



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 NSPCC Wales - RISC 20 / Tystiolaeth gan Y Gymdeithas Genedlaethol er Atal Creulondeb i Blant - RISC 20

## **Response to**

# **National Assembly for Wales' Health and Social Care Committee's Consultation on The Regulation and Inspection of Social Care (Wales) Bill 2015**

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**MAE POB PLENTYNDOD WERTH BRWYDRO DROS  
EVERY CHILDHOOD IS WORTH FIGHTING FOR**

## About the NSPCC

We're leading the fight against child abuse in the UK and Channel Islands. We help children who've been abused to rebuild their lives, we protect children at risk, and we find the best ways of preventing child abuse from ever happening.

Abuse ruins childhood, but it can be prevented. That's why we're here. That's what drives all our work, and that's why – as long as there's abuse – we will fight for every childhood.

We help children rebuild their lives, and we find ways to prevent abuse from ruining any more. So when a child needs a helping hand, we'll be there. When parents are finding it tough, we'll help. When laws need to change, or governments need to do more, we won't give up until things improve. Abuse changes childhood. But so can we.

## Introduction

### Key issues

- Human rights should be at the centre of the regulation and inspection regime. **Despite the strong focus on outcomes, NSPCC Cymru/Wales is disappointed that there is no duty for persons exercising functions under the Bill to have due regard to the United Nations Convention on the Rights of the Child (UNCRC), the United Nations Principles for Older Persons and the United Nations Convention on the Rights of Disabled People.**
- Due to the numbers of provisions to be determined by subordinate legislation, **NSPCC Cymru/Wales is concerned that it is difficult to build a picture of what the full effect of the Bill will be, beyond section 5 of the Explanatory Memorandum.**
- NSPCC Cymru/Wales welcomes the provision for publication of local authority annual reports on the exercise of their social services functions. **We feel these reports should contain provisions on how well children who return home from care are supported to stay with their families, as this is not currently published.**

NSPCC Cymru/Wales welcomes the opportunity to respond to the Health and Social Care Committee's consultation on the general principles of the Regulation and Inspection of Social Care (Wales) Bill 2015.

*Outcomes based regulation and inspection regime: welcome. Rights based approach and delivering change for service users. Caveat: this will only be truly effective if performance measures are meaningful. (Will the NOF apply to all providers?)*

The NSPCC is an independent social care provider and the majority of our resources come from donations. NSPCC Cymru/Wales delivers a number of services to children and young people in Wales in three centres based in Cardiff, Swansea and Prestatyn. Our areas of focus are as follows:

- Physical abuse in high-risk families
- Supporting children in care
- Babies
- Sexual abuse
- Neglect

However, our services are not provided within a residential setting and as such **do not fall within the remit of the service regulator or the Bill.**

The audit and inspection of our services is carried out by an internal inspection unit, whose role is to promote and ensure the highest professional standards and the continued improvement of services and activities. The Inspection Unit is independent of the activities which it inspects. It does not undertake line management tasks outside the unit.

All inspections are individually planned within an established methodology which draws on recognised inspection practice, for example from the statutory inspectorates. All inspection reports are submitted to the Chief Executive and representatives of the Board of Trustees.

The views of children and young people who are service users are collected through a variety of channels during the inspection of our various services. Inspectors can set up on-line chats through the NSPCC on-line community N-Spire, which has been developed by young people; have face to face conversations or observe sessions. These will then be included in the inspection report.

In addition, some of the practitioners who deliver our services are qualified social workers, and as such are subject to the Care Council for Wales requirements for registration and professional development.

NSPCC Cymru/Wales is a member of the Social Care and Wellbeing Alliance Wales (SCWAW). SCWAW seeks to identify, and address, issues affecting social care and wellbeing and their impact on people in Wales. We support the comments submitted by SCWAW in their response to the consultation.

## General

**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 NSPCC Cymru/Wales feels that the Bill has the potential to improve the regulation and inspection of social care in Wales to achieve better outcomes for service users. The Explanatory Memorandum (section 3.9) clearly states the need for legislation in order to avoid loopholes and complexity.

