

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 Barnardo's Cymru – RISC 29 / Tystiolaeth gan Barnardo's Cymru – RISC 29



**Title: Regulation and Inspection of Social Care (Wales) Bill**

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## **1. Information and working context of Barnardo's Cymru**

Barnardo's Cymru has been working with children, young people and families in Wales for over 100 years and is one of the largest children's charities working in the country. We currently run 85 diverse services across Wales, working in partnership with 18 of the 22 local authorities. In 2013-14 we worked with in the region of 8,300 children, young people and families directly and a further almost 22,000 through less direct work; including open groups and outreach work. Barnardo's Cymru services in Wales include: care leavers and youth homelessness projects, young carers schemes, specialist fostering and adoption schemes, family centres and family support, parenting support, community development projects, family support for children affected by parental imprisonment, domestic abuse and parental substance misuse, short breaks and inclusive services for disabled children and young people, assessment and treatment for young people who exhibit sexually harmful or concerning behaviour and specialist services for children and young people at risk of, or abused through, child sexual exploitation and young people's substance misuse services.

Every Barnardo's Cymru service is different but each believes that every child and young person deserves the best start in life, no matter who they

are, what they have done or what they have been through. We use the knowledge gained from our direct work with children to campaign for better childcare policy and to champion the rights of every child. We believe that with the right help, committed support and a little belief, even the most vulnerable children can turn their lives around.

- **This response may be made public.**
- **This response is on behalf of Barnardo's Cymru.**

Barnardo's registered Charity Nos. 216250 and SCO37605  
Rhifau Cofrestru'r elusen Barnardo's 216250 a SCO37605

**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?**

- We agree that legislation is needed to address the new requirements of and social care practice resulting from the Social Services and Wellbeing (Wales) Act.
- We welcome the policy intent of the Bill as the basis to secure quality care and support for vulnerable children and young people in Wales and believe that the introduction of two regulations- one of which will focus on the well-being of individuals related directly to the well-being outcomes contained in the National Outcomes Framework will potentially strengthen arrangements to hold providers accountable on the basis of the experiences of children and young people themselves.
- However, careful consideration is needed of the mechanisms through which, in practice the ambition to 'put the citizen at the centre' will be realised for children and young people.
- The Social Services and Wellbeing (Wales) Act requires that those carrying out functions under the Act demonstrate due regard to Part 1 of the United Nations Convention on the Rights of the Child (UNCRC). There are no provisions within the Bill for the scrutiny or regulation of services against the duty to demonstrate due regard to the UNCRC.

**2. What are the potential barriers to implementing the provisions of the Bill and does the Bill adequately take account of them?**

- The Bill is heavily biased towards statutory and independent sector providers and more consideration of application with regard to the third sector is required. We would suggest that direct further

consultation is required with the third sector and we would be happy to contribute to these discussions to ensure that the proposed legislation is fit for purpose across sectors.

- More consideration of the degree to which the policy intent of the Bill can be practically realised as applied to the case of children and young people is needed.

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

- While we do not necessarily believe that the protection of children is jeopardised or that there is inequity in provision for children within the Bill we can identify issues related to the implementation of the Bill that may mean that the policy intent cannot be practically realised without causing children and young people emotional distress.
- For example a child is placed by a local authority in foster placement. The decision about which foster placement this should be is made by an authority on the basis of the placements that are available to them (in-house, or commissioned from the third or independent sector) and suitability of the placement to meet the needs of that child. In a scenario of a child in a foster placement receiving a copy of an annual report about their foster placement providing agency which raised concerns that child will be unable to 'take their business elsewhere' – that decision is outside their control. They would need measures in place such as access to an advocate, IRO etc to speak on their behalf with their placing authority. They may be happy in their foster placement but become aware that the provider agency is not doing well and may be deregistered. While this is an unlikely scenario what measures would be put in place to ensure that the child is able to: understand their right to know; exercise their right to know/access information such as annual reports; get support to understand what the information means; exercise their right to move to a new placement is they have concerns about the placement provider with whom they have been placed? Without adequate support the impact of information could be potentially detrimental to their feelings of stability and to their emotional well-being.

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

- We believe that there needs to be further consideration of application in relation to the third sector. For example para 3.73 in relation to Responsible Individuals the list provided includes:

'owner, partner, member of company's board or senior official in the local authority'. Further clarity is needed in relation to who such an individual might be in the context of a voluntary organisation. Technically as applied to Barnardo's this might mean that the CEO who oversees Barnardo's UK or a member of the organisations Corporate Management Board would be responsible because of our registration with the Charity Commission and our corporate structure as a UK organisation. However the Director of Barnardo's Cymru or a member of the Senior Management team in Wales might be a more appropriate person. Greater clarity is needed. This does not mean that we are against the introduction of a provision to introduce a statutory Responsible Individual requirement.

