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Regulations and Code of Practice in Relation to Part 11 of the Act

Consultation Response from
ADSS Cymru and WLGA

February 2015

Consultation Response Form

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Introductory Comments:

This is a joint response on behalf of ADSS CYMRU and WLGA to the consultation on the regulations and code of practice in relation to the Social Services and Well-being (Wales) Act.

The WLGA and ADSS Cymru have previously communicated our broad support for the Act's vision and the ambitious principles that it sets out. We welcome its timely nature in the face of increasing pressures on social care services, both within local government and across our partners in NHS and the third sector. We also recognise and appreciate the fact that Welsh Government has worked with all stakeholders to influence the development of the draft codes of practice and regulations.

In responding to the current consultations a number of key themes have been identified and these need to be considered with the proposals set out in the codes of practice and regulations. These themes include:

Financial - We recognise that resources are limited and there is potential for some efficiencies to be achieved as the Act is implemented. However it is also inevitable that the Act will increase pressure on local authorities, for example through increased responsibilities around supporting the needs of carers. There is a need for some 'invest to save' funds and short term resources to allow for new services to be developed, whilst some current services are kept in place and the Delivering Transformation Grant has provided a welcome opportunity to start some of this work. Welsh Government has already recognised that there are some elements that will have clear cost implications for local authorities, e.g. assessing and meeting the care and support needs of prisoners, however the codes of practice and regulations also place a number of other additional burdens on local authorities, e.g. around IAA services, population assessments and meeting the support needs of carers all of which need careful deliberation. Alongside those factors are the increased pressures as a result of existing budget cuts, welfare reform and increasing demand and expectation. Following the publication of the Welsh Government Budget, local councils are warning that funding for local services will fall by £154m, and if local government continues to bear the brunt of austerity, some local services will disappear, for example preventative services. Indications suggest that local government will need to make up a shortfall of up to £900m by 2018, as a result of which many of the services, that communities rely upon, are expected to become unaffordable in the future. While council leaders understand the pressures being placed on the overall Welsh budget, there is a need to acknowledge that continued funding reductions on this scale will have a huge impact on local services. Councils will have no option other than to look seriously at extending their charging regimes, along with different models of delivery, in addition to those expected from the Act. Many of the services, that communities have been able to take for granted and upon which they have relied, are now at risk, including leisure centres, libraries, community facilities and opportunities for day activities.

Implementation - The Act is vast in scope, and whilst we have supported the move to legislate in key areas such as wellbeing, safeguarding and integration, we support the need for a sequential approach to implementation to ensure deliverability. Many elements of the Act will take time to implement in full, with clear training needs for staff or additional resources required. Whilst local authorities are working on the development of IAA services, promotion of social enterprises and an increasing focus on outcomes, experience has taught us that we need to allow time for their proper and healthy development. As such we need to be clear about the expectations for services to be in place from April 2016 and be realistic in agreeing what is achievable in this timeframe.

Preventative Services - The context of increasing demand for services, in part due to well evidenced demographic changes, increase the importance of developing more preventative activities that offer much earlier intervention, with the aim of holding off more costly and potentially intrusive interventions at a later stage. Current austerity measures, particularly affecting local authority budgets, are putting some preventative services and facilities at risk, e.g. closure of leisure centres, reduced hours for day activities, closure of community hubs and meeting places. In addition the potential uncertainty of grant funding, for example Families First and Flying Start, hampers the development and consolidation of key preventative services for children and families. WLGA and ADSS Cymru believe that discretionary services like leisure and culture, are an essential part of local facilities that harness and enhance people's opportunities to 'look after' themselves and promote well-being. Their reduction and in some cases disappearance creates a

barrier to participation and accessibility within communities. Raising the profile of prevention and early intervention is critical to meeting the aspirations of the Act, but with the lack of any significant investment accompanying the Act, local authorities will struggle to give it the priority necessary and will be unable to invest in developing the capacity of neighbourhoods to offer the kind of creative offer that will make a difference to people's lives.

