

Response to Social Services and Well-being (Wales) Bill

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This response is made in a personal capacity and our views do not necessarily represent those of Cardiff University.

We are responding to parts of the Bill that relate to services for children within our respective areas of expertise.

1. We welcome many aspects of the Bill, including the desire to simplify and integrate complex laws regarding social services provision, the commitment to greater involvement and control by people who receive services and the emphasis on prevention and early intervention.

Large parts of the proposed changes will be included in regulations published by Welsh Ministers. We believe it will be important that these regulations are made available in accessible forms for public consultation and scrutiny because of the likely significant implications of these regulations and the duties placed on Welsh Ministers by the Children's Rights Measure 2012.

Many social workers and social care workers currently feel restricted in their attempts to work effectively with individuals and families in the community due to excessive administrative demands. We would welcome the introduction of regulations that would remove unnecessary bureaucratic demands on practitioners. They should instead be enabled to practice relationship-based social work in order to meaningfully engage with individuals, families and communities to assess needs and enhance well-being through providing evidence based support and, if necessary, decisive action to prevent harm.

Sections 12 and 19 are new provisions enabling eligibility criteria for assessing children in need. While there are advocates of this idea,¹ attempts in England to introduce criteria under s 17 Children Act 1989 have proved very problematic. Lawful criteria will have to be developed with very extensive consultation.²

2. Most of **Part 6** of the Bill reproduces sections from the Children Act 1989. We understand that the purpose of the Bill is to integrate care for looked-after children into a framework for social care for Wales. We note that the Explanatory Memorandum indicates that there is no substantive change from the 1989 Act here

¹ Mitchell, E. (2007) 'R(LH and MH) v London Borough of Lambeth: provision of services for disabled children' *Child and Family Law Quarterly* 19

² Hoult, P. 'Lambeth withdraws children in need eligibility criteria after JR challenge' *Local Government Lawyer* 19 June 2012

so this might be achieved more effectively by simply cross referencing to the 1989 Act. While we support new legislation in Wales that provides for improvement in services, replicating and re-numbering existing legislation seems to us to introduce unnecessary complications.

It will be essential to clarify which legislation applies in Wales after the Bill is passed as there is potential for great confusion amongst legal and social work agencies. For example, from what point in time will a child be accommodated under **section 60** instead of under s 20 Children Act 1989? Is it intended to repeal the equivalent sections of the 1989 Act in Wales?

3. Implementation of the 1989 Act was accompanied by a widespread multidisciplinary training programme across England and Wales. Such a programme will be required for all social work and legal practitioners in Wales, including the judiciary, to ensure that the correct legislation is understood and applied. We welcome the commitment in the Explanatory Memorandum to funding extensive training. The changes will have implications for legal and social work education providers in Wales. We will need to know to what extent to adapt our curricula to address the envisaged timescales for the changes to take effect and the fact that our students could be taking up employment in England or Wales.

4. We have not had time to study the clauses closely enough to ascertain whether all the amendments under the Children and Young Persons Act 2008 which had been implemented only in England are now incorporated in the Bill. These amendments led to the English government issuing substantial volumes of statutory guidance. Presumably detailed new guidance will be issued in Wales. This would be quicker to produce if the replication we refer to above was removed.

5. We note that **Section 65 (10) - (11)** introduces the status of 'fostering to adopt'. This is a controversial provision (being debated in the House of Commons this week in the Children and Families Bill 2013 which was preceded by consultation in England. However, because the clause in the Children and Families Bill does not apply in Wales there was no specific consultation in Wales about this provision. The Welsh Government does not appear to have removed the duty to consider kinship placements and placing sibling groups together to the extent that is proposed in the English legislation, which are amongst the causes for concern in England. However, there are other practical problems with 'fostering to adopt' and we urge the Welsh Government to undertake a separate consultation on this section of the Bill.

Research evidence suggests³ that for those children for whom it is appropriate concurrent planning is a positive option and we would welcome the expansion of

³ Laws, S. et al. (2012) *Concurrent Planning Study: Interim Report*, Coram, http://www.coram.org.uk/assets/downloads/Coram_Concurrent_Planning_Interim_Report_final.pdf [accessed 11/3/13]

concurrent planning services into Wales. Clarification is required about how the 'fostering to adopt' provision in the Bill differs from, or is similar to, concurrent planning. We welcome the provision that fostering to adopt should be considered *if* it is not appropriate to place the child with a relative or friend. There is evidence that family and friends care is a positive permanency option for children⁴. In general we would welcome moves to encourage mechanisms which allow and encourage an earlier move to a prospective adoptive home if this has been included in the care plan of the local authority and birth parents have had the opportunity to respond to this plan during court proceedings.

Sections 79 and 80 consider the issue of looked-after children's contact with birth family members. We are concerned that there is no specific provision here for the maintenance of contact with separated siblings. Sibling relationships have the potential to be our most enduring relationship through the life-span, but most children in care or adopted are separated from at least one sibling⁵. Furthermore, whilst existing practice guidance emphasises the importance of promoting contact between separated siblings, the extent to which this is carried through in practice is questionable. Research indicates that contact between separated siblings is difficult to establish and tends to dwindle or cease over time, particularly if siblings are subsequently adopted⁶. We therefore recommend that sections 79 and 80 are strengthened to include a duty to promote contact between separated siblings.

6. **Section 88.** We concede that the definitions used in the Children Act 1989 for young people leaving care are complex and we welcome an attempt to clarify these. However we do not think it appropriate to refer to young people leaving care as 'Category 1', 'Category 2' etc which is terminology used in the prison service. We suggest that more suitable terminology is used here.

7. **Adoption.** We believe that clarification is necessary on the future status of the National Adoption Register in Wales, in the light of clause 6 of the Children and Families Bill.

We welcome the intent to improve adoption services for children in Wales. The proposed national adoption service has the potential to increase consistency and timeliness of services and we await a more detailed plan with interest. We wish to highlight the conclusions of both the NAW Children and Young Person's Committee

⁴ Hunt, J. (2008) *Family and Friends Care: research and Practice Briefing*, DCSF, <https://www.education.gov.uk/publications/eOrderingDownload/DCSF-RBX-03-08.pdf>

⁵ Rushton et al (2001) *Siblings in Late Permanent Placement*. London: BAAF; Selwyn, J., Sturgess, W., Quinton, D. and Baxter, C. (2006) *Cost and outcomes of non-infants adoptions*, London: BAAF; Neil, E. et al (2011) *Supporting Direct Contact After Adoption*, London: BAAF.

⁶ Neil, E and Howe, D (2004) *Contact in adoption and permanent foster care*. London: BAAF; Sanders, R (2004) *Sibling Relationships: Theory and Issues for Practice*. Basingstoke: Palgrave Macmillan; Thomas, C. (2013) *Adoption for looked-after children: Messages from research*, London: BAAF.

Inquiry into Adoption and the House of Lords Select Committee on Adoption Legislation which emphasise the need to strengthen the provision of post-adoption support to adopted children and their families in order to enhance well-being and prevent adoption break down. This Bill provides the opportunity to strengthen legal rights to receive post-adoption support following an assessment of need.

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