

National Assembly for Wales / Cynulliad Cenedlaethol
Cymru

[Health and Social Care Committee / Y Pwyllgor Iechyd a
Gofal Cymdeithasol](#)

[Regulation and Inspection of Social Care \(Wales\) Bill / Bil
Rheoleiddio ac Arolygu Gofal Cymdeithasol \(Cymru\)](#)

Evidence from Alzheimer's Society - RISC 40 / Tystiolaeth
gan Gymdeithas Alzheimer's - RISC 40

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Leading the
fight against
dementia

Alzheimer's Society

Regulation and Inspection of Social Care (Wales) Bill

24 April 2015

Consultation Response

Alzheimer's Society

Alzheimer's Society is the UK's leading support and research charity for people with dementia, their families and carers. We provide information and support to people with any form of dementia and their carers through our publications, National Dementia Helpline, website and more than 2,000 local services. We campaign for better quality of life for people with dementia and greater understanding of dementia. We also fund an innovative programme of medical and social research into the cause, cure and prevention of dementia and the care people receive.

1. Do you think the Bill as drafted will deliver the stated aims (to secure well-being for citizens and to improve the quality of care and support in Wales) and objectives set out in Section 3 (paragraph 3.15) of the Explanatory Memorandum? Is there a need for legislation to achieve these aims?

Alzheimer's Society agrees that there is a need for legislation to achieve the stated aims and believes that the Bill is a step in the right direction towards achieving these aims. However, we feel that the Bill could have been more ambitious and gone further in meeting several of the identified objectives.

In particular, we have concerns that the Bill does not live up to the objective 'to place the citizen at the heart of the system.' The Bill as drafted focusses on the activities of organisations and not on the needs of the individual who requires support. In order to meet the objective of placing the citizen at the heart of the system, more emphasis on the individual will be necessary in the final version of the Bill or in the regulations.

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

Alzheimer's Society believes that the Bill does not adequately take account of the following three barriers.

- Lack of investment in the social care sector and the impact of public sector spending cuts.
- Ambiguity over the reach and remit of Social Care Wales. More detail on this is provided in our response to question 9.
- Domiciliary care workers and workers in adult care homes should be required to register with Social Care Wales. More detail on this is provided in our response to question 3.

3. Do you think there are any issues relating to equality in protection for different groups of service users with the current provisions in the Bill?

People with dementia are core users of care and support services and it is vital that regulation and inspection places the needs of people with dementia at its heart. However, the Bill as currently drafted does not adequately protect people with dementia who are living in adult care homes or who receive domiciliary care. This is because, in contrast to residential child care workers, domiciliary care workers and workers in adult care homes are not currently required to register with Social Care Wales. Recent reports from Southern Cross, Mid Staffs and Operation Jasmine focus on the abuse and neglect of older people and demonstrate that current legislation is not succeeding in protecting all vulnerable older people and the Bill does not currently go far enough in improving the situation.

Alzheimer's Society also has concerns about the provision for inspectors to speak in private with any person accommodated or receiving care as part of their service inspections. However, there is no indication as to how inspectors will engage with people who may have communication difficulties as a result of their dementia. Neither is there any indication that it will be possible for inspectors to speak to family carers of those receiving care. If inspectors are not able to communicate with people with dementia and their carers then this reduces the likelihood that recommendations made by inspection reports will meet their needs. Alzheimer's Society therefore recommends that provision is made for inspectors to also speak in private with family carers and that all inspectors receive appropriate training in how to engage with people with dementia.

4. Do you think there are any major omissions from the Bill or are there any elements you believe should be strengthened?

Alzheimer's Society is concerned that the Bill does not go far enough to facilitate integration in inspections. The Social Services and Wellbeing Act will encourage greater integration in Wales, but this does not seem to be a major emphasis within the Regulation and Inspection Bill. It would be helpful if the Bill spelt out more clearly what the expectations were for cooperation and integration in inspections and improvement work. More detail about this is given in our response to question 11.

There also needs to be a greater recognition in the Bill of services for carers. Social care services have a role in promoting the wellbeing of carers as well as the people they are caring for. However, the Bill focuses on those in need of care and support to the detriment of carers. The Bill could be strengthened by adding references to the needs of carers of those with care and support needs.

5. Do you think that any unintended consequences will arise from the Bill?

Alzheimer's Society is extremely concerned about definition of care as relating to 'the day to day physical tasks and needs of the person cared for' and the 'mental processes related to those tasks'. This places the focus on task and time rather than the quality of the interaction and could have the unintended consequence of reducing the quality of care that is routinely provided. Relationships and the quality of human interaction, including the involvement of a carer, are vital elements in safeguarding and in providing high quality care services.

