

BRIDGEND COUNTY BOROUGH COUNCIL
CORPORATE PARENTING CABINET COMMITTEE

5 JANUARY 2015

REPORT OF THE CORPORATE DIRECTOR, WELLBEING

SOCIAL SERVICES AND WELLBEING (WALES) ACT 2014

1. Purpose of Report

1.1 The purpose of this report is to:

- To provide Corporate Parenting Cabinet Committee with a brief overview of the Social Services and Wellbeing (Wales) Act 2014. During the Cabinet Meeting, Members will receive a presentation to accompany this report.

2. Connection to Corporate Improvement Plan / Other Corporate Priorities

2.1 The report links to the following improvement priorities in the corporate plan "*Working Together to improve Lives*".

- Working together to help vulnerable people to stay independent.
- Working with children and families to tackle problems early.
- Working together to tackle health issues and encourage healthy lifestyles.
- Working together to make the best use of our resources.

3. Background

Social Services and Wellbeing (Wales) Act 2014

3.1 The Social Services and Wellbeing (Wales) Act 2014, received Royal Assent on the 1st May 2014; the Bill for this Act was introduced by Welsh Government in January 2013. There is ongoing consultation period in relation to codes and regulations that will be put in place to implement the provisions in the act. The consultation period is due to end on 2 February 2015. The Government intends to implement the act in April 2016.

3.2 The purpose of the Act is to specify the core legislative framework for social services and social care in Wales. In doing so will give effect to the policy stated in the White Paper *Sustainable Social Services for Wales: A Framework for Action*. It is intended that the Act will help local authorities and other partners address the challenges of changing societal expectations, demographic change and a difficult resource environment. The Act introduces a common set of processes for people; it also strengthens collaboration and the integration of services, and provides for an increased focus on prevention and early intervention.

- 3.3 The primary policy objectives in relation to the Act are to improve the well-being outcomes for people who need care and support and carers who need support.
- 3.4 The implementation of the Social Services and Wellbeing (Wales) Act will:
- Strengthen powers for the safeguarding of children and adults, so that vulnerable people at risk can be protected more effectively;
 - Ensure people are assessed on what they need, rather than just on what services are available locally;
 - Ensure that co-production is at the heart of public service thinking; design and delivery, as well as a duty to promote social enterprise and user led co-operatives;
 - Introduce portable assessments, which means if people move from one part of Wales to another they will not need to worry about whether they will receive services in their new area;
 - Facilitate an increased take up of direct payments to meet people's care and support needs; meaning that people will have more control over how these needs are met;
 - Introduce a National Outcomes Framework to set out very clearly what children and adults can expect from social services, to measure achievements and see where improvements are needed;
 - Introduce equivalent rights for carers so that people who care for someone such as an older or disabled relative or friend would get similar rights to the people they care for;
 - Establish a National Adoption Service to improve the outcomes of children in need of a permanent family.
- 3.5 The Act provides a coherent legal framework for adult safeguarding; protecting adults from abuse and neglect. This has been a priority for local authority and partner organisations for many years; however there has never been a legal framework for adults at risk. The Act aims to provide clarity with regard to this issue and will provide local authorities with further duties to ensure enquiries and investigations can be undertaken when it suspect an adult is at risk. Duties are also placed on Local Authority Partners to co-operate and provide information in relation to safeguarding. In addition there are provisions within the Act to enable local authorities to make enquiries about people who they may reasonably suspect are at risk of abuse and neglect and for the first time enables local authorities to apply to the court for an "adult protection and support order". This will confer a power of entry for the first time to practitioners, to facilitate speaking to adults who are suspected to be at risk. Furthermore, the Act establishes a national independent safeguarding board as well as the establishment of regional safeguarding board for children and adults.
- 3.6 The Act also clarifies the requirement on Welsh Ministers to specify the competencies which a person must be able to demonstrate before a local authority can appoint them as a Director of Social Services. The Director of Social Services will be responsible for the exercise of the local authority social services functions, which will include the new functions under the Act.

- 3.7 The Welsh Government originally planned to include reforms to the inspection and regulation of social services in the Act but subsequently decided to make these the subject of a separate White Paper "*The Future of Regulation and Inspection of Care and Support in Wales*", and a Bill is being drafted and will be introduced into the National Assembly for Wales in early 2015.
- 3.8 Consultation on subordinate legislation associated with the implementation of the Act (*including regulations, priority codes and guidance*) is currently taking place during 2014-15 with a view to the greater part of the Act being implemented by April 2016.
- 3.9 Through the new Act the Welsh Government's stated aim is to transform health and social care outcomes for citizens of Wales by ensuring that people themselves are at the centre of decisions about their health, care and well-being, so that they remain in control and are able at all times to maintain their well-being. This means building on the strengths people have, and their networks and community contacts, in order to promote independence.
- 3.10 The national vision requires local authorities to make significant changes in how they both respond to people and in the services that they commission. There is a requirement to work with people to promote their independence by giving them a stronger voice and control, with an emphasis on improving people's wellbeing.
- 3.11 At a local level, it will be necessary to develop a common understanding and application of the assessment of need, and well-being and develop a shared ability to identify and assess the impact of those factors which promote individuals independence and well-being.
- 3.12 The act places a duty of local authorities to enhance the well-being of people in their local area.
- 3.12 The definition in the guidance adheres to the World Health Organisation's definition of well-being:

"a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity"

It also includes people's ability to lead a socially and economically productive life. There is also a requirement to evidence working with people, to deliver the outcomes they want; this is seen as key to promoting well-being and reducing inappropriate admissions to care.