1.2 However, we feel that the Bill needs to be strengthened in a number of areas.

1.3 Improved well-being and outcomes for service users can only be achieved if a rights-based approach to regulation and inspection is adopted. NSPCC Cymru/Wales feels strongly that **there should be a due regard duty to human rights treaties (UNCRC, United Nations Principles on the face of the Bill in the same way as section 7 of the Social Services and Wellbeing (Wales) Act 2014.**

1.4 NSPCC Cymru/Wales agrees with SCWAW's view that the objective to improve information sharing and co-operation would be best achieved by a more explicit expectation to work with all other regulatory bodies in Wales. This includes regulators of members of the social care workforce already regulated by other, often UK regulators and co-operation with existing health inspectorates and workforce and improvement bodies.

1.5 We also feel that the improvement of workforce development and regulation will require co-operation with a range of other bodies and clarity over how the bill relates to different groups of workforce in different ways.

## **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 The provisions of the Bill will not be implemented effectively unless a rights-based approach to regulation and inspection is adopted (see our comments under paragraph 1.3).

## **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?**

3.1 NSPCC Cymru/Wales feels that there is a potential issue of equality in relation to children and young people. A significant part of the Bill is about service users accessing service performance information and making an informed choice about their care and support options.

3.2 In order for children and young people to have access to service performance information, there will be a **need for this information to be available in a language and format they understand.** There is also a need to recognise that having access to performance information in relation to some children's placements, for example residential

placements, could be potentially unsettling for vulnerable children. It is imperative that access to information is **managed in a sensitive way, and that independent sources of support and advocacy are offered to the child or young person.**

## Provisions in the Bill

**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 quality ratings and to charge fees.**

6.1 We can see the benefit in being able to single out a poorly run service without affecting others run by the same agency. **We are pleased that the Bill only requires service providers to register with the regulator once,** with the possibility to vary initial registration. This allays the concern we expressed during the consultation on the White Paper that moving to a service based model of regulation could increase the administrative burden on service providers, as they would need to complete separate paperwork for each service. We saw this as a particularly big issue for smaller, third sector service providers, who may not be able to continue operating under increased administrative requirements.

6.2 NSPCC Cymru/Wales agrees that quality ratings can be a useful tool to aid greater transparency and scrutiny. However, it is important that a quality judgement framework is used in a way which can identify how progress can be made rather than just becoming a way to score services against each other.

6.3 In our response to the White Paper, we expressed concerns about proposals to introduce a fee for the registration of care and support services. We felt that this would have a potentially serious impact on third sector and small providers, particularly as it was unclear whether an organisation providing multiple services would have to pay multiple fees. Sections 3.98 to 3.101 of the Explanatory Memorandum do provide helpful information on the intended effect of the legislation, and **we are pleased that the Welsh Government has stated that the introduction of a fee should only take place if the impact on the market is understood and worked through, and that work will take**

**place with the sector before deciding whether to introduce a fee for service registration.**

**7. What are your views on the provisions in Part 1 of the Bill for the regulation of local authority 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 We agree with the Bill's approach which places citizens at the centre of service delivery. It is right that their wellbeing should be viewed as one of the benchmarks driving service performance and improvement.

7.2 An outcomes-based approach is also particularly useful to ensure that the United Nations Convention on the Rights of the Child is fully embedded into service delivery.

7.3 We will be concentrating comments on local authorities' annual reports on social services performance. We feel very strongly that they should **contain information about how well children who return home from care are monitored and supported to stay with their families.**

7.4 The majority of children who leave care return home to live with a parent, relative or other person with parental responsibility. Statistics show that in the last 3 years, more than half of children leaving care did return home (51%).

7.5 Unfortunately, returning home does not seem to guarantee stability for children. A recent request from NSPCC Cymru/Wales to Stats Wales shows that 27% of children who went home in 2008/09 had returned to care by 31st March 2014. Figures also show huge variations between local authorities: in some areas, only 14% of children who went home 5 years ago have returned to care, but in others, nearly half have returned (47%).

7.6 Failed attempts to return children home from care can cause them lasting harm. Repeatedly moving in and out of care has a profoundly damaging impact on our most vulnerable children.

