NSPCC Cymru/Wales

Response to:

Consultation on the Social Services and Well-being (Wales) Bill

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NSPCC
Dim mwy o greulondeb i blant. DIM.
Cruelty to children must stop. FULL STOP.

About us:

The National Society for the Prevention of Cruelty to Children (NSPCC) is the UK's leading children's charity specialising in child protection. Our vision is to end cruelty to children in the UK and we make a difference for all children by standing up for their rights, listening to them, helping them when they need us and by making them safe.

The NSPCC runs projects and services across the United Kingdom and Channel Islands to help vulnerable children. We also provide ChildLine, the UK's free, confidential 24-hour helpline and online service for children and young people and a helpline for adults who are worried about a child or want advice.

NSPCC Cymru/ Wales welcomes this opportunity to provide evidence and please find below our response to the questions posed by the Health and Social Care Committee as part of their Stage 1 Scrutiny of the Social Services and Well-being Bill. The NSPCC would be pleased to provide oral evidence to the Committee:

- To share the wealth of knowledge and expertise as the UK's leading children's charity specialising in child protection
- And as a named LSCB board member (in Safeguarding Children: Working Together Under the Children Act 2004)

1. **Is there a need for a Bill to provide for a single Act for Wales that brings together local authorities' and partners' duties and functions in relation to improving the well-being of people who need care and support and carers who need support? Please explain your answer.**

NSPCC Cymru/Wales welcomes Welsh Government's aim to bring together local authorities and partners' duties and functions into one legal framework and supports a coherent and strategic approach to improving the well-being of people in Wales.

The Bill provides an opportunity to clearly define Social Services provision in Wales and, more crucially, it also provides an opportunity to place a duty on the wider local authority and its partners to assess need and deliver universal preventative services through to targeted early intervention services which prevent an individual or family's circumstances from worsening to the extent that they need a Social Services intervention.

However, NSPCC Cymru/Wales believes the Bill must be further strengthened to achieve this.
NSPCC Cymru/Wales' response to the White Paper consultation welcomed the link between adults' and children's social care as there is much research[1] that finds the needs of dependent children get lost by professionals who are focused on adults' needs.

The 'people' approach also has the potential to benefit young people during the often difficult transition from children's services to adult services.

However, whilst we support the creation of more integration, we have very serious concerns about the needs of children and young people becoming downgraded because of the pressure caused by an aging population. Safeguards must be built into the legislation to ensure that the needs of children and young people are prioritised. We urge the committee to consider:

- Whether the 'people' approach can ensure that the needs and rights of children are not lost when services are being provided to adults and children in the same family?
- How do we ensure this approach will benefit young people moving from children's services to adult services?

[1] Cleaver et al 1999, Cleaver et al 2007, Cleaver et al 2011 and Taylor and Kroll 2004.

- Will the now separate duties to assess the needs of an adult for care and support (section 10) and the duty to assess children (section 12) diminish the benefits from the 'people' approach?

2. Do you think the Bill, as drafted, delivers the stated objectives as set out in Chapter 3 of the Explanatory Memorandum? Please explain your answer.

NSPCC Cymru/Wales applauds the intentions and aspirations of the Welsh Government. In particular we welcome the focus on well-being and the objectives 'providing people with a stronger voice and greater control over the services they receive' and 'ensuring people receive the help they need to live fulfilled lives'.

Inconsistency between policy objectives and contents of Bill

We welcome the shift in focus implied by the change in title from Social Services Bill to Social Services and Well-being Bill. However we feel that there is a tension and inconsistency between the policy objectives ('reforming social services law' and 'improve the well-being outcomes for people who need care and support and carers who need support') and the content of the Bill itself which is focused on well-being. We are also concerned that the reference to 'social services' in the title may lead to the over-focus on social services departments as the delivery agency when responsibility should be spread among a broader range of partners through the Local Service Boards and other collaborative partnership arrangements.

Social Services provision currently focuses on protecting the most vulnerable people with significant need for care and support but the content of the Bill appears to shift social services provision to preventative services and work with people with lower levels of need. The crucial question that is not clearly asked is should the skills of social workers and Social Services be focused on those with significant and complex needs or should they work with more people with lower levels of need.

Clearly there is a need for services that focus on both. Prevention and early intervention is crucial to reducing the demand on social services.