This definition of care could also create confusion as it conflicts with the much wider range of well-being outcomes included in the Social Services and Wellbeing Act. The legislative frameworks need to be consistent with each other and the broader definition included in the Social Services and Wellbeing Bill is the more likely of the two to incentivise better quality care.

6. What are your views on the provisions in Part 1 of the Bill for the regulation of social care services? For example moving to a service based model of regulation, engaging with the public, and powers to introduce inspection quality ratings and to charge fees.

Alzheimer's Society is mostly supportive of the provisions set out in Part 1 of the Bill, including the move to service based regulatory provision and powers to introduce inspection quality ratings.

With regard to the inspection quality ratings, we would reiterate the caveats expressed in our previous consultation response. Any framework must be based on assessments which are meaningful to service users. In particular, judgements must focus on quality of life for service users as well as the quality of care they receive. Alzheimer's Society's Low expectations report found that nearly three quarters (74%) of family members said they would recommend their loved one's home to others, however only 41% said the quality of life of the person with dementia was good. This indicates a significant failing of aspiration about the quality of life that people with dementia in care homes can lead.

Furthermore, given the sensitivities around quality judgements and the potential for judgements to impact on the business viability of providers, it is vital that there is clear accountability around how judgements are made. The Society would also reiterate the need for regulatory staff to understand the needs of service users and recognise excellence in dementia care if quality judgements are to be accurate and trusted.

Alzheimer's Society would also request clarification on some of the detail regarding the service based model of regulation. For example, it is unclear whether 'regulated activity' is the same as 'regulated services'. The definition of regulated services in schedule 1 of the Bill appears limited when compared to the apparent breadth of social care services within the Social Services and Well-being (Wales) Act. Terminology will need to be clearly defined and used consistently. Alzheimer's Society would therefore appreciate clarification on

how services will be included in inspections if they don't fit the definitions provided in Schedule 1.

Furthermore, Alzheimer's Society understands that at present a single inspector carries out inspections. We suggest that the use of a small team of inspectors, thus allowing for validation of findings, might be a good model to promote through this Bill.

Finally, Alzheimer's Society welcomes the move towards greater engagement with the public which is stated in Part 1 of the Bill. However, we would appreciate more clarity about how this public engagement will be made accessible to people with dementia and their carers.

7. What are your views on the provisions in Part 1 of the Bill for the regulation of local authority social services? For example, the consideration of outcomes for service users in reviews of social services performance, increased public involvement, and a new duty to report on local markets for social care services.

Alzheimer's Society supports the provisions in Part 1 of the Bill on the regulation of local authority social services. We particularly welcome the inclusion of assessments of 'sufficiency of provision of care and support' within the proposed duty on local authorities to produce local market stability reports. Many services across Wales are finding themselves under increasing market pressure with services being commissioned on cost rather than quality. We hope that the new duty will encourage services that are better suited for people from a diverse range of backgrounds and with varying levels of need.

8. What are your views on the provisions in Part 1 of the Bill for the development of market oversight of the social care sector? For example, assessment of the financial and corporate sustainability of service providers and provision of a national market stability report.

Alzheimer's Society welcomes the move towards improved monitoring of financial and corporate sustainability. We hope that the national market stability report will make it more likely that future needs of people with dementia will be planned for and met.

9. What are your views on the provisions in Part 3 of the Bill to rename and reconstitute the Care Council for Wales as Social Care Wales and extend its remit?

To some degree, Alzheimer's Society supports the extended remit of Social Care Wales as this should better equip it to improve the quality of training and the standards of social care in Wales. However, we do have some significant concerns about the proposals as currently drafted. These concerns include:

- Potential for conflict of interest in placing so many roles in one organisation

- Ambiguity over Social Care Wales' role in relation to those parts of the social care workforce regulated by other bodies
- Missed opportunity for greater integration

Alzheimer's Society believes that there is potential for a significant conflict of interest in placing so many roles in one organisation. We are particularly concerned about the tensions between Social Care Wales' regulatory function and its role in promoting and developing services as this could make it harder to have the honest discussion of issues that may be necessary prior to the need for regulatory sanctions. Furthermore, in terms of workforce development, it is impractical to expect Social Care Wales to have responsibility both for enforcing training standards and for providing training.