7.7 Key to supporting children who return home from care to stay with their families is **measuring how well local authorities monitor and**

**support them. There is currently a lack of data being routinely collected about children who return home from care. Better data would allow managers to target resources on those children and families who are most likely to be in need of a more intensive service. Better data collection would also allow local authorities to measure the impact of their reunification practice.**

7.8 This should form part of local authorities' annual reports and we would wish to see **regulations under section 55 of the draft Bill make provision for information on reunification practice and performance to be collected and reported on as part of local authorities' annual reports.**

7.9 Annual reports should evidence progress made in relation to implementing quality standards and performance measures detailed in the draft Code of Practice relating to measuring social services performance, issued under section 145 of the Social Services and Wellbeing (Wales) Act 2014, which is currently out for consultation.

7.10 In the draft Code of Practice, NSPCC Cymru/Wales feels that a number of performance measures should be added to quality standard 5 ("local authorities must support people who need care and support and carers who need support to safely develop and maintain healthy domestic, family and personal relationships") to ensure that information on reunification is collected:

Group 1: children who cease to be looked after when they return home

- How many children returned home from care each year in the previous 3 years?
- How many of the children who return home, re-entered care?
- What was the length of stay at home before returning to care? (less than 3 months, 3-6 months, 6-12 months etc)
- What are the need codes for children who return home from care and for those who re-enter care?
- What was the status for these children at the point at which they returned home (did they have eligible needs for care and support, were they on a child protection plan?)
- How many children experienced further episodes of return home and re-entry into care?



Group 2: Children who are placed with parents on return home:

- How many children were placed with parents in the previous 3 years?
- How many of these placements with parents broke down?
- What were the placement outcomes for these children?
- How many of the children placed with parents had their care order discharged?
- How many of them re-entered care?

For group 1 and group 2:

- percentage of children who were returned to their families in the last year with a care and support plan in place.
- percentage of children who were still in contact with and receiving support from social services one year after returning home.
- Percentage of children who receive support from social services one year after returning home and who are achieving the well-being outcomes in their care and support plan.

7.10 NSPCC Cymru/Wales will also be calling for regulations under section 84 of the Social Services and Wellbeing (Wales) Act 2014 (care and support plans for looked after children) to include provisions for better monitoring and support for children who return home from care.

7.11 With an appropriate care and support plan in place, and robust monitoring and reporting on practice and performance, we can ensure that vulnerable children and their families are supported to stay together in a way which safeguards and promotes children's well-being.

**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 We support SCWAW's comments and agree that improvement of workforce development and regulation will require co-operation with a

range of other bodies and clarity over how the Bill relates to different groups of workforce in different ways.

10.2 As we indicated in our response to the White Paper, we support the removal of voluntary registration.

10.3 We have some concerns over the introduction of prohibition orders. A negative register will have to be carefully drawn up in order to ensure that there is no duplication with the disclosure and barring scheme (DBS) which is already up and running in England and Wales. The scheme is already recording centrally those people who are unsuitable to work with children or adults in education, caring and supportive roles. Developing a negative register could create an added layer of administration, and overlap with the DBS. There could also be an element of doubt if a person is barred on one register but not the other. **We are pleased that Ministers only intend to introduce such a scheme after full consultation across the sector.**

## **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 As was highlighted by SCWAW in their response, we are concerned that these refer only to co-operation in relation to social workers. There needs to be explicit reference to interaction in relation to the NHS and other parts of the sector. Section 174 identifies the regulatory bodies as Welsh Ministers and Social Care Wales. It is disappointing there is no reference to co-operation and joint working with the Health and Care Professions Council, the Nursing and Midwifery Council and other regulators. The alliances consider this might be a missed opportunity to deliver increases of efficiency in regulation.

11.2 We are disappointed there is no reference to co-operation in relation to the wider roles of Social Care Wales given both the policy direction for, and reliance on, greater integration for the delivery of the change desired from the Social Services and Well-being (Wales) Act. For example, workforce development and education commissioning for occupational therapists, nurses and others is undertaken by the Workforce Education Development Service. There seems to be a missed opportunity to consider integrated workforce planning, joint course development and approval and integrated career frameworks for the whole social care workforce. The Bill offers an ideal opportunity to co-operate in recognising

qualifications across the sector to allow joint appointments; integrated working and movement of staff between local government and NHS employers and reduce the need for staff to 'redo' similar qualifications to named recognised qualifications by one part of the sector.