But there is a real concern that the skills of social workers and others in social services departments will be spread too thinly as there is a shift towards early intervention and preventative services, whilst continuing to have to address existing acute/complex need. The Memorandum lists some sources of funding that should be used to smooth the changes and we would wish to see clarification on how the money will be used and the arrangements to ensure that those children and young people with these current complex needs will be protected during the changes.

If the work of Social Services is to be focused on a smaller group of people with significant and complex needs, should the duty to promote well-being and

provide preventative services be placed on the wider local authority and its partners?

Section 6.1 states that a local authority must provide or arrange provision of preventative services, but we believe this should be a responsibility on all partners and that wider early support services are often better delivered by departments and partners outside Social Services, leaving social workers the time and resource to work intensively with families (albeit in a multi-agency approach).

The over focus on Social Services may limit or constrain the efforts of other organisations on improving the well-being of those who need support. We know that Social Services Departments are already under pressure, with increased demand and dwindling budgets, and are concerned there will be further pressure and expectation on Social Services' budgets to fund the preventative services as well as the intensive services they already provide to our most vulnerable people. We feel that there needs to be a local partnership structure that acts as the fulcrum for joint working which draws all partners together to improve well-being and recommend that Local Service Boards, already established in each local authority area, could play this key role.

Ensuring people receive the help they need/ Preventative Services

All across Wales the third sector plays a crucial role in supporting vulnerable people and NSPCC Cymru/ Wales welcomes the duty placed on local authorities to develop and promote social enterprises, co-operatives and the services provided by third sector organisations. NSPCC Cymru/ Wales itself provides a range of free preventative services for vulnerable children and a range of services to enable children overcome the abuse they have suffered.

We are concerned that the duty in Section 5 to assess the population needs for care and support is placed on local authorities **and** LHBs but the duty to provide the preventative services in Section 6 is placed on local authorities alone. Linked to our earlier point about inconsistency, NSPCC Cymru/Wales recommends that the Committee carefully scrutinises the 'shared responsibility to promote the well-being of people' (Page 7 of the memorandum, paragraph 14) and whether the Bill, as drafted, effectively draws in health and other departments/ partners.

NSPCC Cymru/Wales is also keen to see close scrutiny of Section 6; subsection (2) (a) + (b) to establish whether this will deliver a spectrum of services as previously described. We are concerned that the explanatory memorandum on page 8 talks about a "spectrum of **universal** provision for wellbeing so as to reduce prevent or delay the development of eligible needs". It talks on page 7 about services potentially being available to a population of three million. Whilst we welcome improved universal services, this is not a spectrum and without further clarification is potentially unrealistic, particularly if the unintended focus is on Social Services due to the title of the Bill. We believe this could create an unintentional gap between universal provision and those assessed as in need and with an eligible need , leaving children suffering from low level, long term neglect who may never reach thresholds, without the help and support they need to access their right to be safe.

Services to prevent sexual abuse

The percentage of children subject to a child protection plan because of sexual abuse in Wales in 2010/11 was just 7%. However the NSPCC research[2] 'Child abuse and neglect in the UK today' found that 16.5% of 11-17 year olds reported sexual abuse by an adult or a peer. It is clear that most child sexual abuse remains hidden, unrecognised and unreported, though in recent months, the uncovering of Jimmy Savile as a predatory sex offender, has led to an unprecedented number of victims who suffered and do suffer child sexual abuse in the past and present to come forward.
We know that online safety, child sexual exploitation and child sexual abuse are not discrete issues and that preventative services have a crucial role to play in tackling child sexual abuse. To prevent child sexual abuse, NSPCC Cymru/ Wales recommends a public health approach based on the primary, secondary and tertiary prevention approaches:

1. Primary prevention – universal interventions aimed at the general population to prevent a problem before it starts
2. Secondary prevention- selected interventions to those with a heightened risk of being a perpetrator or victim
3. Tertiary prevention- prevention activity aimed at those who already committing the behavior and treatment programmes for those harmed and affected by sexual abuse.

The NSPCC Cymru/ Wales recommends that this primary, secondary and tertiary approach to prevention is adopted by the Welsh Government when developing regulations and guidance for preventative service provision.

