

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 Hawliau - RISC 34 / Tystiolaeth gan Hawliau - RISC 34

Response to Consultation on Regulation and Inspection of Social Care (Wales) Bill RISCWB By The Health and Social Care Committee, National Assembly for Wales.

1 This response focuses on some specific issues within the context of the Bill rather than responding to individual consultation questions.

2 Values

Much of the draft legislation is process driven which whilst helpful also separates out the different stakeholders from the process. There is much to be proud of in Public Services in Wales. However I would argue that much of the poorer practice (in Wales and the UK) stems from unresolved value conflicts or professionals using poor values framework, which are harmful. As there is much policy and practice change currently it may be helpful to explore a suggestion within the Williams Commission that a cross sector public service values set is developed which is used to drive much of the current proposed changes. We are yet to develop Key Performance Indicators to measure values and their impact upon Public services in Wales. We should not lose the opportunity that the Bill provides to do so. As a start we could develop more creative approaches to interviewing for posts as some organisations are now beginning to use values based interviewing with clear benefits for service users.

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3 Exploring the role of values in public services is especially important as public services not only have to deal with the legislative changes but also demographic, financial and resource changes and the impact of social media to mention only a few of the changes they face. Perhaps the greatest challenge facing them is greater public expectations of what public services do and do not do. A clearer value framework would therefore help to drive the systemic changes, which are needed within public services in Wales. Issues such as 15-minute domiciliary care visits, poor terms and conditions (including zero hours contracts) for some residential and domiciliary staff and non-reporting of abuse would not have arisen if a clear values framework were embedded within and across all public services. Whilst there are definitional issues around what public services are, for the purpose of this submission I define them as any organisation delivering public services whether statutory or from the Third or Private sector. The narrow definition of “partner” as used within part 9 of the Social Services and Well Being (Wales) Act 2014 SSWBWA could impact negatively on parts of the Public Services.

4 Partnership Working

There are many positive examples of partnership working across Wales. There are also the less good as well. Whilst SSWBWA attempts to address partnership-working deficits where they exist it does it by putting it on a statutory footing. Which of course whilst being important to legal positivists does not address the softer issues of why some partnerships are ‘great’ and others are ‘poor’. Whilst an outcomes framework will attempt to address some of this I would suggest that we need to formally evaluate the effectiveness of partnerships, which deliver against the duties of the SSWBWA. There are lots of practice examples around Safeguarding where these models do exist however they need to be part of the formal impact and outcomes measurement framework introduced by the Bill and building upon SSWBWA.

5 Workforce

We do not have a fully individually regulated workforce within the Social Care Sector in Wales. Many workers who work with vulnerable citizens are outside the regulated workforce. We should take the opportunity, which exist under RISCWB to fully include all staff (temporary, permanent and agency) that work within the Social Care Workforce. An acceptance of a two-tier workforce some of whom are regulated and some who are not demeans our commitment to be ‘An age friendly Wales’ amongst other things. In my view whether this lack of regulation is caused by ignorance or structural ageism (as many unregulated staff work with older people) is a problem, which needs to be addressed. Whilst I realise that payment rates for residential care workers is outside the remit of this committee paying a living wage would begin to address the staffing challenges and help to bring stability to the sector.

6 Anecdotally I am aware that the automatic choices for job offers from job centres to the unemployed are Call Centres, Bar Work and Residential Care Work. This assumes that anyone can do care work which is obviously not true. The Bill therefore offers the opportunity to support that workforce and improve their terms and conditions, which we know will impact positively upon the care they provide. The recent review by the Older Peoples Commissioner into Residential Care for Older People, Historical Abuse Allegations, Operation Jasmine and the Winterbourne Review show us what happens when 'care' goes wrong. We should therefore use this Bill to ensure that all of those reports recommendations are included on the guidance to support the bill as it is developed. Sometimes we do not learn from history and the bill is an opportunity to do that.

7 In the way the workforce is structured there seems to be some rigid barriers between organisations and settings. It is often the case that the Inspectorate is made up of permanent workers who have been there a long time who often will have some distance between their most recent practice experiences. If some of these boundaries could be changed and secondments were available between various parts of the workforce inevitably there would be a greater understanding of the Inspected and Inspectorate various roles and challenges. Talking to colleagues within agencies there seems to be very much a 'Them and Us' mentality rather than a belief that all of us are there 'to serve the people of Wales'. Culturally this is important, as whilst we do not want a weak inspection system we also want to focus on well being as defined by the individual ensuring that protection is robustly inspected. Whilst I know there have been lots of work to develop the use of Lay Inspectors etc. this work could be further developed.