Roles and Responsibilities of Partners – The Codes of Practice and Regulations identify a number of new responsibilities for local authorities and similarly promote amongst partner agencies, in particular LHBs, a sense and duty of shared responsibility, since promoting well-being requires action by all agencies at all levels. The Codes of Practice and Regulations should be strengthened by being explicit in the expectations on partner organisations and specifically identifying sanctions for non-compliance by any of the partner agencies. In addition the Act requires a new way of working and thinking that encourages and requires people to take action to support their own well-being. This needs to be clearly communicated to the public so that a wider dialogue takes place, to ensure that the ideas and facilities develop through co-production.

Training – The workforce will be fundamental to the successful implementation of the Act, a workforce that is multi-agency and multi-disciplinary. The Act requires a very different way of working, particularly around the new approaches to assessment and eligibility. These new approaches will not be simple to apply and will challenge some of the existing practice and training. It will be key to get staff training and development right, in order to support staff to be able to meet the expectations set out in the Act. Time will also be required for this training to ensure that the changes become embedded into people's everyday practice. Some of this work has already started, for example local authorities having an increasing focus on outcomes, however the size of the changes required and the new expectations cannot be under-estimated.

Children's Services – The vision of the Act is welcomed, however it needs to be recognised that it appears to be more easily related to Adult Services and therefore Children's Services face particular challenges in meeting its aspirations. There is a danger that the current strengths of Children's Services are forced to fit into a comprehensive approach when they would work well, as now, in an aligned approach – in particular provisions under Section 17 of the Children Act still have a place under the Social Services and Well-being Act.

The Commission on Public Service Delivery and Governance – The Codes of Practice and Regulations prescribe and recommend different partnership footprints which in itself may cause some confusion due to the inconsistent approach adopted - from the LHB footprint for population assessments, to the public services footprint for Safeguarding Boards and national collaboration for some elements of the IAA Services. We would not to get too caught up on the potential implications falling out as a result of the Commission's work, as these are still unclear, however it is important to raise that there will inevitably be implications for local authorities, how they look in the future and what structures will be in place, which will impact on implementation of the Act.

Both the WLGA and ADSS Cymru welcome the opportunity to be involved in future debates about the issues considered in the consultation papers and remain committed to working with Welsh Government on Tranche 2 of the Act and its implementation.

Chapter 1: Adults and Children in prison, youth detention accommodation and bail accommodation

1. To what extent do you agree that this chapter supports local authorities to undertake the new duties in the Act?

Agree <input checked="" type="checkbox"/>	Tend to agree <input type="checkbox"/>	Tend to disagree <input type="checkbox"/>	Disagree <input type="checkbox"/>
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What else could be included?

For those local authorities that have secure estate within their boundaries, this is likely to be of greater significance because of the likely demand from adults. As the numbers of children in secure accommodation is currently only 50, that burden is not likely to be as serious as with adults, where this new responsibility covers a much greater number of people. Tracking movements of people and, particularly children, between areas and to / from England will need close attention and potentially new collaborative approaches. The chapter offers clarity about the range of responsibilities. There is a question about how to easily make available Info, Advice and Assistance, make sense of the eligibility criteria, offer care and support following a plan and probably offers more clarity about portability and that is likely to frequently relevant as people will want to return to their home area and that will often be in a different part of Wales to the secure accommodation.

2. Are there elements of the care and support system that could be better delivered to those in the secure estates through national collaboration between local authorities?

Agree <input type="checkbox"/>	Tend to agree <input checked="" type="checkbox"/>	Tend to disagree <input type="checkbox"/>	Disagree <input type="checkbox"/>
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It will be essential that information is easily accessible about the availability and range of care and support, as it will inevitably differ between local authority areas as well as between regions. The national portal will prove a valuable resource for prison-based staff as well as local authority staff supporting prisoners and should enable prisoners to understand what may be on offer on their release.

The collaboration within regions will be critical and it will be important that the arrangements developed through MARAC are maintained and further developed to ensure that local authorities hosting any secure estate are not seen as the only authorities with responsibility for picking up the provision of care and support.

It will be important to identify who should lead on any national approach, being clear about what relationships and forums already exist with partners such as NOMS and whether specialist roles are required and if so how these are resourced.

