

BRIDGEND COUNTY BOROUGH COUNCIL

REPORT TO CORPORATE PARENTING CABINET COMMITTEE

7 APRIL 2016

REPORT OF THE CORPORATE DIRECTOR - SOCIAL SERVICES AND WELLBEING

SOCIAL SERVICES AND WELL-BEING (WALES) ACT 2014 (including specific reference to Part 6 Looked After and Accommodated Children)

1. Purpose of report

- 1.1 The purpose of this report is to update Corporate Parenting Committee on the Social Services and Well-being (Wales) Act 2014, which provides the legislative basis for social services in Wales from 6th April 2016. This report sets out the requirements of the Act with specific reference to children in need of care and support, looked after and accommodated children and care leavers.

2. Connection to Corporate Improvement Objectives/Other Corporate Priorities

- 2.1 This report links to the following improvement priorities in the Corporate Plan:
- Helping people to be more self-reliant;
 - Smarter use of resources.

3. Background

- 3.1 The Social Services and Well-being (Wales) Act 2014 received Royal Assent in May 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 elements of the Children Act 1989 for example Section 47 (Local authority's duty to investigate where there are concerns for a child's welfare) and the Mental Capacity Act 2005 (which applies to 16-17 year olds who lack capacity). 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 detailed 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’. The term Carers includes Young Carers.

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 Convention on the Rights of the Child Duties and include:

- 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 (including young carers) who need support, when exercising social services functions for a person.
- 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.
- 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.

Part 3: Assessing the Needs of Individuals – Part 3 outlines that in relation to children and families, assessment is in line with the Framework for Assessment of Children and their Families and needs to be a holistic process (not a single event), grounded in child development and built on partnership working with children, parents and wider family support networks. Assessments should be strengths based and should keep the child at the very heart of the process, whilst balancing the need to ensure that the child is safeguarded.

There is a clear requirement to work within an interagency model to ensure that there is shared responsibility between agencies with respect to assessment and service provision.

Assessments will be proportionate and need to focus on what matters to a child and how they can use their own strengths and resources to do things. It also begins a significant legal change as carers (including young carers) will have an equal right to an assessment.

Part 2 requires that the Local Authority must have regard to the views, wishes and feelings of person with parental responsibility for a child under the age of 16, in so far as this is consistent with promoting the well-being of the child.

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 local authority must meet the needs of children which it considers necessary to meet in order to protect the child from abuse or neglect.

There are many children who cannot live with their parents who are being brought up in "*informal*" arrangements with family and friends, referred to as *family and friends care*. Children living in family and friends care should receive the support they and their carers need to safeguard and promote their well-being, and it is expected that full use should be made of the assessing and meeting needs arrangements in Parts 3 and 4 of the Act to work proactively with the child and carer to maintain this living arrangement.

The Code specifically states that these arrangements should receive the support the children and their carers need to safeguard and promote their well-being, whether or not the children are looked after children. The support should be based on the needs of the children rather than their legal status. No child should have to become a looked after child, whether by agreement with those holding parental responsibility or by virtue of a court order, for the sole purpose of enabling financial , practical or other support to be provided to the child's carer.

A care and support plan must identify the personal outcomes for the child and set out the best way to help achieve them.

In assessing and delivering care and support, local authorities must work with children's parents to develop a care and support plan that promotes a child's upbringing with their family, consistent with safeguarding needs and the child's wishes and feelings

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 the local authority.

Part 5, Charging and Financial Assessment - The Local authority must not charge for care and support for a child, or for support to a child who is a carer. Nor must the Local Authority seek payment of a contribution towards any costs when the child has accessed direct payments.

Part 6: Looked After and Accommodated Children - Part 6 sets out local authority duties and responsibilities towards looked after and accommodated children as well as detailing arrangements and duties for leaving care, including making provision for post-18 living arrangements. Together with Part

2 it replaces most of Part III of the Children Act 1989. The Code explicitly states that once a child is in care all elected members and officers of the local authority, as corporate parents, need to be concerned about that child and must take the following principles into account when engaging with them and making any decision concerning them:

- is this good enough for my own child?
- does this provide a second chance if things don't go as expected?
- is this tailored to the child's individual needs, particularly if they are more vulnerable than other children?