- Barnardo's Cymru is currently registered as an adoption agency (at the UK level and registered in England), as a fostering provider, for domiciliary, full day care, sessional day care, crèche, and home based support. We are not clear what the future arrangements for the registration and regulation of our services not covered by the Bill will be?

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

- We do not object to the proposal to introduce a service based model of regulation. However the implications of this for us as an organisation providing regulated services in Wales is unclear. Currently because of the way in which we are registered as a UK charity our adoption work in Wales is regulated in England and inspected by Ofsted. At the same time our fostering services are registered in Wales and regulated by CSSIW. We are unclear on the interpretation of the Bill proposals as set out in the Explanatory Memorandum. Would the changes proposed mean that both our adoption and fostering services would be registered and regulated in England or that they would both be registered and regulated in Wales in the future. As currently worded we are unclear and the proposals could be interpreted as leading to either outcome.

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

- These issues are dealt with largely in our answers to earlier questions.
- We have raised questions about the implications of the move to a service based model and the impact this might have on us as a UK registered charity operating in Wales as Barnardo's Cymru (question 5 response).

- We have raised issues about the need for additional consideration of how the provisions of the Bill in relation to engaging the public can be realised and delivered in a way that meets the best interests of the child (question 3 response). The same considerations would have to be given in relation to powers to introduce 'quality ratings'. The Children's Commissioner for Wales raised concerns about the impact that the traffic lighting of schools had on the well-being of children attending schools rated as needing considerable improvement. What would be the impact of a child receiving information that they had been placed with a foster placement provider with a low quality rating? This is not to say that failing service provision should not be identified, challenged and dealt with. However in reality while this information is important for commissioners etc a child will not be in a position to demand that they receive a new placement with a provider with a higher quality rating. There would have to be a process of support and a response to a poor quality rating that assured a child that their wellbeing was important and that they were not to be left in a placement with a provider who had received a poor quality rating.
- We share the concerns set out in para 3.101 in relation to the introduction of registration fees. The demands of a new social care system as introduced through the Social Services and Wellbeing (Wales) Act at a time of constrained public funding already present a challenge for the statutory sector and for the voluntary sector in terms of commissioning demands of 'more for less'. Additional financial demands on the system at this time could potentially put further strain on systems in a way that could undermine the policy intent of the Bill.

**7. What are your views on the 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.**

- We welcome provisions for consideration of outcomes for service users in reviews of social services performance related directly to the wellbeing statement and national outcome framework.
- We have set out elsewhere the challenges of public involvement for children and young people and adequate consideration must be given to the measures needed to ensure that this policy intent is realised in a meaningful way for children and young people.
- What is the relationship between the duty to undertake a population well-being assessment to inform social care commissioning under Part 2 of the Social Services and Wellbeing (Wales) Act and the duty to report on local markets for social

care services? It would be useful to set out the relationship between these two processes.

**8. What are your views on the provisions of 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.**

- We routinely supply information on the financial and corporate sustainability of our organisation as part of commissioning processes and with regard to due diligence processes. It would be useful to ensure that the requirements of the Bill do not duplicate current processes but rather provide a framework to consolidate information which is already required by commissioners.

**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?**

- The reconfiguration and extension of functions of the Care Council of Wales as Social Care Wales offers the opportunity for a joined up approach to social care improvement and support for practice development.
- However clear governance arrangements to support transparency will be needed to ensure that as workforce regulator and social care improvement agency Social Care Wales is able to maintain an independent position to that of Welsh Government. There should also be consideration of clear lines of accountability and strong working relationships with independent bodies such as the Children's Commissioner for Wales.
- We are unclear whether the remit of Social Care Wales in terms of social care improvement will extend beyond the remit of regulated professions to the wider social care workforce?
- We would seek assurance that social care improvement programmes take full account of the need to include the voluntary sector social care workforce in opportunities for training and practice development.

**10. What are your views on the provisions in Part 3-8 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.**

- We support measures to support a high quality social care workforce but we do not believe that there is a need to extend registration to new categories of staff. The power to extend

registration would require proper consultation with all social care worker employers and any extension would need to be introduced over a reasonable time scale.

- We support the introduction of prohibition orders to ensure that children and young people are safeguarded.
- We would welcome further details on the ways in which the regulation of education and training for social care workers will operate. All our staff and volunteers receive mandatory training in safeguarding and child protection, equality and diversity and confidentiality and data protection. Additional training offers on issues such as recording, specialist areas of practice and evidenced interventions are also provided. Will the workforce regulator be required to assess the quality and standard of the training we offer to our staff or will we be required to ensure that staff attend training accredited or assured by the workforce regulator? If the role of Social Care Wales includes the inspection and approval of courses for the registered workforce will this power extend to the inspection and approval of education and training for the non-registered social care workforce as a result of the power to regulate the education and training of the 'social care workforce' – is this the wider social care workforce?
- We would seek assurance that grants and access to education and training to support the social care workforce will be made available to voluntary sector providers as well as the statutory sector.