Alzheimer's Society would therefore welcome further information about how it is intended that these tensions will be balanced. We would emphasise that protecting service users should be the primary function of Social Care Wales and that functions relating to the promotion of any professional group should be secondary and separate. Protecting the public is a significantly different role to those of a sector skills council, professional body or education provider.

Alzheimer's Society is also concerned about potential ambiguity over Social Care Wales' proposed role in relation to the whole social care workforce, including those regulated by other bodies. Much of the wording in the Bill implies that all social care workers will be included in sections which specifically relate to regulation and the role of Social Care Wales as a regulator. The Bill needs to acknowledge that there are groups of social care workers who are also registered and regulated by other regulators and to provide clarity about the overlap with existing regulator functions. Definitions of social care workers also need to be clearer at various points in the Bill. While definitions could relate to the whole social care workforce when Social Care Wales is acting in its role as an improvement, education and support agency, there are several instances when it can only refer to those who are registered with and regulated by Social Care Wales and this needs to be stated far more clearly.

This ambiguity also means that there is a missed opportunity for clarification of relationships between different regulatory and inspection regimes. Practitioners registered with and regulated by other regulatory bodies will remain under the jurisdiction of those regulators. Without clarity about the relationship between these regulatory systems there is a potential for multiple regulation which could lead both to confusion about accountabilities and also to onerous regulation and inspection requirements. This seems like a missed opportunity for streamlining and for improving integration in health and social care.

Given the policy direction of greater integration, Alzheimer's Society is also surprised that there is no reference to co-operation in relation to the education and training aspect of Social Care Wales' role. We are aware that the current lack of cross recognition of qualifications between health and social care can

create barriers to more effective integration. It seems that the Bill as currently drafted is a missed opportunity to consider integrated workforce planning, joint course development and approval, integrated career frameworks etc. This is also relevant to our response to question 11.

10. What are your views on the provisions in Parts 4 - 8 of the Bill for workforce regulation? For example, the proposals not to extend registration to new categories of staff, the removal of voluntary registration, and the introduction of prohibition orders.

Alzheimer's Society welcomes the intention of the Bill to register and regulate persons providing the services listed in the long title. This should go some way towards maintaining the safety and wellbeing of people with dementia who receive services. However, action in this area needs to go further than is currently being proposed..

Workforce regulation should be proportionate to risk and, as mentioned in our response to question 3, Alzheimer's Society believes that residential and domiciliary care staff supported older people should also be required to register with Social Care Wales. While we welcome the fact that the Bill includes the possibility of registering these staff in the future, we believe that registration should take place as a matter of urgency. The purpose of the regulatory system should be to minimise risk to vulnerable people and the lack of registration indicates that these vulnerable services users who are older are not being protected in the same way as younger service users.

11. What are your views on the provisions in Part 9 of the Bill for co-operation and joint working by regulatory bodies?

Given the greater integration expected by the Social Services and Wellbeing Act, Alzheimer's Society is surprised that there isn't more emphasis on cooperation in the Bill as currently drafted. For example, there is no reference to the potential for joint or integrated inspections with other organisations with regulatory functions. Could this lack of mention in the Bill actually prevent integrated inspections taking place and what would that mean for the integration agenda?

Some services will be inspected by several different organisations such as local authorities, CSSIW and HIW and this Bill could have represented an opportunity to streamline this system. We are therefore disappointed that Part 9 does not go further in promoting cooperative working between Social Care Wales and other regulatory bodies.

Furthermore, the Bill could have offered an ideal opportunity to allow for integrated workforce planning and career frameworks for the whole social care workforce. A framework which recognised qualifications across the sector would enable joint appointments and the movement of staff between health and social care without duplication for qualifications. In order for this to be possible, recognition needs to be given to the fact that workforce

development for some professions within the social care sector may also the responsibility of organisations other than Social Care Wales.

12. In your view does the Bill contain a reasonable balance between what is included on the face of the Bill and what is left to subordinate legislation and guidance?

Alzheimer's Society is not able to comment on this at this stage as there is little indication of what may be included in the subordinate legislation.

13. What are your views on the financial implications of the Bill as set out in parts 6 and 7 of the Explanatory Memorandum?

Alzheimer's Society is concerned that the current significant underfunding of the social care sector is not being addressed.

14. Are there any other comments you wish to make about specific sections of the Bill?

The language used in this Bill is not always consistent with the language used in the Social Services and Wellbeing Act. Alzheimer's Society is concerned that this may need to confusion if continuity of language is not achieved.

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