates a financial inducement for them to remain living in the community. This in turn can result in social services funding being skewed towards high-cost domiciliary care packages rather than at preventative services for those with lower levels of need.

Continuing NHS Healthcare (CHC)

We have elsewhere questioned the lawfulness of certain sections of the Welsh Government's most recent iteration of its National Framework for Continuing NHS Healthcare (CHC) Guidance[29] and expressed the view that it is in other respects, not

[25] BBC News *NHS in Wales could do less in future - health minister* 10 January 2023.
[26] Increased from £90 by The Care and Support (Charging) (Wales) and Land Registration Rules (Miscellaneous Amendments) Regulations 2020 SI 2020 131 (W.24) reg 2.
[27] See for example Article 28 UN Convention on the Rights of Persons with Disabilities and Article 23 Convention on the Rights of the Child.
[28] A rational 'capabilities' approach would presumably exempt people on means tested social security benefits before imposing a fixed upper limit – see for example Amartya Sen 'Human rights and capabilities' in *Journal of Human Development* (2005) 6 (2): 151–166.
[29] Welsh Government *National framework for Continuing NHS Healthcare* Version 2 published February 2022.

'fit-for-purpose'.[30] In our view the Government has, for many years, allowed the NHS in Wales to divest itself of major CHC responsibilities (in relation to adult and children's services) and that the most recent Framework Guidance constitutes a dramatic evidence of this approach. The effect of this policy has been that local authorities are now funding significant numbers of individuals with very high care needs, who in earlier times would have been funded by the NHS. This cost shunting has a number of adverse consequences for the health and social care systems, including:

- local authority funding is being diverted to a people with very high needs away from those with lower levels of need – and for whom support services could have prevented or delayed serious deterioration in their ability to live independently;
- local authority funding (already seriously constrained) is not available to facilitate the discharge of patients from hospital – as Senedd Research[31] and the Senedd's Health and Social Care Committee[32] have recently highlighted - the lack of social care capacity is the biggest contributor to delayed hospital discharges and restricted patient flow through hospital. A finding accepted by the Welsh Government.[33] Putting to one side the trauma that delayed discharges are causing to patients and families, the additional costs borne by the NHS resulting from these delayed discharges must outweigh the cost savings they NHS makes due to CHC cost shunting.[34]
- Local authorities appear to be responding to the pressures caused by CHC cost shunting by specifying that domiciliary care support packages cannot include an element that could be described as healthcare related – for example PAs assisting disabled and elderly people to take their essential medication. This action effectively places individuals' in need in the middle of an inter-authority squabble – the net result of which is that they cease to have this essential support. It is a squabble that should not be happening, as legally both public bodies are obliged to work together[35] to avoid situations of this kind. We have seen no evidence that the Welsh Government has taken any practical action to address this particular problem.

The cost impacts of the dramatic change to the CHC Guidance also fall on individuals with capital assets above the maximum charging levels – ie self-funders. If the policy intention behind the CHC eligibility changes is that the NHS should cease to be a universal service (ie for rich and poor alike) then the Welsh

[30] Rhydian Social Welfare Law in Wales *The end game: Continuing NHS Healthcare (CHC) in Wales* 9 March 2022 and see also A Greenow *The Problem with Fast Track in Wales* Rhydian Social Welfare Law in Wales, 6 May 2023.

[31] Senedd Research Who cares? Why lack of social care is the biggest contributor to delays in hospital discharge 6 October 2022.

[32] Hospital discharge and its impact on patient flow through hospitals (June 2022) para 91

[33] Welsh Government's Written response to the Committee's findings 2 July 2022.

[34] Cite data on social services being more cost effective: ie being able to fund care needs at a rate significantly below what the NHS would pay for the same person.

[35] NHS Act 2006, s82 and Welsh Government Part 9 Statutory Guidance (Partnership Arrangements) (2020).

Government should be open and honest about this rather than seeking to effect such a change through the use of (arguably unlawful) guidance.

