

Health and Social Care Committee
Social Services and Well-being (Wales) Bill
SSW 40 – WCVA

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

A response from WCVA

14 March 2013
WCVA
Baltic House
Mount Stuart Square
Cardiff
CF10 5FH

A response to the call for written submissions to Consultation on the Social Services and Well-being (Wales) Bill

Introduction

1. Wales Council for Voluntary Action (WCVA) represents the interests of voluntary organisations, community groups and volunteers in Wales. It has over 3,350 organisations in direct membership and is in contact with many more through national and regional networks. WCVA's mission is to provide excellent support, leadership and an influential voice for the third sector and volunteering in Wales.
2. WCVA works with the major umbrella bodies and networks relevant to this policy area of social services and social care, and the local county voluntary councils (CVCs), and facilitates their involvement in the Third Sector Partnership Council and Ministerial meetings under the auspices of the Welsh Government's Third Sector Scheme. These networks harness the sector's knowledge and experience to inform, shape, influence and contribute to Welsh Government policy, strategies and delivery. The Welsh Government has a Partnership Agreement with WCVA, the CVCs and the Volunteer Centres to provide general support to the third sector, at national, regional and local levels: this recognises and underpins the third sector coherent and integrated support structure, and demonstrates the intrinsic value of the third sector to the quality of life for people and communities in Wales.
3. Our response is informed by our continuing specific work with the sector on social care and well being, including facilitating the:
 - Alliance of Health, Social Care and Well-being Alliances
 - Network 3
 - Local Health and Social Care Facilitator Network
 - Biannual third sector meetings with the Welsh Government Minister for Health and Social Services
 - Third sector representation on key national working groups
 - Citizen Directed Support Reference Group.
4. WCVA welcomes the introduced Social Services and Well-being (Wales) Bill overall, but believes it can be strengthened. The Bill provides the statutory framework to deliver the Welsh Government's commitment to integrate social services to support people of all ages, and support people as part of families and communities: it is important therefore to ensure that this new legislation best enables transformation of Wales's social care landscape for people and communities. WCVA wishes to submit a response informed by all our working with the third sector.
- 5. Part 2 – General Functions - 7 Promoting social enterprises, co-operatives, user led services and the third sector**

WCVA welcomes the duty on local authorities to promote the development of and availability of social enterprise, co-operatives, user led services and the third sector in their areas. However the way in which the legislation as introduced separates out these community activities, rather than seeing them as linked and interdependent. The separation is unhelpful and is in danger of disabling user/carer/community co-production: restricting to a more meagre service provision as against enabling the growth of richer reciprocity and mutualism. This artificial separation of types of activity is also likely to introduce barriers to empowering service users, carers and communities to co-produce, that is to come up with solutions to their support and care needs that enable fulfilled lives and well-being by making the focus type of organisational structure at the beginning. In designing the service solutions, people and communities need to be able to develop the best and most appropriate model on the continuum of self-help, volunteering, mutuality, community action, organisations and paid employment, and enterprise generating income and building a local financially sustainable future.

Co-production brings the co-design and co-delivery of public services, where activities and services are designed and delivered by a wide range of actors - bringing together the third sector and the public sector with the citizen and the community at the centre. It means investing in community capacity and initiative in order to provide mutual support that complements, and reduces demands on state services. The approach can involve:

- Citizen-directed support
- Service user led services
- Community led services
- Mixed volunteer and staffed services
- Integrated services.

Citizen's voice and control is fundamental to this dynamic, with engagement and active participation in maintaining and enhancing wellbeing through communal mutuality which includes the state.

We want to see the very rich plurality of support and care enabled within our communities, transforming what is accessible and available for people, and that social care is enabled to be reciprocal, as against 'provision for': there is a danger in separating out social enterprises that this will encourage a focus on financial models and 'spin-outs of existing statutory provision, as against transformation through co-production.

