

# **BRIDGEND COUNTY BOROUGH COUNCIL**

## **REPORT TO CABINET**

**15 MARCH 2016**

### **REPORT OF THE CORPORATE DIRECTOR - SOCIAL SERVICES AND WELLBEING**

#### **SOCIAL SERVICES AND WELL-BEING (WALES) ACT 2014**

#### **1. Purpose of report**

- 1.1 The purpose of this report is to update Cabinet on the Social Services and Well-being (Wales) Act 2014, which provides the legislative basis for social services in Wales from 6<sup>th</sup> April 2016. This report sets out the requirements of the Act and the work ongoing to implement the regulations and codes into working practice both at a regional and local level.

#### **2. Connection to Corporate Improvement Objectives/Other Corporate Priorities**

- 2.1 This report links to the following improvement priorities in the Corporate Plan:

- Working together to help vulnerable people to stay independent;
- Working together to make best use of our resources.

#### **3. Background**

- 3.1 The Social Services and Well-being (Wales) Act 2014 received Royal Assent in January 2014 and 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, bringing together Local Authorities' duties and functions.

- 3.2 The Act has two key policy objectives:

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

It seeks to:

- Transform the way in which 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 wellbeing duties to reduce or delay the need for care and support.

- 3.3 This can be seen as part of the wider wellbeing agenda, in particular the opportunity to explore and support people to achieve individual wellbeing, 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.

3.4 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;
- There is 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;
- There is 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;
- There is more targeted help to assess individuals and families with significant and enduring needs, and to organise and secure the care and support they require.

#### 4. **Current Situation / Proposal**

##### Legal Framework

4.1 The Act repeals much of the previous framework of social care legislation in Wales in an attempt to establish a single, clear, modern statute and code of practice that underpins a coherent social care system. It is important to note that some legislation will remain in place including the Mental Capacity Act 2005, including elements of the Children's Act 1989. The primary legislation is supported by regulations (secondary legislation) and detailed codes of practices.

4.2 The Act is made up of 11 parts. These are briefly summarised below:

**Part 1 Introduction** – the introduction sets out definitions underpinning the rest of the Act. The Act moves away from definitions in previous legislation which used language such as age, illness and disability to 'people who need care and support' and 'carers who need support'. The definition of carers is far broader than in previous legislation, removing the requirement that carers must be providing 'a substantial amount of care on a regular basis'.

**Part 2 General Functions** – this part of the Act details overarching duties, duties in respect of well-being outcomes and strategic and operational duties in respect of preventative services.

Overarching duties – The Act requires that persons 'exercising functions' under the Act give due regard to the UN Principles for Older People (1991) and the UN Convention on the Rights of the Child. The duties are:

- Well-being Outcomes - this duty requires Local Authorities to be proactive in seeking to improve well-being for people who need care and support and carers who need support, when exercising social services functions for a person.

- Population Needs Assessments - Local authorities and Local Health Boards are required to work together on a regional basis to produce an evidence base in relation to care and support needs and carers' needs. The first population assessment must be produced by April 2017.
- Preventative services - local authorities **must** provide or arrange for the provision of a range and level of preventative services which they consider will prevent people's needs for care and support and stop needs from escalating. Authorities should promote well-being in delivering universal services.
- Social enterprises - local authorities must promote the development of social enterprises and co-operatives and/ or involve people and carers in the design and operation of care and support and preventative services.
- Provision of information, advice and assistance - Each local authority, with the assistance of Local Health Board partners, must secure the provision of a service for providing people with information and advice relating to well-being, care and support in their area, and (where appropriate) assistance in accessing these.
- Local authorities must develop registers of sight-impaired, hearing impaired and other disabled people.

Bridgend County Borough Council along with other statutory and third sector partners has been involved in a number of working groups around partnership, prevention and planning. Work being undertaken includes: communication planning, community development / local community connection work and the development of an outcomes framework for Wales. A range of approaches are being developed in order to ensure that the service can more effectively respond to people approaching us for information, advice and assistance.