More effective response to child neglect

NSPCC research into child maltreatment in the UK[3] found that 1 in 10 young adults had experienced serious neglect during their childhood and neglect accounts for almost half of children in Wales subject to a child protection plan. However an online survey that NSPCC[4] and Community care undertook in 2012 found that only 7% of social work professionals were confident that timely action is taken in response to neglect, whereas 76% and 75%, respectively, were confident that timely action was taken in response to physical and sexual abuse.

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[2] *Radford, Lorraine, Corral, Susana, Bradley, Christine, Fisher, Helen, Bassett, Claire, Howat, Nick and Collishaw, Stephan (2011)* ***Child abuse and neglect in the UK today****. London: NSPCC.*
[3] *Ibid.*
[4] http://www.communitycare.co.uk/articles/27/09/2013/118548/social-workers-unlikely-to-act-quickly-on-neglect-cases.htm

It is increasingly evident that the law and guidance are not providing a solid framework to protect children from neglect and often the response to neglect fails to take into account the current understanding relating to the cumulative and harmful effect of neglect. The chronic and cumulative nature of neglect does not lend itself well to the current thresholds of significant harm, which makes it difficult for professionals to know when to intervene. This implies that children are being left in situations which seriously impair their development and negatively impact on their life chances for an unacceptable length of time.

Neglect can also be life threatening and it is our contention that it needs to be treated with as much urgency as other categories of maltreatment. Our most recent research[5] analyses neglect in serious case reviews in England between 2003-11 found that neglect is much more prevalent in serious case reviews than had previously been understood (neglect was present in 60% of the 139 reviews from 2009-2011).

NSPCC Cymru/ Wales recommends that changes are made to guidance and practice as this Bill is implemented to ensure children experiencing neglect get the help they need. Two key recommendations are:

- A revision to the wording of the definition of neglect in the current guidance as the term 'persistent failure' is problematic because neglectful behaviour is not always consistent.
- Improved training, awareness and understanding of neglect and its impacts together with a strengthened service response which includes primary, secondary and tertiary preventative services

Other recommendations will emerge through the Wales Neglect Project that NSPCC is developing with Action for Children and the Welsh Government and these will be shared and need to be taken into account in the implementation of this Bill

Stronger voice and control

The NSPCC is concerned that despite the objective 'people having a stronger voice and greater control over the services they receive' and this aim being included in 'Description' on page 4, it is not mentioned elsewhere in the Chapter 3 of the Explanatory memorandum or in the Bill itself.

We welcome close scrutiny of the intentions in relation to stronger voice as we are concerned that this is not simply implemented through provision of direct payments or the ability to refuse an assessment. Stronger voice must be enacted through advocacy and co-production of services.

We are particularly concerned that the voice of children and the rights of children are not explicitly stated, despite the Welsh Government's announcement that this Bill would incorporate the proposed Children and Young Persons' Bill which had been planned for later this Assembly Term.

The provisions of this Bill should have been examined against the UNCRC as a consequence of the due regard duty placed on Welsh Government by the Rights of Children and Young Persons Measure. However this Bill as drafted does not strengthen children's rights in its current form and we recommend that children's

[5] http://www.nspcc.org.uk/Inform/resourcesforprofessionals/neglect/neglect-scrs_wda94688.html

rights are better embedded and more clearly evident on the face of the Bill if children's rights to protection are to be fully realised within the child protection system. We recommend that the 'due regard' to the UNCRC analysis should be an area for scrutiny

We are also concerned that the opportunity to clarify the responsibility of agencies in relation to provision of advocacy has also been missed.

Clarity about repeals

If this is to be a single act for Wales, we would urge clarification about what previous legislation is repealed and where this act fits with existing legislation which remains relevant in Wales. Without details about repeals or more clarity about how this Bill fits with current legislation it does not provide a core legislative framework for social services in Wales. It also risks creating confusion about the core provision for people in need and the responsibility of all agencies to work together to provide a spectrum of support.

There are some examples in the draft Bill where this is clear, such as Section 144 where the amendments to Section 25 of the Children Act 2004 are clear. However, there are many more examples where it is unclear. Two examples are:

- In Part 4 of the draft Bill, Meeting Needs, it is unclear how these duties interface with or if they amend Section 17 of the Children Act 1989, which puts a duty on local authorities to safeguard and promote the welfare of children within their area who are in need by providing a range and level of services appropriate to those children's needs.

