

Submission of Evidence to the National Assembly Health and Social Services Committee on the Social Services and Wellbeing Bill by Learning Disability Wales

1. Learning Disability Wales: Our role

We are the umbrella body for all voluntary organisations active in the field of learning disability in Wales. Our mission is to ‘create a Wales that values and includes every child and adult with a learning disability.’

We have 104 voluntary sector organisations that are members and have voting rights. We also have 42 individuals, 19 statutory organisations and 7 commercial organisations that receive our services as members, but do not have voting rights.

Our members are active in all aspects of the lives of children, young people and adults with learning disability, from birth through to old age. They include self advocacy and advocacy organisations, children and adult service providers, parent and carer organisations, social service departments, statutory agencies and generic organisations.

2. Recent Policy Activity

In recent years we have contributed to many Welsh Government policy groups. These have included:

- the Rights into Action Taskforce on services for disabled children
- the Learning Disability Implementation Advisory Group
- the Protection of Vulnerable Adults Project Board
- the Virtual Safeguarding Advisory Group
- the A.S.D. Task and Finish Group
- the Fulfilled Lives Supportive Communities Commissioning Forum
- the Independent Commission on Social Services in Wales
- the External Reference Group on transition policy for young people with additional learning needs
- the Framework for Independent Living Steering Group and sub groups on

- accommodation and person centred technology
- the National Partnership Forum for Older People
- the Paying for Care Advisory Group.

3. Response to the Bill

We fully support the broad messages conveyed to the Committee in a separate submission made by Disability Wales and twenty five third sector organisations, including Learning Disability Wales. (We shall describe it as Submission 1 in this document.) We also fully support the concerns expressed by the Coalition on Charging, of which Learning Disability Wales is a member, about Part 5 of the Bill. (We shall describe it as Submission 2)

In the following sections we highlight those issues that are particularly important for our members in the learning disability field.

4. Part 1: Introduction and meanings

We fully support the detailed case made in submission 1 about the definition of disability. We would like to see the current medical model definition of disability replaced by a social model definition.

We also note that the definition of wellbeing for adults does not include education and development. This is discriminatory, particularly towards adults with learning disabilities, and runs counter to the Welsh Governments avowed intent to have one inclusive definition for all ages.

5. Part 2: General Functions

We welcome:

- the duties on local authorities and health boards to gain a better understanding of the needs of their populations
- clearly linking this assessment into the development of local health, social care and well-being strategies.

We strongly support :

- the duty on local authorities to promote the development of social enterprises, co-ops and user –led and third sector organisations.
- the duty on local authorities to promote the availability of preventative services in the third sector

- the duty on local authorities, with health boards to provide information, advice and assistance to people understand what services and assistance they may be able to get.

We are very disappointed by the lack of any reference to the provision of advocacy in this section. Access to independent advocacy, though variable and fragile across Wales, has been invaluable in assisting people with a learning disability to gain access to services and to ensure that their rights are respected.

It is all the more disappointing given that the Welsh Government has funded a grant scheme to assist local advocacy organisations for some eight years.

6. Part 3: Assessing the needs of individuals

We welcome:

- the new single right to assessment. However, we note that while the responsibility for doing this rightly rests with local authorities, current constructive working relationships and collaboration in multi –disciplinary teams will be obstructed if there are not powers provided to ensure that some assessment can be undertaken by agreement by healthcare professionals, i.e. learning disability nurses, occupational therapists, speech and language therapists.
- the single duty for local authorities to undertake a carers assessment, and the previous limitations on this.
- the powers to combine assessments formerly undertaken by a range of agencies and services.

7. Part 4: Meeting needs

We welcome:

- the creation of a national eligibility framework.
- the overriding duty to meet needs to protect an adult from abuse or neglect.
- the overriding duty to meet needs to protect a child from abuse and neglect.
- the simplifying and centralising of the law relating to carers
- the intention to create an eligibility framework for carers.