**Part 3, Assessing the Needs of Individuals** – The underlying approach of this part of the Act is for an assessment to be undertaken in partnership with an individual using a more simple approach which reduces unnecessary bureaucracy. Assessments will be proportionate and need to focus on what matters to a person and how they can use their own strengths and resources to do things. It also begins a significant legal change as carers will have an equal right to an assessment. Welsh Government is currently working with key partners to develop a national assessment and eligibility tool.

**Part 4, Meeting needs** – The Act sets out duties to respond to identified needs and determine whether those needs are eligible for managed care services. Determining eligibility requires the assessor to focus on people's strengths and capabilities, as well as on their needs and the barriers they face, to achieve their personal outcomes. The national eligibility framework will bring with it an enforceable right for the individual. The Code of Practice removes any reference to what had become known as the 'can and can only' test for accessing identified care and support. Care and support plans need to identify the role played by unpaid carers, parents, partners and other family members in an individual's care and support. A care and support plan must identify the personal outcomes and set out the best way to help achieve them. Care and support plans will be portable across Welsh local authority borders. Local authorities have a duty to explore innovative ways people's needs might be met through direct payments. A significant change is that direct payments can be used to purchase care and support direct from their local authority.

The Social Services and Wellbeing Directorate has adopted a project management approach to the implementation of the Act and in particular to progress and inform the development of the assessment tools and approach required from practitioner teams. This has required significant work with managers and practitioners, to map out the new requirements, and integrate them into practice tools and a new IT recording system. This work has also ensured that the necessary links have been made with the new Welsh Community Care Information System which is being implemented at the same time. The development of practice guidance to support all practitioners is being developed. Awareness raising sessions have been held over the last 6 months on the changes which the Act requires from Bridgend County Borough Council and its partners.

**Part 5, Charging and Financial Assessment** – This part of the Act identifies the circumstances in which a local authority may charge for providing or arranging care and/ or support including when an authority may charge for preventative services and provision of assistance. It also sets out how charges can be set, paid and enforced. A separate report setting out the new Charging and Financial Assessment is being presented to Cabinet on 15 March 2016.

**Part 6, Looked After and Accommodated Children** – Part 6 of the Act largely re-enacts the provisions in part 6 of the Children Act 1989 relating to looked after children and the various extensive duties on local authorities to meet the care and support needs of ‘looked after’ children and care leavers.

The necessary work to amend current document and practice guidance and work is underway.

**Part 7, Safeguarding** – Safeguarding is a theme that runs throughout the Act. A new duty to report is introduced for relevant partners in relation to safeguarding children. The Act also introduces a new statutory framework for Adult safeguarding and this includes a new duty for relevant partners to report adults who may be at risk. This will enable authorised officers of the local authority to apply to the court for an adult safeguarding and support order if there are significant concerns that an adult is at risk. This will confer a power of entry so that the authorised officer can speak to an adult at risk, but not a power to remove. New structures for safeguarding boards are mandated, with board areas and lead partners prescribed through regulations. Western Bay established safeguarding boards for both children and Adults 2 years ago and they have now aligned their work plans to incorporate the new requirements for safeguarding set out in the Act.

**Part 8, Social Service Functions** – Part 8 of the Act specifies the Social Services functions of Local Authorities. Local Authorities must appoint a Director of Social Services who must demonstrate competencies specified by Welsh Ministers. This part of the Act also provides for grounds for intervention by Welsh Ministers in the exercise of Social Services function, where a local authority is deemed to be failing.

**Part 9, Well-being Outcomes, Co-Operation and Partnership** – Statutory guidance has been issued in respect of Part 9 relating to partnership arrangements between organisations and the need to ensure that effective regional partnership boards are in place. The statutory guidance requires regional partnership boards to prioritise integration of certain areas: older people with complex needs and long term conditions (including dementia), integrated family support services, learning

disabilities, children with complex needs and carers (including young carers). In addition, the guidance now requires the establishment of pooled funds in specific areas: the exercise of care home accommodation functions, the exercise of family support functions and functions that will be exercised jointly as a result of an assessment carried out under section 14 of the Act.