- In Part 1, there is a definition of a person who is disabled, but it is unclear how this definition and provisions in this Bill will interface with the definition and provisions in Section 17 of the Children Act 1989 which state that any child who is disabled, is a child in need, and then provided with services appropriate to their needs. We would be very concerned if Section 17 responsibilities for disabled children are reduced.

The definition of disability is that contained within the Equality Act 2010 that is a person has a disability if they have a physical or mental impairment, and the impairment has a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities. This appropriately updates the definition contained in the Children Act 1989 and since it has been tested in law and provides the basis on which local authorities and other statutory agencies base their equality impact assessments and equality plans it should be an appropriate definition. However it remains to be seen whether this much looser definition of disability genuinely meets the needs of disabled children.

3. **The Bill aims to enable local authorities, together with partners, to meet the challenges that face social services and to begin the process of change through a shared responsibility to promote the**

well-being of people. Do you feel that the Bill will enable the delivery of social services that are sustainable? Please explain your answer.

NSPCC Cymru/ Wales believes that partners, rather than just social services, should provide:

- universal preventative services
- early help and support to children and families
- services to 'children in need' as defined by Section 17 of the Children Act.

This should reduce, though not eradicate, the need for higher tier and crisis interventions later and would ensure the gap potentially created by people not having 'an eligible need' is closed. As mentioned in Question 2 above, NSPCC Cymru/ Wales urges the Committee to closely scrutinise the 'shared responsibility to promote the well-being of people'.

NSPCC Cymru/Wales is concerned that Chapter 8 of the Explanatory Memorandum states that there are no additional costs for providing preventative services and believes that additional transitional costs will be required for Social Services to provide its current services as well as enhanced preventative services. (See answer to Question 8). It is important to ensure that there are sufficient resources for providing universal preventative services, early help and services to children in need as well as services to those with existing complex and acute needs.

The Flying Start and Families First services are two of the Welsh Government programmes providing early intervention but we know that these are not available in every community and where they are provided, some have waiting lists. To ensure preventative services and early help become more widely available and can be accessed when needed, it will be essential to build on the services provided by the third sector, statutory partners and programmes such as Flying Start and Families First in all communities and additional transitional funding will be needed.

4. **How will the Bill change existing social services provision and what impact will such changes have, if any?**

Whilst the Children Act 1989 introduced major improvements for child protection, there is still much to be done in relation to improving outcomes for children in need.

NSPCC Cymru/Wales believes there must be close scrutiny as to exactly how this legislation will change existing social services provision and deliver improvements for children in Wales.

Without information around the intentions with regard to thresholds and the details of implementation behind the National Eligibility Framework, it is hard to know exactly how provision will change. Any shift in thresholds will have massive implications either way. If early intervention and universal prevention services are properly implemented by all partners then this should have a major positive impact in changing the way in which social services is delivered to children and families. However, there is currently a risk of people falling out of services if thresholds are pushed up or, for example, as a result of services such

as Families First creating new unintentional thresholds due to under-capacity and resourcing. For this reason, we continue to stress the need to close the gap between universal services and being assessed as “in need”.

NSPCC Cymru/ Wales welcomes the whole-family approach but this cannot be at the expense of children and feel it is essential not to lose the voice of the child and their rights to protection, provision and participation. We would like the ‘people’ approach to result in professionals who work with adults to ‘think family’ and be aware of those cared for by their service-user and refer accordingly to ensure the needs of children present are met.

5. What are the potential barriers to implementing the provisions of the Bill (if any) and does the Bill take account of them?

The most obvious barrier to successful implementation is that of resource and funding. As previously stated we believe significant upfront investment will be required to enable the rebalancing of services which needs to take place.

Again, a more detailed table of derivation as to which legislation now takes primacy in Wales will also be important.

Robust regulations and clear guidance for agencies and practitioners will also be crucial as will monitoring and oversight of implementation and outcomes.

The National Outcomes Framework is an essential element of the legislation but we believe this must be a framework against which all departments and agencies can be held to account, not just social services.

Major changes have taken place to the partnership structures in Wales in recent years and careful consideration must be given to this whilst scrutinising the duties to co-operate and to share information.

Authorities and partner agencies appear to still be grappling with the reconfiguration and it is important to properly understand the impact for regional and local partners as well as frontline services in order to fully understand the barriers to successful implementation. Are the structures there to deliver a partnership approach to improving well-being?