We are disappointed at the limited nature of the provisions relating to direct payments, in that there is no requirement placed upon local authorities to further promote and encourage and assist their greater take –up.

We fully support the detailed points made in Submission 1 about the absence of any paving powers regarding independent budgets and any reference or support for a co-production approach to meeting social care and wellbeing needs.

These omissions substantially detract from any expectation of the Bill fulfilling one of the 4 explicit objectives for the legislation: “ providing people with a stronger voice and greater control over the services they receive.”

We welcome:

- the duty on local authorities to provide and keep under review care and support plans for people
- the duty for local authorities to provide and keep under review support plans for carers
- the duty to carry out further assessments and revise the plan if there has been a change in the individual's circumstances.
- the powers for the local authority to coordinate the preparation and review of plans where another body is also preparing a plan at the same time.
- The portability of plans

8. Part 5: Charging and financial assessment

We fully support the detailed points made in Submission 2 about whether local authorities should be able to levy any charges for the provision of, say day services.

We fully support the detailed points made in Submission 1 expressing concern about this power. It is difficult to understand why a citizen may be charged to help them gain access to a service that is already funded by taxation and which they will very often have a right to receive.

9. Part 6: Looked after and accommodated children

We welcome the updating and clarification of the duties on local authorities regarding looked after children and accommodated children.

10. Part 7: Safeguarding

We welcome :

- the introduction of a statutory framework to protect adults.
- the requirement for local authorities to make enquiries if they suspect that an adult is at risk of abuse or neglect.
- the duty on partners to report to the local authority any suspicions that a person may be at risk
- the duty on partners, including health to cooperate and provide information when requested by a local authority.
- the creation of a National Independent Safeguarding Board to ensure an effective all-Wales approach
- the creation of Safeguarding Children Boards and Safeguarding Adults Boards.

11. Part 8: Social Services Functions

We welcome the continued requirement for local authorities to have a Director of Social Services and the new definition of required competencies.

We welcome the commitment to consult on the content of the Code of Practice.

12. Part 9: Well being outcomes, co-operation and partnership

We welcome:

- the commitment to publish a statement of outcomes that are sought for individuals who use social care.
- that the outcomes statements will apply to care and support provided by others.
- the scope for the Code to impose requirements on local authorities.
- the requirement that local authorities must make arrangements to promote co-operation with partner bodies.

- the requirement for local authorities to promote integration of care and support with health and health related provision.

We particularly welcome:

- the powers to prescribe partnership arrangements, including the pooling of budgets. We believe that pooling of budgets represents the only way of ensuring that there is a seamless service supporting children, young people and adults with more complex or multiple disabilities, or those individuals who challenge services. It is key to avoiding instances of ill treatment and abuse as occurred for people with a learning disability who were living in Winterbourne View.

We welcome the powers to allow the development of a national adoption agency.

We are disappointed that in seeking to address some issues about partnership working, the Bill does not make any provisions regarding continuing health care. A significant number of people with a learning disability and/or their carers are required to take part in an arcane game to decide which agency, whether health board or social services, will meet the cost of their care and support. Essentially individuals are required to adopt the language of the medical model, to emphasize what they cannot do, to gain support. Not only can this process be emotionally draining for the individuals at the centre of it, but it is extremely wasteful of professionals time as they engage in arguments that are all about cost-shunting, and not about meeting needs.

This issue, if tackled, is exactly the sort of example of creating a more streamlined approach to meeting the needs of individual that the Bill is intended to address. Two objectives from the Welsh Governments Strategic Equality Plan are particularly relevant:

Obj 5: Tackle barriers and support disabled people so that they can live independently and exercise choice and control in their daily lives.

Obj 6: Put the needs of service users at the heart of delivery in key public services, in particular health,

13. Part 10: Complaints and representations

We welcome the additional powers being provided to the Public Services Ombudsman for Wales.

Learning Disability Wales
March 13th, 2013