Western Bay has already established a partnership board which is made up of Chief Executives and senior Officers and a leadership board which reflects the political leadership across the region. Work has now begun to develop these to be compliant with the new Act

**Part 10, Complaints, Representations and Advocacy Services** – this part of the Act has three chapters – complaints and representatives, complaints about private social care and palliative care and advocacy services. There are significant changes to ensure that people are able to access advocacy support as part of the assessment process.

The changes required around complaints and representation has been fully implemented and staff guidance has been developed and introduced. In addition e-module learning tools are being developed. Further work is required to ensure that people can access advocacy to overcome any barriers to engagement. The Code of Practice for assessing needs requires the Authority to ensure that individuals are empowered to express their needs and are able to fully participate in the process as equal partners.

**Part 11 Miscellaneous and General** –This part of the Act includes various miscellaneous and general provisions, one of which is a new duty in respect of adults with care and support needs who are in the secure estate in Wales. This duty exists regardless of their place of ordinary residence in Wales or elsewhere before their detention, and a change in how existing responsibilities for the care and support of children in the secure estate whether detained in England or Wales) are fulfilled. There is also a requirement for the provision of information advice and assistance, and where appropriate the consideration for the need to access advocacy in order to support effective participation in decisions around an individual's wellbeing. This has significant implications for Bridgend as it currently has the biggest prison population in Wales, and will take responsibility for assessing and meeting the 'care and support' needs of prisoners whether they are from Wales, England or another nationality. The local authority must also consider in partnership with others how we deliver preventative services needed by those in the secure estate.

The intended amount for Bridgend from Welsh Government to assist in this part of the Act is £236,774 for 2016-17, reducing to £217,448 for 2017-18 onwards. The Council is currently out to advert for two Social Workers and an Occupational Therapist based at HMP Parc to meet the Council's statutory responsibilities, including undertaking assessments, support planning and review. Children's Services are working with the Youth Offending Service to make arrangements to ensure that statutory responsibilities will be met.

Workforce Development

- 4.3 The Care Council for Wales working with Local Authority partners have developed a national learning and development plan designed to ensure that the workforce is supported and informed to deliver social services in accordance with Welsh law, and its interface with other relevant statutes, and to practice in line with the principles of the Act.
- 4.4 The Social Care Workforce Development Team delivered ten 'Getting in on the Act' introductory training events between August and December 2015. There were 390 attendances by staff working across the social care sector in the County Borough.
- 4.5 Training for managers and practitioners on the key areas of the Act: Introduction and general functions; Assessing and meeting the needs of individuals; Looked after and accommodated children and Safeguarding have commenced. 37 events have been scheduled. Skills based workshops to support the transfer of knowledge into practice will follow.
- 4.6 Work has been undertaken with Children Services and Adult Social Care to develop a supervision and support policy which will provides structure and guidance for Managers to support their teams through the significant changes required by the Act. The developed policy recognises a mentoring and coaching approach to supporting change. This clearly links to the work of the Care Council and the council's own workforce development teams' agenda.
- 4.7 Four Welsh voluntary organisations have received funding to enable them to develop learning materials to support implementation. Age Cymru, Tros Gynnal Plant, Disability Wales and Hafal were each awarded the funding through the second round of the Co-production Grant Fund, created by the Care Council to draw upon the expertise of other organisations in developing resources for the Act. All learning materials developed by these organisations will be available by the end of March. Some of the third sector bodies will develop their materials themselves; others will take a partnership approach with various other organisations contributing to the final output. For example, Age Cymru will take the lead in collaboration with Swansea University and Disability Wales to create materials which focus on advocacy support and services for those acting as advocates in the wider workforce.

#### Regional Implementation

- 4.8 Welsh Government has made available a specific grant, the Delivering Transformation Grant (DTG) in each region of Wales to support implementation of the Act, at present the allocation of the specific grant is being finalised across Western bay details of which will be available shortly.. A regional implementation plan has been developed for the Western Bay area. This plan sets out high level aims and objectives; below this there has been the development of Operational Action Plans that provide more detail in the key areas. The Director of Social Services and Wellbeing for Bridgend County Borough Council is the regional Lead Director for the implementation of the Act.
- 4.9 The four national work groups, established to share best practice and produce consistent material on an all-Wales basis, have now met. Bridgend, as part of the Western Bay region, have sent officers to each of these groups to contribute to the development of national toolkits/checklists and, where possible, avoid duplication

and develop procedures/processes to meet the local context. Where appropriate any issues not able to be resolved locally are being escalated to the national level.