3. How can the code of practice on Part 11 better support the involvement of families of offenders to minimise the impact of custodial sentences on the wider family?

The National Offender Management Service will play a crucial role in working with the families of adults in custody and the code of practice has to reinforce the need for close collaboration both in relation to adult offenders and in relation to the children of adult offenders. We understand that YJB is keen to play a role in ensuring that YOS have good guidelines to understand their responsibilities towards young people in custody and particularly surrounding their release and also their transition into the 'adult' regime of custody and care and support. This latter point is helpfully referred to and endorsed in the code of practice. In addition families will have access to the IAA service and there are tried and tested models to build on, e.g. Invisible Walls in Parc Prison, that can be evaluated and adopted more widely.

Chapter 2: Ordinary Residence and Dispute Resolution

4. To what extent do you agree that the Code of Practice covers all relevant aspects of ordinary residence and dispute resolution?

Agree <input type="checkbox"/>	Tend to agree <input type="checkbox"/>	Tend to disagree <input type="checkbox"/>	Disagree <input type="checkbox"/>
<p>Are there any other issues which need to be included?</p> <p>As with other issues where 'ordinary residence' becomes contentious, local authorities will need to focus on the needs of the person and her/his family, rather than protecting the financial interests of each local authority. The code of practice covers all aspects of ordinary residence, but that is unlikely to remove all possible disputes.</p>			
<p>5. To what extent do you agree that adult placement ('shared lives') accommodation should be included in the regulations on specified accommodation?</p>			
Agree <input checked="" type="checkbox"/>	Tend to agree <input type="checkbox"/>	Tend to disagree <input type="checkbox"/>	Disagree <input type="checkbox"/>
<p>We agree that it is sensible to extend ordinary residence to include people accommodated in 'shared lives' settings, as the aim of the setting is to offer a home, not simply temporary.</p>			
<p>6. Do you anticipate any issues with extending the scope of these regulations to include adult placements?</p>			
<p>No, though as with all elements of the Act it will be helpful to review implementation, what the impact has been and whether any changes are required.</p>			

7. Is there any other type of accommodation you think should be included in the specified accommodation (e.g. supported living?)			
<p>If so, please explain why you think it should be included, any issues this might raise and how they might be addressed.</p> <p>As we develop a wider range of supported accommodation, including extra care housing for older people and 'extra care type' accommodation for people with learning disabilities and for disabled people, there will need to be proper consideration of these and other settings. If the setting offers a person a protected tenancy, that should be treated as any other protected tenancy and therefore be seen as coming within ordinary residence rules. The extent of mental health problems amongst the prison population means that all types of accommodation for people with mental health problems need to be considered for ordinary residence and this may need further deliberation along with issues associated with women and children spending more than a short period in a refuge for victims of domestic abuse, particularly where children are taken into care.</p>			
8. To what extent do you agree with the dispute resolution procedures?			
Agree <input type="checkbox"/>	Tend to agree <input type="checkbox"/>	Tend to disagree <input type="checkbox"/>	Disagree <input type="checkbox"/>
<p>See response to question 4 above. Also the regulations offer a clear procedure and point to the need for authorities in dispute to engage in 'mature' dialogue and they also make clear that whilst there is a dispute, that should not impede the implementation of care and support being offered to the person in question.</p>			
9. Do you think the dispute resolution procedures need to be strengthened in any way? How?			

Are there any omissions, or any aspects which cause you concern?

As set out, they appear to cover all the issues to be tackled

Other

The Welsh Government is interested in understanding whether the proposals in this consultation document regarding part 11: miscellaneous will have an impact on groups with protected characteristics. Protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex, and sexual orientation.

10. Do you think that the proposals in this consultation will have any positive impacts on groups with protected characteristics? If so, which and why/why not?

11. Do you think that the proposals in this consultation will have any negative impacts on groups with protected characteristics? If so, which and why/why not?

12. Re-balancing the care and support system to deliver the new legal framework will require reprioritisation of resources. What are the key actions that need to be taken to achieve this?

13. We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to tell us about them.

Responses to consultations may be made public – on the internet or in a report. If you would prefer your response to be kept confidential, please enter YES in the box.