

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 Sense Cymru – RISC 26 / Tystiolaeth gan Sense Cymru – RISC 26

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Sense Cymru is a national charity that supports and campaigns for children and adults who are deafblind. We provide tailored support, advice and information as well as specialist services to all deafblind people, their families, carers and the professionals who work with them. In addition, we support people who have a single-sensory impairment with additional needs.

Deafblindness is the combination of both sight and hearing difficulties. Most of what we learn about the world comes through our ears and eyes, so deafblind people can often face problems with communication, access to information and mobility. People can be born deafblind or become deafblind through illness, accident or in older age. Around 18,850 people in Wales are affected by a combination of visual and hearing impairments.

Sense operates a number of day and residential services across the UK and, whilst we do not currently operate a regulated service in Wales, we support deafblind people who access regulated care and support services in addition to the specialist one-to-one services we provide.

For example, many of deafblind adults of working age whom we support access care and support services, regulated and otherwise, including care home services, adult placement services and domiciliary support services. Moreover, with 62% of the deafblind population over 70 years old, we know that a significant proportion of older people living in residential care homes will be affected by dual sensory loss, diagnosed or otherwise.

Sense Cymru is a member of the Wales Reablement Alliance (WRA) and the Social Care and Well-being Alliance Wales (SCWAW) and also endorses the joint evidence submitted by these groups.

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?

1.1 Sense Cymru believes there is a need to bring forward legislation to deliver on the proper and appropriate regulation and inspection of social care services in Wales that are in line with the outcomes focused approach introduced to social care in Wales through the Social Services and Well-being (Wales) Act 2014. This legislation provides the opportunity to reform our regulation and inspection regime into one that genuinely considers the issues that matter to the people who use the services.

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

2.1 N/A

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?

3.1 Sense Cymru is concerned that a requirement to demonstrate due regard to the United Nations Convention on the Rights of the Child, the United Nations Convention on the Rights of Disabled People and the United Nations Principles for Older Persons is not explicit on the face of the Bill as it is in Section 7 of the Social Services and Well-being (Wales) Act.

3.2 We are concerned that the potential for some divergence of protection thresholds between regulated services and registered workforces for children or adults exists.

3.3 To ensure that the provisions are delivered in a way that values and promotes equality, we would expect regulations setting out the format of annual reports to include reporting on delivery of duties under the Equality Act. This should include how a body has made reasonable adjustments for service users with sensory loss.

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

4.1 Section 2(1), and Schedule 1, of the Bill lists clearly the services which will be regulated. 2(1)(h) makes provision for subordinate legislation to add to the services listed on the face of the Bill. This is right and proper to ensure that the burgeoning of user-led, social enterprise and cooperative services – a desired consequence of the Social Services and Well-being Act – can be accommodated within the regulation regime should this be appropriate.

4.2 In addition to the services to be regulated listed on the face of the Bill, many deafblind people in Wales will use care and support services, including those that deliver personal care such as Extra Care and day services.

4.3 We therefore welcome the Minister's public commitment to making use of regulation making powers to add to the list of regulated services, starting with advocacy, in his

evidence to the Committee on 25 March 2015. However, we would like to ensure that as the regulation and inspection regime proposed under this Bill is strengthened over time, that appropriate time and notice is given to care and support service providers whose services may become regulated, as the impact on their business and planning will be significant. We therefore propose that regulations under 2(1)(h) are subject to a super affirmative procedure.

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

5.1 We are keen to promote the expansion of user-led services and innovation within the care and support system, as made possible by the Social Services and Well-being Act, and we are keen to see people receiving care and support services, including deafblind people, lead in developing new service models. It is possible that the potential to be included as a regulated service could act as a barrier to the innovation envisaged by the Act.

5.2 Likewise, the Social Services and Well-being Act's promotes the voice and control of people with care and support needs. This means there is the possibility of an increase in the number of people exercising control over the services they receive through the use of Direct Payments. We can expect an increase in the number of people using their Direct Payments to purchase services that might traditionally have been provided in the regulated services listed on the face of the Bill. These people will therefore be receiving unregulated services and there are safeguarding implications that will need to be addressed.

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.

6.1 **Service based model of regulation:** We support the move to a service based model of regulation. The regulated services listed on the face of the Bill, and those to be listed in Regulations, will provide clarity for service providers seeking registration and should serve to simplify and streamline the registration process.