8 Whilst much of the Bill focuses on process and of course explores culture of Inspection their needs to be further exploration of the cultural issues impacting upon the Social care sector in Wales and how these are addressed. It is time for a positive media strategy for social care rather than the reactive news stories we tend to see at the moment. Having come from the Third Sector I am often surprised how colleagues within statutory services focus upon a reactive media strategy rather than a proactive media strategy. The Inspection process as a good news story could be used to begin this process in Wales. Whilst there are some challenges there is also much to celebrate.

9 New Service Models

As the act beds in boundaries between professional will change and it could be argued disappear in some cases. Whilst the 'can and can only' test will ensure a focus for individual professional the focus on Prevention (Section 15) and Information Advice and Assistance (Section 17) within SSWBWA offer real potential for doing

things differently and in creative and exciting ways. As I said earlier the Bill is very process driven which I would argue does not allow or support professional to take reasonable risks. I am interested in how Health and Safety has been used within organisations to be unsupportive to staff and service users. There really therefore needs to be a debate with service users, service providers, regulators and other stakeholders about how regulation and inspection responds to individual often reasonable requests which are turned down on the grounds of risk. It should be clear that this is not risk relating to protection but risk relating to process

10 I know from talking to individual professionals and within organisations how frustrating the risk averse culture is in 2015. The Bill therefore when it issues Codes of practice etc. needs to address this. This is especially important, as Public Services will be based upon SSWBWA and other legislation delivering new services in new ways. This will be what people need for their well being and not slotting what people need into the services we provide. Included in this development should be the significant work needed to support commissioning to deliver according to the principles of the SSWBWA and not many of its current process driven models.

11 Equality

There is still concern that the Medical Model of Disability is embedded within the SSWBWA rather than the Social Model of Disability. If this remains the case and of course Part 2 Regulations and Codes of Practice are still to be debated by the NAFW then the inspection regime may need to take cognizance of this. A robust inspection regime taking account of the International Convention for Disabled People would address this deficit within the SSWBWA.

12 Whilst the EIA for the Bill does explore Gender it could be argued that the Bill from a regulation perspective needs to explore in greater detail than it does. The gendered impact of social care both from the perspective of those receiving services and those providing them. The workforce in Wales is now attracting a range of Migrant Workers. Often their training in their home countries has been different to UK based training and they will have different expectations of the role of social care and how it is provided. Whilst it is not a major issue, it might be helpful to explore the impact upon the workforce of migration, as there could be positive lessons for the workforce in exploring these issues in more detail. This is especially important, as they have worked in their home countries using different models of service delivery.

13 Co Production

Co production of service delivery is at the heart of the expectations of SSWBWA. This in my view building on the points made in paragraph 9 as some of the principles behind the act will need to be inspected in a new way. They will have to be at the

pace of the service user and approaches such as Kafka and Open Space facilitation approaches will need to be within the Inspectors toolkit. Whilst there has been much work done on the Childrens Participation agenda the demise of Funky Dragon will not help support the expectations of the act in doing things differently. Within the Childrens sector it might be helpful to open up dialogue with organisations such as Children in Wales and Voices from Care about how this agenda should be supported in terms of positive changes to the Inspection process.

14 For adults there is a far wider range of stakeholder groups representing a range of issues and of course Participation Cymru and a range of organisations will have a role in this. I am not convinced that all of the workforce broadly has a clear view of A) what this principle means B) what impact it will have in practice and C) how it is to be evaluated. The market shaping aspects of the bill especially as it relates to Section 16 of SSWBWA needs to be explored further. This is especially so in terms of Governance and Risk for Third Sector, Social Enterprises, Co Operatives and User Led Groups. We could see for example Local Authorities or other Commissioners handing over significant liabilities in for example TUPE to small providers. This could have unintended outcomes which could contract the social care market rather than develop it.

15 Structure of the Bill

The Bill appears to be structured into sub parts with much of it being more appropriate to being in regulation rather on the face of the act. As it appears at Stage 1 it is often driven by process rather than principle.

In conclusion it seems to be that an exciting opportunity exists to do things in new ways whilst keeping much of 'what works' currently. The resource implications and training implications (single professional and multi professional) need to be addressed. This will ensure that the bill supports the significant aspirations of SSWBWA and empowers the workforce to deliver social care in an integrated, thoughtful and considered way. Whilst the act and the bill will not address workload as they bed in they will change fundamentally how social care is defined and delivered in Wales.

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24th April 2015