Further this separating out of social enterprises, co-operatives and user-led services does not reflect the current third sector. In terms of the legal, regulatory and operational characteristics of the third sector, *Third Sector Statistical Resource 2013*, WCVA reports that there has been a marked increase in the number of companies limited by guarantee or shares (from 350 in 2010 to 1,845 in 2012 - there are 33, 000 third sector organisations in Wales). In terms of sources of funding for the third sector in Wales, trading and investments is now the largest source, at 30 per cent: larger than public giving 27 per cent, Welsh Government and national funding 19 per cent, and local government and health board funding 12 per cent. The legislation does therefore need to recognise and understand an up to date profile of the third sector and its likely future development.

The partial definitions offered in the legislation as introduced for social enterprises and third sector are too vague, and this is recognised in that it then goes on to leave it to the regulations to clarify whether or not: activities might reasonably be considered carried on for the benefit of society; organisations are to be treated as social enterprises, co-operatives, or third sector organisations; and what does, does not or may constitute a section of society.

There is already a definition of the third sector that has been agreed between WCVA and other stakeholders in Wales, including the Welsh Government, as part of the statutory Third Sector Scheme (clause 2.1): the third sector includes ‘*voluntary organisations, community groups, volunteers, self-help groups, community co-operatives and enterprises, religious organisations and other not for profit organisations of benefit to communities and people in Wales.*’

The third sector is therefore very broad including social enterprises, community businesses, housing associations, co-operatives and mutual organisations, with all third sector organisations having some important characteristics in common, being:

- Independent, non-governmental bodies;
- Established voluntarily by citizens who choose to organise;
- Value driven and motivated by the desire to further social, cultural or environmental objectives, rather than simply to make a profit; and
- Committed to reinvesting their surpluses to further social, cultural or environmental objectives. (*The Third Dimension*, Welsh Government, 2008).

It is essential that the third sector remains on the face of the primary legislation in order to ensure that the statutory framework to deliver the Welsh Government’s commitment to integrate social services to support people of all ages, and support people as part of families and communities includes the third sector as a named partner, avoiding the integration becoming solely concerned with Health and Social Services. The legislation needs to enable Wales to take full advantage of the opportunity to transform services and well-being within our communities, optimising the third sector contribution.

WCVA therefore recommends that Part 2: 7 is reworded as follows:

7. Promoting social enterprises, co-operatives, user led services and the third sector

(1) A local authority must promote –

(a) the development in its area of third sector organisations, including social enterprises and co-operative organisations, to provide care and support and preventative services;

(b) the provision of care and support and preventative services in its area in ways that involve service users in the design and running of services;

(2) In this section –

“care and support” (“*gofal a chymorth*”) includes support for carers;

“preventative services” (“*gwasanaethau ataliol*”) means services the local authority considers would achieve any of the purposes in section 6(2);

“third sector organisation” (“*sefydliad trydydd sector*”) means an organisation which a person might reasonably consider exists wholly or mainly to provide benefits for society, and includes community associations, self-help groups, voluntary organisations, charities, faith-based organisations, social enterprises, community businesses, housing associations, co-operatives and mutual organisations

“society” (“*y gymdeithas*”) includes a section of society;

(3) For the purposes of this section, regulations may provide—

(a) that activities of a specified description are or are not to be treated as activities which a person might reasonably consider are activities carried on for the benefit of society;

(b) that organisations are or are not to be treated as third sector organisations;

(c) for what does, does not or may constitute a section of society.

6. Part 2 – General Functions: 8 Provision of Information, advice and assistance

The Bill as introduced states that a local authority must secure the provision of a service for providing people with both information and advice relating to care and support, and assistance in accessing care and support. WCVA is concerned that independent advocacy is not explicitly named within this duty on local authorities to secure provision.

While advocacy was included in the Government of Wales Act 2006 definition of social care services, its omission in this new legislation is puzzling as it is fundamental to ‘a strong voice and real control’, the first principle in *Sustainable Social Services: A Framework for Action*, Welsh Government 2011.

Independent advocacy is the important additional element alongside information, advice and assistance in enabling people to access care and support, to be heard and have a significant say in what matters to them, make decisions, control their own lives, and contribute as individuals with their own networks and communities.