NHS CHC and independent living

The Welsh Government has been aware for many years of the adverse impact on many disabled people of its prohibition of Direct Payments for CHC.[36] Seven years ago it acknowledged that this was an issue to be addressed and noted that one option would be the wider use of the mechanism of Independent User Trusts (IUTs). A commitment to addressing this problem was contained in the 2021 Welsh Labour Party manifesto (p.18). In 2021 we expressed the view[37] that the Welsh Government should (pending any legislative change) take practical action by producing a simple template example of an IUT that could (and should) be used by Health Boards in appropriate cases. As we have noted [cite posting] this has not happened. Instead of providing such a template, the Welsh Government has resorted to its comfort zone of rhetoric - of individuals not losing 'their voice, choice and control over their daily lives' in such cases.

Concluding comments

We express our thanks to the Health and Social Care Committee for Professor Clements' invitation to participate in its investigations concerning the state of social care in Wales. We reiterate the enormous value of a Government committed to delivering better social care for those in need in Wales, and one that has been prepared to commission and publish independent reviews as to the workings of the 2014 Act.

Our concern is, as this submission makes plain, that there is an urgent need for Welsh policy to move from rhetoric to reality. In UK terms, Wales is a relatively poor Country that is, in many respects, at the behest of funding from a regressive Government in London. In relation to the delivery of decent social care for the people of Wales there are however many things that the Government can do to give effect to its strong commitment to social justice, inclusion and to ensure that cost does not act as an obstacle to accessing care.

[36] See for example letter from the Welsh Government Director of Social Services and Integration dated 10 February 2016.
[37] See for example NHS Continuing Health Care and Direct Payments in Wales 15 May 2021.

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Y Gweinidog Iechyd a Gwasanaethau Cymdeithasol
Minister for Health and Social Services

Llywodraeth Cymru
Welsh Government

Our ref: MA/EM/1270/23

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10 May 2023

Dear Russell and Mark

Many thanks for your letter of 19 April, following the meetings of the Health and Social Care and Public Accounts and Public Administration committees on 30 March 2023. It is important that we work together to support the Board and ensure that we avoid duplication.

You requested information on three areas, which I have addressed below:

1. **Additional information on the Intervention and Support Team including its appointment, terms of reference, methods of working, time commitment, and relationship with Welsh Government and the new NHS Executive**.

When the Betsi Cadwaladr University Health Board was placed in Special Measures in February 2023, I took immediate action to appoint a number of Independent Advisors to support the Board as follows:

- **Alan Brace OBE** has been both a Finance Director and a Chief Executive Officer in a number of health bodies in Wales. In 2016, he was appointed as the Director of Finance of the Health and Social Services Group in Welsh Government, the post he held before retirement in 2021. In September 2018, he was made an Honorary Professor in Swansea University School of Management and also received an OBE in the Queens New Years Honours 2022 for services to the NHS and the Covid Recovery in Wales.

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- **Susan Aitkenhead** has extensive clinical, operational, governance and strategic experience in delivering healthcare across a variety of settings and sectors. She has held both provider and commissioning executive and non-executive Board roles within the UK and overseas. Susan has also worked in a variety of national policy roles such as at the Department of Health in England providing advice and support to ministers and officials across central government departments, at NHS England and NHS Improvement, where she was Deputy Chief Nursing Officer (CNO), and in professional regulation at the UK Nursing and Midwifery Council. More recently, Susan independently chaired a multi-professional Vascular Quality Review Panel which was set up in response to findings from a previously undertaken Royal College of Surgeons' Invited Service Review at Betsi Cadwaladr University Health Board.