Court proceedings provisions of the Children Act 1989 continue to apply in both England and Wales (Care and Supervision proceedings, Public Law and Orders with respect to children in family proceedings in private law) as well as the changes made as a result of the Children and Families Act 2014.

There are links to many other parts of the Act including duties surrounding Advocacy in Part 10 and required provision in relation to children and young people in the Secure estate in Part 11.

Following on from advocacy, Part 6 stresses the duty to appoint an independent visitor for a child where it appears to be in the child's best interest.

Part 6 makes provision for Short Breaks where required, for example for a disabled child, although the Act also makes provision under Part 4, where this is considered most appropriate

There is a duty to assess (under Part 3) from 'time to time' whether a looked after child has care and support needs and where those needs are eligible there is a duty to meet those needs (under Part 4). Part 6 also draws on the concept of working preventatively with looked after and accommodated children, as outlined in Part 2.

The role of the Independent Reviewing Officer is strengthened under the Act, although in Bridgend this appears to legislate what is already best practice.

Placement choice is highlighted as important and the Act introduces a placement hierarchy and set of "rules" that the authority must follow when deciding where to place a child it is looking after. It also places a new requirement of an order of preference when considering out of area placements and also make clear that when considering the placement of a child in Key Stage 4 that a move of school should only be in exceptional circumstances. There is also a clear focus on the assessment of a child's mental/emotional health while undertaking a looked after child health assessment.

'Foster to Adopt' has been introduced, which requires the authority to place a child with prospective adopters following the decision being taken that re-integration with birth family has been discounted but prior to the placement

order being granted. This will require prospective adopters who wish to be considered to also be approved as foster carers.

There are changes to the terminology in relation to leaving care and young people are now referred to by Category (1-6) depending on their legal status, as opposed to 'eligible' or 'relevant' for example.

Care leavers should expect the same level of care and support that others would expect from a reasonable parent. The local authority is expected to make sure that they are provided with the opportunities they need to come to terms with taking on the responsibilities of adulthood.

There are also changes to the duties in respect of post-18 living arrangements and the Act introduces the requirement for authorities to set up a 'When I am Ready' scheme for young people in foster placements who wish to remain living with their former carers beyond their 18th birthday.

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. 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 two 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.

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, for example children with complex needs and carers (including young carers).

Part 10: Complaints, Representations and Advocacy Services - This part of the Act has three sections – complaints and representatives, complaints about private social care and palliative care and advocacy services.

The Act re-states the existing entitlement of looked after children to advocacy.

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.

Part 11 Miscellaneous and General - This part of the Act includes various miscellaneous and general provisions, one of which is 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. Children, in the secure estate are to be treated in the same way as those in the community unless Part 11 omits rights or duties.

The Welsh home local authority must meet the care and support duties for children in the secure estate whether they are detained in England or Wales.

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.

Training for practitioners and managers has focused on the following key areas of the Act:

- Introduction and general functions;
- Assessing and meeting the needs of individuals ;
- Safeguarding (Adults & Children);
- Looked after and accommodated children. 8 one day training workshops on the Act as it relates to looked after & accommodated children have taken place with 2 further sessions scheduled. To date 154 staff have attended this training workshop.

Skills based workshops to support the transfer of knowledge into practice will follow.

5. Effect upon Policy Framework and Procedure Rules.

- 5.1 Internal policies and procedures are being updated as appropriate.

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 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 transitional/transformational funding.
- 7.2 The Council recognises that there may be additional budget pressures arising from increased commitments and expectations in the face of growing demand for services, following the introduction of the Act. For 2016-17, the Council has already recognised some of these pressures within the MTFs and will continue to monitor the financial consequences of the Act as it is implemented.

8. Recommendation.

- 8.1 The Committee is requested 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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Background Documents

- Social Services and Well-being (Wales) Act 2014
- Codes of Practices and Regulations made under the 2014 Act
- When I am Ready Good Practice Guide March 2016
<http://gov.wales/docs/dhss/publications/160307guidanceen.pdf>
- Social Services and Well-being (Wales) Act 2014 – Parts 4 and 6 Provision of Short Breaks for Children
<http://gov.wales/docs/phhs/publications/160128part4and6en.pdf>