6.2 **Engaging with the public:** We agree that the service regulator should be required to involve citizens in its work at a strategic and operations level. The service regulator should be required to engage with the full spectrum of citizens, including the hardest to reach who are most likely to be in receipt of care and support services. We expect the Welsh Government's policy document outlining how it will engage citizens to address how the process will be fully accessible to deafblind people, including deafblind children and young people, and people with sensory impairments with additional disabilities.

6.3 **Quality ratings:** We support all moves that make it easier for people to make informed decisions and choices about the care and support they receive or their friends and relatives receive. Quality ratings will need to be available in accessible formats, including in easy read formats.

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.

7.1 If we are to fully follow the thrust of the Social Services and Well-being Act to promote people's personal well-being outcomes, then it is imperative that the regulatory framework monitoring the provision of social care under this Act also takes performance against well-being outcomes as one of its measures. We therefore support the move to bring the regulatory framework in line with the National Outcomes Framework. A framework incorporating the proposed Quality Framework, replacing National Minimum Standards, alongside individual outcomes should ensure the right balance and focus for a reformed regulation regime. However, we are uncertain as to the practicalities of monitoring an area's performance against individual outcomes. This duty on Local Authorities must be realistic and achievable.

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.

8.1 Sense Cymru supports the intention to produce a national market stability report.

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?

9.1 Sense Cymru does not object to the renaming of the Care Council for Wales as Social Care Wales.

9.2 It is right and appropriate that Social Care Wales will have a new duty placed upon it to make information about its work regulating the care and support workforce available to the public and to engage the public in its work, in line with the parallel duty on Ministers in relation to their function as the service regulator.

9.3 We agree in principle with the extension of the workforce regulator's remit. We agree with the intention to create a more efficient and coordinated approach to developing the social care workforce in Wales, minimising potential duplication with other Welsh Government funded agencies.

9.4 However, we believe there will be a need to exercise caution and transparency as Social Care Wales takes on the double role of regulator and promoter, and potential conflicts of interests this may incur in being responsible for both improving and regulating social care workers. Other bodies with similar dual (and potentially conflicting) responsibilities, such as the Welsh Language Commissioner, have sought to deal with this potential conflict of interest through carrying out their duties to promote and improve only to those groups that are not specified in regulations. This is not an option open to Social Care Wales, which is specifically responsible for developing social care workers in Wales, including the regulated workforce.

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.

- 10.1 Sense Cymru recognises that it may not be appropriate in terms of capacity and resource for the regulator to extend registration to new categories of staff and likewise that not all workers in social care settings will need to be subject to the rigours of registration and regulation. However, we are concerned that the proposed narrow definition of “social care worker” excludes many other workers in the field of social care and that the new terminology is misleading both within the sector and to the public more widely.
- 10.2 The proposals outline that “social care workers” will encompass social workers, those who manage regulated services and those who provide care and support as part of a regulated service. However, there will be services not currently registered – such as in Extra Care and Day Services – that users of care and support, their families and friends, may presume will have staff registered and regulated.
- 10.3 Likewise, many people in receipt of care and support plans under the Social Services and Well-being Act will receive social care services in non-regulated settings provided by a highly skilled workforce. There is merit in describing these workers, as well as the workforce in regulated settings, as “social care workers” and it is likely that both they and the people they support would describe themselves using this terminology. Sense Cymru’s Communicator Guides and Intervenor’s will be among such workers. It could therefore be problematic to limit the meaning of such a generic term as “social care worker” to a specific group of workers amongst the wider pool.

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

- 11.1 The Bill sets out clearly the opportunities for the primary regulatory bodies – the Welsh Ministers through CSSIW and SCW – to cooperate where this will have a positive effect on exercising its functions and where this serves to achieve their general objectives.
- 11.2 However, there is little on the face of the Bill with regards the way in which Ministers will enable the better coordination of CSSIW and the Health Inspectorate Wales. As we understand it, this Bill will not preclude opportunities for greater collaboration but we would welcome further information about Ministers’ intentions to promote joint working between the regulation of health and social care.
- 11.3 Likewise, further clarification about the way in which CSSIW and SCW will cooperate with relevant regulatory bodies, such as the Health and Care Professions Council, both within Wales and across the UK.

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?

- 12.1 Sense Cymru is not aware of any duties that should be placed on the face of the Bill that are currently left to subordinate legislation.

12.2 However, due to the number of provisions in relation to subordinate legislation, we have some concern that we are not able to fully consider the Bill without some greater indication of 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?

13.1 Sense Cymru does not have a position on the financial implications of the Bill.

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

14.1 N/A