Section 9 retains the duty to co-operate and to share information found in the Children Act 2004 and lists the partners to whom this applies.

Section 146 requires local authorities to exercise its social services functions with a view to ensuring the integration of care and support provision with health provision where it considers that this would promote the well-being of children within the authority’s area or contribute to the prevention or delay of the development by children, or improve the quality of care and support for children.

We welcome this potentially powerful duty which reflects the desire of Welsh Government to see closer integration of services to facilitate best outcomes for the population.

Partnership arrangements state that specified partnerships *may* be required by regulation across regional or regional and agency (local authority and LHBs) boundaries. This places on statute the ability of Welsh Government to force regional partnership arrangements where authorities may be resistant. It should be remembered, however, that whilst regional arrangements may well be cost

effective and appropriate in certain circumstances, careful consideration will need to be given as to how these are implemented and how partners are successfully engaged.

The arrangements for partnerships are permissive rather than prescriptive in that they allow Welsh Government to do this, they do not state that Welsh Government will do this. In this sense this departs from the Children Act 2004 which required local authorities to set up similar partnership arrangements, although this has been subsequently replaced by later guidance.

Requirements for resourcing partnerships are permissive, in that the bill states that a local authority and LHB *may* pay towards the expense but does not state they must, although it does go on to state that it may compel a local authority or LHB to pool resources, contribute a specific amount or issue further regulation regarding expenditure for posts, administration or other expenditure for the purposes of partnership arrangements. It therefore goes further than the Children Act 2004 which contained encouragement to pool resources, but did not include the ability to mandate this.

The bill does not include the requirement to have lead directors for children and similar leads in health which was contained in Section 27 of the Children Act 2004, and it is not clear if this requirement is to be repealed. If this were to be repealed, we believe it would be a retrograde step, which together with the removal of requirements for Children and Young People's Partnerships and the integration of the Children and Young People's Plans into high-level single plans, creates a risk that the needs of children (particularly those in need) become secondary within an age-inclusive agenda.

Whilst welcoming a whole family-approach within social services and wider partners, the age-inclusive approach to partnerships risks undermining services for children rather than strengthening partnership arrangements to enhance outcomes for children.

This is not to say that an age-inclusive partnership approach cannot meet the needs of children, and clearly the need for close collaboration and strong partnership has never been more necessary. There is considerable existing legislation with respect to children's services which is intended to drive closer partnership working; however the overly bureaucratic structure created by earlier legislation and guidance and the subsequent removal of any requirement to have any separate arrangements for children and young people has led to a wide variation in planning and partnership arrangements across Wales.

This is not necessarily problematic as the flexibility this affords local authorities to make suitable arrangements at a local level is potentially helpful. However there is a risk children will lose out in an age inclusive agenda where adults are a more powerful majority. Maintaining the requirement for a lead director and comparable leads in health would be a useful protective measure in this respect and there is also an opportunity to clarify arrangements and requirements for collaboration and formal partnerships.

6. **In your view does the Bill contain a reasonable balance between the powers on the face of the Bill and the powers conferred by Regulations? Please explain your answer.**

NSPCC Cymru/ Wales feels that Welsh Ministers have, in this draft Bill, allowed themselves many powers to make subordinate legislation and because of this it is difficult to evaluate the impact of the Bill itself other than as statements of general principle.

This is because there is a significant chance that the practical impact of its provisions may be significantly altered in future by subordinate legislation and because a lot of the subordinate legislation will provide the detail about how provisions and duties will be implemented.

For example, the definition of "disabled" set out in section 3 of the Bill may be acceptable as currently drafted, but the categories of persons defined as "disabled" may change in future if subordinate legislation is passed altering this definition. To take another example, section 35 of the Bill states that Regulations may "require or allow a local authority to make payments to a person towards the cost of meeting a child's needs for care and support".

Section 35(3)-(6) sets out four conditions which must be met before payments can be made, but until the Regulations are made, it is unclear whether there will be any legal obligation at all on local authorities to make such payments even when all four conditions are met. As such it is difficult to evaluate whether section 35 will have any bite at all until the Regulations come into force and any evaluation of the provisions of the Bill as it currently stands are therefore limited to discussions of general principle rather than practical impact.