- **Dr Graham Shortland** OBE, BM, DCH, FRCPCH was the Executive Medical Director and Board Member, Cardiff and Vale University Health Board between June 2010 to April 2019 and was responsible for significant strategic developments and services improvements during that time. This involved chairing All-Wales groups on behalf of Welsh Government including work on ophthalmic services, antibiotic prescribing, neonatal services, the Medical Directors group and services for patients with rare diseases. Subsequent to his retirement from the Medical Director post, Graham has advised NHS Employers as part of the Senior Negotiating Team for England, Wales and NI that successfully negotiated the new SAS Doctor Contract with the BMA. He has conducted a review as external expert, with a senior Paediatric colleague for a Children's Hospice to advise on future strategy and conducted and chaired, a review for a large NHS Wales University Health Board into its process of mortality reviews during COVID. More recently he has secured significant funding from Welsh Government for a two-year pilot for services for patients with rare diseases, a syndrome without a name (SWAN) clinic.

- **David Jenkins** was appointed General Secretary of the Wales TUC in 1983, a position he held for twenty-one years, during which time he also served on a number of public bodies including the Welsh Arts Council, the Monopolies and Mergers Commission, the Employment Appeal Tribunal, the Welsh Industrial Development Advisory Board and the National Disability Council. David retired from his position as General Secretary in 2004 and was appointed by Welsh Government as Chair of Health Professions Wales from 2004 to 2006 and as Chair of the National Leadership and Innovation Agency for Healthcare in Wales from 2006 to 2009. In 2009 he was appointed as Chair of the Aneurin Bevan University Health Board. His eight-year term of office ended in 2017 and he has subsequently provided independent advice and support to other health boards as part of Welsh Government Escalation and Intervention Arrangements.

- **Geraint Evans** is a former Executive Director of Workforce and Organisation Development at Aneurin Bevan University Health Board. Geraint has extensive experience of leading strategic change and workforce transformation at Board level in the NHS, Local Government and the private sector.

- Geraint Evans and Tracy Myhill will form an **Independent Workforce Support Team and programme of actions.** Geraint Evans will lead this independent HR team, which will involve a number of people with different skills on a task and finish basis in an initial phase of work to handle any immediate issues and assess the current Workforce and Organisational Development team. This will then inform a longer-term plan which will be ready for implementation from mid-May. Tracy Myhill will support the Chair in the process of finding and appointing a new Chief Executive for the organisation.

The terms of reference for the Independent Advisers (IAs) are attached at **Annex A**. We are in the process of appointing two further IAs, one of whom will focus on mental health support. We have also appointed two operational support posts to work directly with the health board, one of whom is leading a small team to focus on orthopaedics, and the other to support the health board with operational controls commencing with eliminating over 4-hour ambulance handovers.

All appointments have been direct appointments either through the NHS Executive or through an NHS organisation whereby the individual already had an employment contract. The contracts are initially for 6 months and vary between 4 and 8 days a month.

The IAs meet together with Welsh Government twice a month as a minimum and more frequently with policy and BCUHB officials, each provides a monthly report to the Welsh Government.

2. **An update on the work and progress against objectives identified under the new special measures regime introduced in BCUHB.**

Annex B gives an overview of the special measures framework for the period until December 2023, the stabilisation phase.

Progress is being made against a number of the objectives and is summarised briefly below:

Governance, board effectiveness and audit

Appointments have been made to the Chair of the health board and 6 Independent Members (IM) are in post. Interviews have taken place for a local authority IM and the outcome will be announced shortly. Nominations are expected for the trade union IM shortly. Work is ongoing to agree a Vice-Chair. One of the newly appointed IMs does have a mental health background. The main board has met once and there have been a number of workshops around planning and special measures. Committees are planned throughout May 2023.

As highlighted above a number of Independent Advisers have been appointed to work across the special measures domains, including board effectiveness and developing the organisational response to the Audit Wales review. To support this, changes have been made in the Office of the Board Secretary and a review of this structure and function is now underway.

An interim Chief Executive was announced on 2 May and Carol Shillabeer will lead the organisation, on secondment from Powys teaching Health Board. The process for recruiting a permanent Chief Executive started in March 2023 and is ongoing.

Clinical governance

A review of clinical governance is being scoped out and an interim assessment of patient safety issues has commenced. Rapid reviews are taking place in response to issues raised by HM Coroner and the Public Services Ombudsman. New reporting and learning processes have been agreed and are being embedded across the organisation.