- 3.13 An integrated system of access to high quality information and universal community support, proportionate early intervention and enablement are viewed as some of the ways of achieving this, as well as managed support for more vulnerable citizens. The national guidance sets out its aims and requirements for Health and Social Services.
- 3.14 In June 2014, the Deputy Minister for Social Services announced that she has agreed a working document that details the progress of the National

Outcomes Framework for all people who need care and support and carers who need support.

“The national outcomes framework for people who need and support and carers who need support will provide greater transparency on whether social care services are improving well-being outcomes, using consistent and comparable outcome indicators.”

Gwenda Robert Deputy Minister for Social Services keynote speech to the annual National Social Services Conference in Llandudno 20.06.14.

- 3.15 The date of publication of the outcomes framework is to be agreed at a later time; however, it is anticipated that the new National Outcome Framework, against which the implementation of the Act will need to be measured, will focus on moving from targets to outcomes for individuals, as well as for organisations. In addition a new National Eligibility Criteria for social care will be published and will replace the current criteria based on definitions of low, moderate, significant and critical levels. The new model will base decisions on a discussion about “what matters” - what the person wants to be able to do in life and whether they will require managed care and support for this to be achieved.

4. Current situation / proposal

- 4.1 The Social Services and Well-being (Wales) Act 2014 gives effect to the policy stated in the **White Paper “Sustainable Social Services for Wales: A Framework for Action”**. It provides a legal framework for the policy aims of the Welsh Government in relation to social services, bring together local authorities’ duties and functions.

- 4.2 The 2014 Act has two key policy objectives:

- To improve the well-being outcomes for people who need care and support and
- To reform social services law.

It seeks to:

- Transform the way that social services are delivered, primarily through promoting people’s independence and giving them a stronger voice and control;
- Promote partnership working in social care;
- Enhance the preventative role of social care and health setting out overarching well-being duties to reduce or delay the need for care and support.

- 4.3 This can be seen as part of the wider well-being agenda, in particular the opportunity to explore and support people to achieve individual well-being, either prior to, or instead of, becoming eligible for social care services. Local authorities are charged with providing or arranging preventative services, developing new models of practical responses, based on social enterprise co-operative models as well as user led and with the third sector.

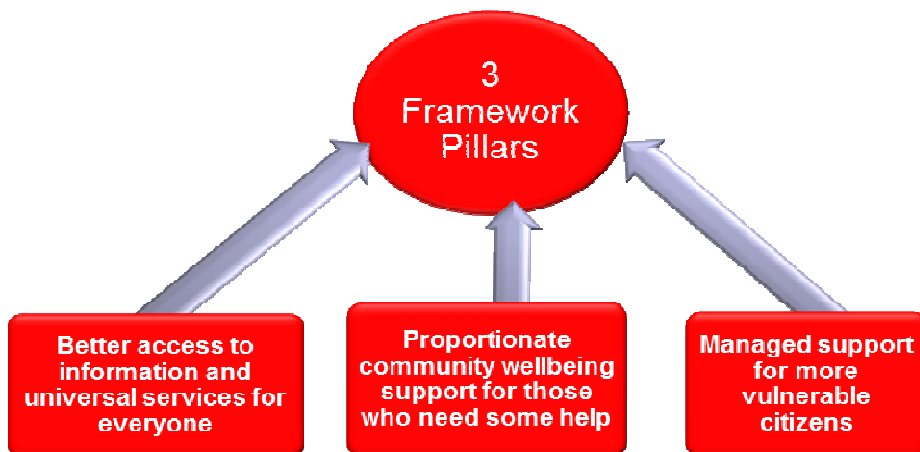
4.4 The Act also strengthens local authorities' duties so that:

- When assessing an individual, the local authority must consider not only the individual's needs and the outcome/s the person wishes to achieve but also the strengths and capacity of the individual, their family and others who may support them;
- Irrespective of whether the individual has an eligible need, they will have access to information, advice and (where necessary) assistance as well as a range of preventative options and other opportunities in the community;
- Better access to good information, advice and assistance to engage the citizen, with links to the resources available in the community to enable people to exercise their voice, choice and control and make informed decisions;
- A wide spectrum of proportionate community-based support which citizens who have needs can access without having to rely on a complex assessment and care package;
- More targeted help to assess individuals and families with significant and enduring needs, and to organise and secure the care and support they require.

New Assessment Framework

4.5 The Act will introduce a new national framework; this will be in three framework pillars, details of which are shown below:

The three pillars of the new assessment framework:



4.6 The assessment of needs informs the eligibility for services within a new national eligibility framework which will be set out in secondary legislation to be made under the Act.