Powers to make subordinate legislation

7. **What are your views on powers in the Bill for Welsh Ministers to make subordinate legislation (i.e. statutory instruments, including regulations, orders and directions)? In answering this question, you may wish to consider Chapter 5 of the Explanatory Memorandum, which contains a table summarising the powers delegated to Welsh Ministers in the Bill to make orders and regulations, etc.**

We understand from Paragraph 118 on page 24 of the Explanatory Memorandum that the "accompanying subordinate legislation" is to be made during 2014-15. We are concerned however that the bulk of provisions in the Bill are discretionary which we interpret as meaning they may be implemented after 2015 or even not implemented at all.

Some provisions in the Bill for subordinate legislation impose a positive obligation on ministers to introduce subordinate legislation – for instance, section 38(4) states "Regulations **must** make provision about [how care and support plans are to be prepared]" and section 48(1) states "Regulations **must** make provision for…financial assessments" .

However the bulk of the provisions in the Bill which make provision for the introduction of subordinate legislation state merely that Ministers "**may** provide for" further detail, rather than placing a positive obligation on Ministers to introduce such subordinate legislation containing this further detail, and this is

why we are concerned that the majority of provisions are discretionary. In some cases, we feel that subordinate legislation may not be required because, for example, the definition of "disabled" in section 3 may not need amending – but in other cases it could lead to a limbo situation where it is never clarified whether local authorities are required to make payments under section 35 or whether such payments are discretionary, and the result might be that such payments are never made at all.

NSPCC Cymru/ Wales is particularly concerned that Part 7 Sections 110(1) and 115(3) state that “Regulations **may**” and these should be changed to “Regulations **must**”. This is because:

- Section 110, the National Safeguarding Board, has a key role to play in improving safeguarding and providing a clear national direction and leadership for all stakeholders, and
- Section 115, Funding of Safeguarding Boards, is crucial to the effective working of Safeguarding Boards. The Inquiry into Local Safeguarding Children Boards in Wales undertaken by the Health, Wellbeing and Local Government Committee in 2010 recommended that as a matter of urgency, the Welsh Government should consult on a national funding formula for LSCBs based on percentage contributions, but despite the Deputy Minister accepting this recommendation this has not yet been taken forward.

A further concern of NSPCC Cymru/ Wales is that the majority of the subordinate legislation is subject to the negative procedure and will, therefore, not be subject to further scrutiny. This is the case for the discretionary powers we mention above and we feel that it is unbalanced and should be redressed.

8. Financial Implications

What are your views on the financial implications of the Bill? In answering this question you may wish to consider Chapter 8 of the Explanatory Memorandum (the Regulatory Impact Assessment), which estimates the costs and benefits of implementation of the Bill.

NSPCC Cymru/ Wales has considered the financial implications in Chapter 8 of the Explanatory memorandum and feels that the estimates used for training social work staff is reasonable, though there is no mention of training the wider social care workforce. However our main areas of concern are that the financial implications for funding preventative services and establishing a National Safeguarding Board are unrealistic or have been omitted:

- Preventative services: it states that there are no additional costs forecasted for providing preventative services. This we feel is unrealistic as Social Services departments are facing increased demand with budgets spent on intensive crisis interventions. We do not believe that the need for these services will lessen in the short term and that transition funding will be required for Social Services to continue to provide these services as well as the newer preventative services.

- Establishing a National Safeguarding Board: Establishing a new national board will require a funding base and this has been omitted from the regulatory impact assessment.

9. Other Comments

Safeguarding

1. National Independent Safeguarding Board

NSPCC Cymru/ Wales supports the ambition behind the proposal to establish a National Safeguarding Board for Wales so that safeguarding is a high priority for all agencies. This would help to provide a clear national direction and to provide leadership for all stakeholders, although there are issues around the breadth of the Board's agenda and the danger of the needs of children and young people becoming obscured. However:

- The role of the Board needs to be clear and the relationship between the board and government needs to be clearly defined and understood by members, Ministers and civil servants.
- Reporting arrangements need to be clear and the board needs an effective chair who is independent and clear about their role
- Governance arrangements need careful consideration. It is important that it is independent but it is important not to impose additional burden of corporate governance picked up already in the structures of the different agencies
- Such a board needs adequate resourcing and substantial additional funding will be required.