Workforce and organisational development

Terms of reference for a rapid review of Executive Team portfolios have also been developed and this will commence during May 2023. An establishment review is underway, led by the interim Director of Finance. A scoping programme to assess the effectiveness and implementation of the new operating model is underway. Workshops with LMC and local staff-side partnerships are being arranged. A review of wellbeing, engagement and workforce policies is underway and expected to be completed in June.

Mental health

A mental health inpatient safety assessment commenced on 24 May, to provide assurance and actions with regard to the mental health estate and action planning. The Royal College of Psychiatrists have commenced a review of mental health previous reviews to determine the extent to which the previous recommendations have been embedded and completed.

Leadership and culture

A preliminary review of cultural leadership is being led by HEIW alongside the BCUHB workforce and organisational development team to assess the current situation and agree the next steps.

3. A timescale for the work looking at improving accountability, as well as that on revising and refreshing the intervention and escalation framework.

Welsh Government officials are in the process of developing the NHS Wales Assurance and Oversight Framework. This will set out the mechanism and approach for gaining assurance from NHS Wales organisations, as well as setting out the parameters of how the Health and Social Services Group in the Welsh Government will work with NHS Wales.

The following principles will underpin the Assurance and Oversight Framework:

- **Creating an improvement culture**: the arrangements are intended to support the ongoing development of a culture of quality assurance, delivered for the benefit of patients. This will be supported by clear objectives which will drive a culture of high performance and accountability.

- **Transparency:** The measures and deliverables set in NHS Wales frameworks are clearly articulated to NHS Wales organisations so that they know what is required; understand how they will be assessed and the process that will happen if deliverables fall below expected levels.

- **Delivery focus:** The quality control approach will be integrated, action-oriented and focussed on delivering improvements agreed bilaterally (between Welsh Government and NHS organisations).

- **Proportionality and balance:** The Assurance and Oversight arrangements will seek to ensure that interventions and actions are proportional to the scale of the risk and that a balance between challenge and support is maintained.

- **Clear lines of accountability**: Quality assurance arrangements will ensure that Chairs and Accountable Officers nominate lead officers who are accountable for delivery and the main interface with the oversight approach.

- **Earned autonomy**: delivery against plans and agreed trajectories will result in greater levels of autonomy. As organisations deliver against target expectations, frequency and intensity of oversight arrangements will be reviewed. Conversely, greater levels of support and quality assurance interventions will be in place where required and could be assessed as part of organisational escalation.

The Assurance and Oversight Framework is being designed to promote a ‘no surprises’ culture, ensuring early identification of emerging issues and concerns, so that they can be addressed before they have a material impact or performance deteriorates further.

Organisations will be expected to maintain relationships with the NHS Executive and HSSG Welsh Government so that actual or prospective changes in performance are shared in a timely manner. Where quality risks are material to the delivery of safe and sustainable services, these should be managed and escalated to HSSG.

It is our intention that the new accountability arrangements, supported by a revised escalation framework, will be introduced later this year.

I note that you wish to be updated on these areas on a regular basis and as requested, I will write to you again in November.

Yours sincerely

Eluned Morgan AS/MS
Y Gweinidog Iechyd a Gwasanaethau Cymdeithasol
Minister for Health and Social Services

BETSI CADWALDR UNIVERSITY HEALTH BOARD
INTERVENTION SUPPORT - INDEPENDENT ADVISERS
TERMS OF REFERENCE

BACKGROUND

1. On the 27 February 2023, the Minister for Health and Social Services announced that she was escalating the intervention status of Betsi Cadwaladr University Health Board to special measures with immediate effect. This decision reflected serious and outstanding concerns about board effectiveness, organisational culture, service quality and reconfiguration, governance, patient safety, operational delivery, leadership and financial management.