There are examples of well-developed practice in independent advocacy in Wales, for example Dewis Centre for Independent Living, a third sector organisation working in seven Local Authorities: Rhondda Cynon Taf, Powys, Vale of Glamorgan, Newport, Merthyr Tydfil, Blaenau Gwent and Monmouthshire. Dewis works in partnership with the Social Services Departments of each of these authorities.

WCVA recommends that Part 2: 8 is Provision of Information, advice, assistance and independent advocacy, with a duty on local authorities for securing the provision of independent advocacy.

7. Part 9 – Chapter 1: Well-being outcomes

The first Principle of *Sustainable Social Services: A Framework for Action*, Welsh Government 2011 is 'A strong voice and real control' with the commitment by Welsh Government to 'provide help to make people's voices strong and clear...[and] actively listen and act on what we have heard.' There is nothing within the introduced legislation's duty for Welsh Ministers to issue a statement of the outcomes to be achieved that enables citizen's voice.

The Deputy Minister has introduced the Citizens Panel that attends the Social Services Partnership Forum, supported by Participation Cymru, but this has being for an initial period and is now being reviewed. Complementary to this, WCVA with the major alliances of Age Alliance Wales, Children in Wales, Wales Carers Alliance, Wales Alliance for Citizen Directed Support, Wales Alliance for Mental Health, Wales Disability Reference Group and Wales Association of County Voluntary Councils are running the *I Matter, We Matter* campaign to build the national outcomes through a discussion with people <http://imatterwales.org.uk/> Social media in particular enables citizen's voice, alongside the more traditional methods. A formal commitment to this approach to citizen's voice through the primary legislation is essential.

Citizen's voice and control is, we believe, the fundamental principle in transforming services. It is not sufficient to leave this to the Code of Practice and the Code is to 'achieve the outcomes' not to develop the outcomes, the commitment to this transformative approach of people and communities being able to say what is important to them and to hold those delivering against this to account is primary. Social media and civil action is another form of democratisation, not to be ignored.

WCVA recommends that Part 9 - Chapter 1: Well-being outcomes includes a duty on Welsh Ministers to enable citizen's voice in the outcomes.

8. Part 9 – Chapter 2: Co-operation and Partnership

The legislation as introduced states that a local authority must make arrangements to promote co-operation between each of the authority's relevant partners: the list of partners does not include the third sector. This would appear to be because the third sector is not able to be included because as a non-statutory body it cannot be made to pool budgets. The legislation includes provision for partnerships between health and local authorities, including Partnership Boards.

The omission of the third sector in this part of the legislation does not correspond to and complement Part 2: 7 where the third sector is explicitly named. The third sector is not only a service provider (as indicated by Part 2:7) but also a full partner in commissioning, which is identifying need and developing solutions, including resources. The commissioning role is undertaken by County Voluntary Councils (CVCs), working as a partner with local authorities, health boards, and on local service boards.

This legislation in enabling relevant partners to work together also has to recognise increasingly sophisticated ways of financing and working that are developing beyond the traditional public sector methods and boundaries. The WCVA *Wales Wellbeing Bond*, for instance, offers to invest millions of pounds in new approaches with statutory partners and a special purpose vehicle can be one way of organising formal arrangements between partners.

While it is beyond the ability of this legislation to impose statutory duties on independent third sector organisations, there can be a duty on the local authority to invite the CVC (or any successor equivalent body) to be a relevant partner.

There is a precedent for this approach in the 2003 Welsh Government statutory guidance on preparing Health Social Care and Wellbeing Strategies, which includes the following:

The Duty of Co-operation (Regulation 3)

2.4 In formulating and reviewing local Strategies local authorities and local health boards are under a duty to co-operate with:

- a. NHS Trusts providing services to the local population;
- b. Community Health Councils (CHCs) representing the local population;
- c. County Voluntary Councils (CVCs);
- d. Health Commission Wales (Specialist Services).
- e. any private, business, voluntary or other organisation with an interest in the provision of health and well-being services; and

2.5 If there is not a CVC in the local area the local authority and local health board should co-operate with a body or group which performs similar functions to a CVC.

WCVA recommends that a local authority duty of co-operation with the third sector is included in this primary legislation in Part 9: Chapter 2 in order to ensure that the third sector is fully enabled as a commissioning partner.