We remain concerned by the proposal to set up a common National Safeguarding Board for adults and children in Wales. We understand the benefits that an integrated structure presents, particularly in relation to young people in transition and children with substance misusing parents for example, but feel that the agenda for both children and adults is huge, that in the main the issues are different and that a joint Board could potentially not deliver on either agenda. As the adult protection framework is under-developed we are concerned that the improvements needed to children's safeguarding will be marginalised, or, even worse, progress in children's safeguarding could be reversed. We recommend that there are strong guarantees in place to ensure that children's issues are not sidelined while the adult protection framework is developed and that consideration is given to

- Establishing separate sub committees for adults and children

- Children's organisations such as NSPCC, who is named in the Working Together guidance as an LSCB member, are members of the board
- The operation of the Board is thoroughly reviewed after 1 year and if integration of the adults and children agenda is hampering progress, that it is separated

2. Safeguarding Children Boards and Safeguarding Adult Boards

The establishment of 6 Safeguarding Children Boards running in parallel with Adult Safeguarding Boards is a potentially effective model and allows for the potential for learning, knowledge and expertise to be shared. In addition running Safeguarding Boards on a regional footprint allows for sharing of resources and best practice, promotes collaboration and learning across boundaries and effective use of resources.

However NSPCC Cymru/ Wales strongly recommends that the Safeguarding Children Boards and Safeguarding Adult Boards remain separate.

We also feel that the current functions of LSCBs as laid out in the Local Safeguarding Children Board Regulations 2006 should form a starting point for the functions of both the new APB and SCBs, but that they need to be reviewed and strengthened.

The view of NSPCC Cymru/Wales is that all local agencies should be held to account for exercising their safeguarding duties appropriately and effectively and so this function should be strengthened.

NSPCC Cymru/ Wales feels that independent chairing of the Safeguarding and Protection Boards is highly desirable because challenge and scrutiny is important to ensure effectiveness and we feel that Independent Chairs can better hold other agencies to account and provide independent challenge to board members. This will become more important as the current LSCBs reconfigure to a regional SCB; choosing a chair from one agency will create an imbalance of power.

A further challenge for SCBs and SABs is how accountability is going to be achieved and the relationship managed between safeguarding boards with a regional footprint and local authorities.

NSPCC Cymru/ Wales believes that Section 115 of the draft Bill is not strong enough and that instead of a 'A Safeguarding Board partner may make payments towards expenditure incurred' it should read 'A Safeguarding Board partner **must** make payments towards expenditure incurred'.

As LSCBs are reconfiguring at present we would urge Welsh Government to urgently commission work to develop a funding formula for partners to contribute to the expenditure of Safeguarding Boards. Based on our work with LSCBs in England and Wales and Child Protection Panels in Northern Ireland, we would recommend that each SCB needs as a minimum a Business Manager, a Training Manager, administration support and funding for an Independent Chair for a minimum of 3 days per month, more when the SCB covers more than two local authorities. As all LSCBs in England are now independently chaired we

would strongly recommend that evidence is taken from the Association of Independent Chairs (http://www.education.gov.uk/childrenandyoungpeople/safeguardingchildren/protection/b00219380/lscb/chairs) who will soon have a website of their own.

Removal of the defence of 'reasonable punishment'

Children's right to respect for their human dignity and physical integrity under the law requires the removal of the "reasonable punishment" defence: the issue is fundamental to children's status in society as well as to their well-being, safety and protection.

Through this Bill, the Welsh Government's primary policy objective is to improve the well-being outcomes for people who need care and support. The Bill defines well-being through seven different elements, which includes 'securing rights and entitlements'. Not providing children with equal protection under the law on assault is a violation of children's rights under Article 19. This violation has been highlighted by the UN Committee on the Rights of the Child to the UK government three times when they have asked the UK Government to take urgent action to ban corporal punishment in the home. NSPCC Cymru/ Wales believes the Rights of Children and Young People Measure places an obligation on the Welsh Government to close this rights violation at the earliest opportunity.

In NSPCC's experience, most physical abuse is done in the name of discipline or punishment and at worst, some children die from physical assaults. The deaths of both Victoria Climbie and Peter Connelly involved harsh physical punishment. The current law (Section 58 of the Children Act 2004) is confusing, inhibits effective action to protect children from physical abuse and undermines the work that professionals are doing with families on positive parenting. Even where physical punishment is not harsh, evidence demonstrates it is associated with harmful behaviours in childhood such as aggression, anti-social behaviour, anxiety, self-harm and depression and so removing the defence of reasonable punishment, which will effectively 'ban smacking', will help improve the well-being of children and families.