REMIT OF GROUP

2. A number of Independent Advisers have been appointed to form a health board improvement and support team to provide the support and advice necessary to enable Betsi Cadwaladr University Health Board to implement the changes required to deliver improvements. The support and advice in this instance refer to an objectively derived blend of measures (monitoring, assurance, evaluation, guidance, encouragement and support) which in combination will provide assurance to stakeholders (including patients, staff and the wider public).

3. The Advisers will focus specifically on the following:
    - Governance and board effectiveness.
    - Workforce and organisational development.
    - Finance and audit
    - Leadership and culture
    - Clinical governance and patient safety.
    - Operational delivery and service transformation

THE APPROACH

4. The Chair, Independent Members and Executive team will continue to lead the board in discharging their functions. To assist the board in developing solid foundations, the role of the Advisers will be to:

- Support the board to make decisions based upon a quality-based assessment and support the empowerment of the board.
- Provide appropriate challenge in examining the current health board systems.
- Provide advice, subject to their own individual skills, backgrounds and experience.
- Support board members while they undertake their duties.
- Mentor board members in the form of listening, provide encouragement and offer feedback.
- Advise on alternative mechanisms that could be applied from a strategic or operational basis.

The following sets out some of the core activities:

- **Oversight of improvement plans** – Support and advise on the arrangements to seek active and robust assurance that recommendations from previous reviews (clinical, governance, financial and HR) are being implemented.
- **Clinical reviews** – Support and advise on a process to establish an independent process to undertake appropriate reviews (patient safety for example); the process agreed will ensure any emerging actions and/or learning is acted upon.
- **Escalate wider concerns** - Escalate any wider governance issues or concerns, should they emerge, to the Board of BCUHB and WG. The Independent Advisers will not be responsible for any day to day operational or management functions. The Advisers do not have a responsibility to determine potential breaching of professional regulatory standards or performance issues. If any information is to arise which might lead to such concern, this will be escalated via the Welsh Government Escalation team through agreed pathways and a feedback process developed to ensure that the concern has been properly assessed and a decision on the actions required has been made. Consideration in the pathways should be given to external notification where a statutory requirement, in extreme circumstances, may be required.

BETSI CADWALDR UNIVERSITY HEALTH BOARD
INTERVENTION SUPPORT - INDEPENDENT ADVISERS
TERMS OF REFERENCE

STAKEHOLDERS

5. The primary function of the Independent Adviser will be to support the Board Members and senior staff within the health board. They will work effectively with key stakeholders as appropriate.

REPORTING

6. Independent Advisers will provide an update to WG on a monthly basis, this will be in the form of an email which will then be collated and produced into a report for the Minster.
7. Where appropriate there may be a requirement to provide direct advice to the Minister.

MEMBERSHIP

8. Membership will include the following Advisers, but it should be noted that this list may increase or change as the Advisors gain further understanding of both challenges and opportunities as this work progresses.
    - Susan Aitkenhead
    - David Jenkins
    - Alan Brace
    - Graham Shortland
    - Geraint Evans

MODUS OPERANDI

- **Patient focused** – decisions, recommendations and actions will be driven primarily by safety, quality and patient experience considerations.
- **Valuing people** – a well led, highly motivated and appropriately engaged workforce is a fundamental requirement for the delivery of safe, high quality, patient centred services.
- **Open and transparent** - subject to the constraints of patient confidentiality and data protection, work will be conducted in an open and transparent manner.

- **Inclusive** - engage with staff, patients and stakeholders involving them actively in the oversight and improvement process.
- **Collaborative** - within an environment of robust scrutiny and challenge, to work collaboratively with BCUHB to optimise the improvement process and avoid unnecessary bureaucracy, duplication of effort and resource.

ADMINISTRATION

The Independent Advisers will be supported by an individual with good project management and performance analysis skills, who is able to interface at a senior management level within BCUHB and can produce draft reports of a standard which require minor amendment before being submitted to Ministers.

BETSI CADWALADR UNIVERSITY HEALTH BOARD: SPECIAL MEASURES 2023

The provision of oversight, support and advice to enable BCUHB to respond to the requirements of special measures in a timely, open and transparent manner.