4.7 Proposals from the report prepared by the Welsh Government's Eligibility Technical Group suggest that the criteria will be that an individual would become eligible for social care and support when an assessment establishes that *"they can, and can only, overcome barriers to achieving their well-being outcomes by the local authority preparing a care and support plan and ensuring it is delivered"*.

4.8 The proposed access criteria if adopted, is a step change from the current unified assessment access criteria, and would suggest that the local authority would potentially only provide care and support to people with substantial and critical needs in the future; and that this would also depend on an individual's capacity to overcome barriers, risks, and use of their own resources to manage their needs.

4.9 Specifically for children, the Act places a duty on local authorities to assess the needs of a child for care and support. This is particularly required in cases when it appears that a child may need care and support in addition to, or instead of, the care and support that is being provided by the child's family.

In these situations, the local authority must assess –

- Whether the child needs care and support in addition to, or instead of, the care and support that is being provided by his/her family,

and
- If so, what those needs are and how they will be met

4.10 In carrying out a 'needs assessment' the local authority will have to assess the following:

- a) The developmental needs of the child;
- b) What the child wishes to achieve;
- c) The extent to which those wishes are appropriate having regard to the child's age, understanding and balancing this against the needs of the child;
- d) What those who share parental responsibility wish achieve for the child;
- e) The extent to which those wishes are appropriate having regard to their understanding and balancing this against the welfare needs of the child.

The local authority will have a duty to assess whether and to what extent the provision of care and support, preventative services or information and advice, assistance could contribute to the achievement of those outcomes to meet the identifies in the assessment.

4.11 The Act states that if the local authority is satisfied that a child has needs for care and support, the authority must then determine whether any of the needs meet an eligibility criteria. If the needs do not meet the eligibility criteria, the local authority has to determine whether it is nevertheless necessary to meet the needs in order to protect the child from abuse or neglect. The act states that: "the local authority must meet a child's needs for care and support if it is satisfied that it is necessary to meet the needs in order to protect the child from abuse or neglect or other harm or risk of such harm".

- 4.12 The Act also places a duty on the local authority to meet the needs of a carer who is a child. It also may require the local authority to make direct payments towards the costs of meeting a child's needs for care and support. (Direct payments)
- 4.13 Part 6 of the Act deals with a local authority's duty in relation to Looked After Children (LAC) and details the range of accommodation that must be made available to LAC, ideally within the local area. It specifies the situations when the local authority must provide accommodation and sets out the arrangements for reviewing care and support plans.
- 4.14 Part 7 of the Act deals with matter concerning the safeguarding of both adults and children and details new duties for relevant partners (i.e. LA's, Police, providers of Probation services, Local Health Boards, NHS Trusts and YOS) to report children that are considered to be at risk. It specifies that there should be clear points of contact between the relevant partners within each Safeguarding Boarding.

In relation to adults – a duty is introduced where a relevant partner must report to a Local Authority if it has reasonable cause to suspect that an adult is at risk and mirrors the proposals in relation to those set out for children. There will be the introduction of Adult Protection and Support Orders to enable professionals to be able to gain access to premises to make an assessment and determine whether an adult, alleged to be at risk, is making decisions freely and whether any action is required.

There will be new structures for Safeguarding Boards which will be provided with regulations and guidance. It also specifies that there will be a new 'National Independent Safeguarding Board' to oversee the effectiveness of Regional Safeguarding Boards, give advice and support the Boards to secure improvement and increase consistency in Wales.

- 4.15 Chapter 3 of the Act specifies that regulations may be required to ensure that local authorities arrange for advocacy services are made available to people with needs for care and support and is specific about which people will be entitled to advocacy.

5. Effect upon Policy Framework and Procedure Rules

- 5.1 There is no impact on the Policy Framework and Procedure rules, at this time.

6. Equality Impact Assessment

- 6.1 An Equality Impact Assessment will be developed as part of this programme of change and will assess the relevance of this work to the authority'
- 6.2 There are actions that have already been identified as follows:
- Development of a communication strategy in order that partner organisations and citizens understand and have shared understanding and expectations of community health and social care services.

- Consideration to be given to the equal treatment of English and Welsh languages for service users and staff;
- The establishment of Stakeholder Advisory Groups to support the implementation of new ways of working;
- A concerted effort to change the culture and raise the awareness of staff to the expectations of the Act and new assessment framework and the proposed changes to service delivery and methods of working;
- The production of high quality advice and information.

7. Financial Implications

7.1 There may be financial implications arising from delivering on the local authority's duties and responsibilities associated with the implementation of the Act, however, until further guidance is received, this is difficult to cost. There may also be financial implications for other directorates providing key services such as education, housing, community safety and leisure. Work has commenced on mapping Local Area Co-ordination and preventative (Tier 0) services and a further analysis of the service and financial implications for the local authority of the implementation of the Act will need to be undertaken.

8. Recommendations

8.1 That Cabinet note the content of this report and will consider further updates throughout 2015-16.

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Background Documents

Social Services and Wellbeing Act 2013.