NSPCC Cymru/Wales therefore urges the Committee to recommend provision to provide children with equal protection under the law on assault in its Stage 1 report for this Bill in order to protect children from harm and improve their well-being.

The Voice of the Child, Children's Rights and Advocacy

The NSPCC Cymru/Wales wishes to highlight the importance of renewing the focus on the rights of children as policy and practice increasingly moves towards an integrated-family approach.

We would urge the committee to look closely at the provisions for the proposed outcomes framework. NSPCC Cymru/Wales believes this must specifically consider outcomes and standards for children and young people based on their rights.

Advocacy is about helping children and young people to access their right under article 12 of the UNCRC to have their say when adults are making decisions that affect them and to have their opinions taken into account. Children rely on others to help them be heard. The NSPCC recommends close scrutiny of how the legislation will deliver quality, accessible advocacy services to children in Wales.

Legislation must support the policy position that advocacy is about more than supporting children on the rare occasion that they feel able to make a complaint and so NSPCC Cymru/Wales believes the bill should be strengthened to place a duty on partners to provide easily accessible independent advocacy services.

Looked After Children

Given the statement that this Bill will not stand in isolation of other statutes, NSPCC Cymru/Wales believes greater clarity is needed as to which parts of existing legislation relating to looked after children and care leavers will remain relevant to Wales.

Without this clarification the Bill will not achieve its stated aim of specifying the core legislative framework.

We are concerned that certain sections do not “simplify” the legislation but could alter interpretation.

Whilst we welcome tightening of legislation, the main purpose of which is to make clear the duties and expectations of responsible bodies, there are a number of instances where a change in wording may have consequences and clarity is needed.

For example, section 59 “simply” says accommodation must be within the authority’s area, however in reality this could result in children being placed up to 100 miles away from their communities and support.

Section 62 requires further examination to see whether this could result in Looked After Children losing their Child In Need status and available services. Currently looked after children retain this status and we believe this is the preferred position.

NSPCC Cymru/Wales would also like to see close scrutiny of section 88 which claims to “simplify” the current descriptions of care leavers. We do not believe the categories are any simpler and it is worth noting that the use of language, similar to that used by the prison services, is likely to result in new labels for young people e.g. CAT 1 LAC.

We do not oppose the changes but believe close scrutiny is needed to test out whether they will deliver the improvements to care leavers which politicians in Wales have recently committed to.

Greater support for children returning home from care

NSPCC Cymru/Wales believes more must be done to prepare and support children returning home. Consequently some children who come into care because of abuse or neglect suffer further abuse when they return home causing significant long-term harm. [6]Research shows that two thirds (62 per cent) of children who returned home remained with a suspected abuser even after concerns had been identified, with 16 per cent of children even remaining at home after confirmed incidents of abuse or neglect.

The NSPCC believes that reunification should only take place where there has been a comprehensive assessment of the child's needs and effective support is provided for children and their parents.

There is a need to improve the support available to children, young people and their families prior to and following a return home, to tackle problems such as drug or alcohol dependency, domestic violence, mental health conditions and poor parenting.

The Social Services and Wellbeing Bill offers an opportunity to deliver this for young people in Wales. NSPCC Cymru/Wales believes there should be a requirement to better assess, prepare, support and monitor the child's welfare when they return home from care.

Provisions to improve support for mental health and wellbeing of children in care

Children in care have significantly higher rates of emotional and behavioural disorders and difficulties than their counterparts in the general child population (as a result of abuse and neglect prior to entry to care). However the mental health needs of looked after children frequently remain unmet which puts them at risk of further harm.

Around three-quarters of looked after children in England and Wales are in foster placements and foster carers frequently report that the most common difficulty for the children or young people in their care is their mental health. Yet foster carers are all too frequently unsupported to address this need.

The Bill misses an opportunity to support children to access their right to good health, to achieve stability of placement and to ensure their wellbeing if it does not specifically address the need to place a requirement to assess and provide services to children as they enter care to support their emotional wellbeing.

[6] http://www.dji.de/pkh/expertise_dji_thoburn_reunification.pdf