Areas of Concern

- Governance, board effectiveness and audit
- Workforce and organisational development
- Financial governance and management
- Compassionate leadership and culture
- Clinical governance, patient experience and safety
- Operational delivery
- Planning and service transformation
- Mental health

Outputs

- Terms of reference
- Monthly reports
- First 6 months reflections and achievements
- Individual reviews (To be determined)
- Regular reporting to Board

Guiding Principles

1. Patients first – everyone using services should expect to receive consistently high standards of care and treatment
2. Staff empowerment – ensuring that they have the right working conditions and resources to support their own wellbeing and deliver the best care and services possible and sharing of best practice
3. A quality and safety ethos that drives everything
4. Delivers services that improve the health of the population and works to reduce heath inequalities in collaboration with partners based on trust and respect, learning,
5. Has strong, compassionate leadership supported by robust and effective governance systems
6. Provides safe, high quality urgent and emergency and planned care services

Values and Behaviours

- **Patient focused** – decisions, recommendations and actions will be driven primarily by safety, quality and patient experience considerations;
- **Valuing people** – a well led, highly motivated and appropriately engaged workforce is a fundamental requirement for the delivery of safe, high quality, patient centred services;
- **Open and transparent** - subject to the constraints of patient confidentiality and data protection, work will be conducted and decisions will be made in an open and transparent manner
- **Inclusive** - engage with staff, patients and stakeholders involving them actively in the oversight and improvement process
- **Collaborative** - within an environment of robust scrutiny and challenge, to work collaboratively with BCUHB to optimise the improvement process and avoid unnecessary bureaucracy, duplication of effort and resource

Learning from other interventions

Learning from previous interventions highlights the benefits of investing time at the outset of any intervention process to establish and jointly agree solid foundations. This includes:

- Adopting a ‘whole systems’ approach (i.e. one which considers service failings in the context of organisational leadership, governance, culture, capacity and resource)
- Being clear about the underlying causes of the problem and tackling those rather than the symptoms which resulted in the intervention
- Clearly defining the standards to be met and the mechanism by which the change which is necessary to meet those standards will be brought about
- Providing the qualities, capabilities and capacity to deliver the equation of change
- Establishing clear timescales, progress measures and milestones
- Developing an explicit strategy for escalation and de-escalation
- Setting out clear lines of governance and accountability

BETSI CADWALADR UNIVERSITY HEALTH BOARD: SPECIAL MEASURES 2023

The provision of oversight, support and advice to enable BCUHB to respond to the requirements of special measures in a timely, open and transparent manner.

Independent Advisors

- Support the board to make decisions based upon sound governance principles, clinical assessment and the empowerment of the board.
- Provide appropriate challenge in examining the current health board systems.
- Provide advice, subject to their own individual skills, backgrounds and experience.
- Support board members while they undertake their duties.
- Support and mentor board members in the form of active listening, provide encouragement and offer feedback.
- Advise on alternative mechanisms that could be applied from a strategic or operational basis.
- Provide support to help improve operational performance and deliver the agreed transformational change needed
- Provide specialist HR support

Working Together

- Opportunity to engage in designing Special Measures process;
- Independent Advisors to support and advise
- Monthly oversight meetings
- Quarterly Special Measures review meeting
- Weekly check ins
- Scheduled monthly meetings with Chair and CEO
- Monthly progress updates
- Emerging issues shared
- Board briefings as required
- Nomination of individuals/specialists to support/contribute to development of key strategies
- Joint approach to engagement with stakeholders
- Opportunities to sense check progress
- No surprises

Performance Monitoring and Assessment Strategy

- Incorporates quality, safety, governance and sustainability
- Agreeing milestones, targets and measures
- Optimising reporting processes
- Monitoring and evaluation process;
- Assessment criteria;
- Escalation and de-escalation process
- Reporting methodology.