- 4.10 In line with the requirements of the Act, the following areas have been identified for scoping to explore what can be done on a regional basis: Social Enterprise; Advocacy; Secure Estates and Resettlement Functions. Work has been done to map the requirements for regional working arrangements set out in the Code of Practice, which will inform on-going work for the group. The local plans for the 3 authorities have been transferred onto a common template to enable regional comparison. The group is currently looking to work with the Institute of Public Care (IPC) to explore how best they can collaborate regionally.

#### Future Considerations

- 4.11 At a local level, Bridgend has a Project Group working on the implementation of the Act as part of its Remodelling Programmes. This work is focusing on the planning and implementation required by 6<sup>th</sup> April 2016.
- 4.12 There are considerable workforce considerations, ICT and financial implications for Bridgend County Borough Council and its partners, with significant new duties in the Act which need to be complied with. These have been mapped out by the Project Group with the necessary actions and work required.
- 4.13 Work has been undertaken to ensure that Bridgend is where it needs to be by 6<sup>th</sup> April 2016, and any risks and gaps identified. The fit between local transformation programmes to deliver cultural and practice change in line with the requirements of the Act is fundamental to embedding the significant legal changes outlined in the Act, regulations and codes of practices. There will be considerable ongoing work across the Authority and with partners, essential to delivering the significant level of longer term transformation required by the Act.
- 4.14 As the initial work plan for December 2015–April 2016 is concluded, the project team will update the gap analysis which will inform the ongoing plan for change. Within this plan, consideration will be given to the work required under the following headings:
- The ongoing regional transformation approach and plan (Western Bay) – the links to local work;
  - The development of social enterprises;
  - Ongoing communication with the communities, service users, carers, the third sector and partners to ensure their perspective informs ongoing service re-design and development;
  - Continue the development of the information, advice and assistance response;
  - Continue working with partners to ensure community support is available to maximise people's independence and well-being without the need for formal assessments.

#### **5. Effect upon Policy Framework and Procedure Rules.**

- 5.1 There is no impact on the policy framework and procedure rules.

## **6.0 Equality Impact Assessments**

- 6.1 The Social Services and Wellbeing (Wales) Act, by its very nature, will in part be providing support and care to the most vulnerable in our communities and should also have a positive impact on those people with protected characteristics.
- 6.2 An Equality Impact Assessment has been undertaken for each part of the Act by Welsh Government. There are no negative impacts cited. In undertaking the assessments, the Government stated that there is a clear and unequivocal commitment to an inclusive approach is set out within the statutory Code of Practice. The Act promotes equality, improvements in the quality of services and the provision of information people receive, and a shared focus on prevention and early intervention.

## **7. Financial Implications.**

- 7.1 The Social Services and Wellbeing (Wales) Act 2014 sets a whole range of new challenges and service user entitlements which will have to be met at a time of severe financial restraints for local government and social services. It has been made clear that there will be no additional resources from the Welsh Government for this purpose, apart from the transitional/transformational funding as detailed in paragraph 4.8. Local authorities should remain very cautious about whether there will be sufficient resources available to meet increased commitments and expectations in the face of growing demand for services. It is essential that the Council takes account of the budget pressures that will be experienced by the Social Services Directorate as a direct consequence of the Act from the beginning of the next financial year.
- 7.2 In relation to the new responsibilities in relation to the secure estate, detailed at paragraph 4.2 under Part 11, it has been confirmed that Bridgend CBC will receive grant of £236,774 in 2016/17 reducing to £217,448 in 2017/18 onwards via Welsh Government. .

## **8. Recommendation.**

- 8.1 Cabinet is recommended to note the content of this report and the actions set out for the future implementation of the Social Services and Well-being (Wales) Act in Bridgend.

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## **10 Background Documents**

- Social Services and Well-being (Wales) Act 2014
- Codes of Practices and Regulations made under the 2014 Act