Information Sharing and Data Protection Policy

- Information sharing agreement
- Data ownership
- Patient confidentiality and informed consent
- Data handling and security
- Ensuring consistency of information
- Information flows

Engagement and Communication Strategy

- Statement of principles
- Clarity of responsibilities
- Engagement methods and tools (targeted to audience)
- Regular stakeholder briefings: staff engagement and internal communications
- Public communication – building trust and confidence
- Political briefings (who does what and when);
- Media handling (who does what and when)
- Social media and/or web presence

Clinical Review Strategy

- Scope and terms of reference
- Data handling and information sharing;
- Patient and family engagement and communication
- Staff engagement and feedback
- Learning from evidence and best practice
- Resourcing
- Review methodology;
- Reporting format and process (emerging issues)
- Putting things right, redress and civil litigation
- Referral policy (professional bodies, coroners, etc.).

BETSI CADWALADR UNIVERSITY HEALTH BOARD: SPECIAL MEASURES 2023

The provision of oversight, support and advice to enable BCUHB to respond to the requirements of special measures in a timely, open and transparent manner.

Three phases

Stabilisation Standardisation Sustainability

Stabilisation

- Stabilise the Board
- Review and strengthen executive leadership
- Accountability and Governance Review
- Review of patient safety and care
- Response to Audit Wales
- Leadership and culture diagnostics
- Finance and planning
- Operational grip and control

Delivery model for this stage will be led by a small team of

- Independent Member / Executive Directors
- Independent Advisor
- Welsh Government / NHS Executive

Programme and project provided by the health board and supported by the transformation team

Governance, board effectiveness and audit

- Accountability and governance review
- Audit Wales and Kings Fund actions
- Office of Board Secretary Board Committees and Governance process
- Ensure appropriate governance is in place, particularly with regards to providing appropriate scrutiny of risk, performance, leadership style and practice

Clinical governance, patient experience and safety

- Clinical leadership
- Clinical services – vascular, urology, mental health and dermatology
- Clinical behaviours and practice
- Regional delivery models
- Clinical network arrangements
- Clinical job planning
- Quality management systems and duty of candour assessment
- Review into patient safety concerns
- Oversight of the PTR process
- Review patient experience
- Ysbyty Glan Clwyd

Workforce and organisational development

- Culture, values and behaviours
- Stronger Together review and refresh
- Review executive structure and portfolios
- Support and stabilise HR Team
- Arrangements for handling the Ernst and Young review
- Respond to grievances and related issues
- Staff well-being and support
- CEO recruitment
- Staff engagement and communications
- Staff side relations
- Workforce planning and integration

Operational delivery

- Improved planned care performance
- Improved adult mental health, CAMHS and neurodevelopment delivery
- Consistency in urgent and emergency care over the next six months
- Evidence of actions implemented from identified within the speciality reviews
- Clear plans to reduce backlog and increase efficiency
- Strategies for orthopaedics, general surgery and ophthalmology

Planning and service transformation

- A rapid peer review of integrated planning capacity and capability within BCUHB both in terms of IMTP strategic and operational planning
- A rapid peer review of the organisation's approach to developing their IMTP and the associated decision-making mechanisms
- An assessment of whether the health board has access to sufficient planning capacity and capability for strategic planning
- IMTP development process including the triangulation of plans to operational, workforce and financial inputs
- IMTP development stakeholder engagement and input
- IMTP development decision making process and governance

Financial Governance and Management

- Financial Governance
- Resource Allocation and Utilisation
- The Financial Control Environment
- Maturity of the Finance Function

Compassionate Leadership and Culture

- Cultural diagnostics
- Leadership development
- Leadership capability and capacity

Mental Health

- Strategic vision developed, strong and credible strategy and action plan.
- Integration with corporate functions
- Outstanding issues and recommendations completed and embedded as business as usual
- Corporate governance and effective oversight and scrutiny
- Learning is routinely identified, shared and driving improvements in care
- Visible executive, board and medical leadership
- Evidence of positive shifts in culture
- Improving performance in line with requirements and expected standards

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