

Report



Cabinet

Part 1

Date: 10 March 2021

Subject **Welsh Government White Paper and Consultation – Rebalancing Care and Support**

Purpose To present to Cabinet an overview of the Welsh Government White Paper on *Rebalancing Care and Support* and the Council's response as part of its role in the Gwent Regional Partnership Board (GRPB) to the consultation paper.

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Ward All

Summary The Welsh Government has published a White Paper on *Rebalancing Care and Support* and is consulting on proposals to introduce new legislation to improve social care arrangements and strengthen partnership working to achieve the vision set out in the Social Services and Well-being (Wales) Act 2014. The proposals include setting out a clear national framework to support services to be planned regionally and delivered locally; formation of a 'national office' including a Chief Social Care and Social Work Officer; and for the strengthening of existing regional partnership arrangements.

As a member of the Gwent Regional Partnership Board it is important for the Council to contribute towards the consultation that will assist in shaping and developing the new legislation.

Proposal Cabinet is asked to consider the contents of the report and agree the consultation response for submission by the closing date of 6th April 2021.

Action by Head of Adult and Community Services
Head of Children and Young People Services

Timetable Consultation closes on 6th April 2021

This report was prepared after consultation with:
Cabinet Member for Social Services
Heads of Service(s)

Signed

Background

The delivery of social care services (Adults and Children) has been making significant progress in the last ten years transforming the delivery of social care through the Social Services and Well-being (Wales) Act 2014 and the Regulation and Inspection of Social Care (Wales) Act 2016. Both of these Acts are aligned and shaped by the Well-being of Future Generations Act 2015 which strives towards the Well-being Goal 'A Healthier Wales' and having an integrated health and social care system.

The Welsh Government (WG) has recognised the fragility of the sector that has become more apparent in the Covid-19 pandemic and the complexity of the care and support landscape which has a market place of over 1,000 providers (mostly from the independent sector) competing for the same contracts. In context the White Paper has set the case for change as Follows

- **Population change and need:**
 - Projected increase in the number of people aged over 75 (up by 53% by 2040); aged over 65 (one in four by 2050); people with complex care needs, including severe dementia (to double to 53,700 by 2040)
 - Projected increase of people with long-term, life limiting and chronic conditions (up by 57% in people aged over 75 by 2035), and adults with a learning difficulty living with elderly parents (29,000 in the UK currently).
 - Rising numbers of looked after children despite LAC reduction expectation plans put in place covering a 3-year period (2019-21) with a rise of 6.9%.
 - Numbers of unpaid carers (370,230 providing at least 1 hour of care and 157,794 providing at least 20, as identified by the 2011) projected to rise as a result of covid-19; with unpaid carers who provide high levels of care being twice as likely to be permanently sick or disabled themselves.
- **The funding challenge**
 - Funding provision recognised as the biggest challenge facing the sector in the context of increasing and more complex demand, with commissioning costs and wage inflation accounting for a significant proportion of demands on local authority social services departments.
- **The care and support market**
 - Dependency on small private providers with narrow margins and limited financial reserves. In 2019 there were 1076 adult care homes, 229 children's care homes, 570 domiciliary support services. Only 23 were provided by local authorities or health boards, and 75% owned by a single owner, owner of one home, or owner of less than 5 homes. Just 8% were owned by large group providers.
- **Commissioning and complexity**
 - 29 main commissioners of care in Wales (22 local authorities, 7 health boards) Complexity of the market and reduced capacity due to austerity, means challenges for commissioners in developing all parts of the commissioning cycle
- **Workforce sustainability**
 - High staff turnover rate for all the adult social care workforce in Wales – reported by the ONS at 30%. Current issues also include high vacancy rates, costly recruitment and training of new staff, growing use of (more expensive) agency staff, and churn within the sector. Competition from employers outside the social care sectors (e.g. retail) providing similar or better pay and less responsibility. Competition within and between social care employers and the NHS also thought to contribute to retention problems in the social care workforce.

The White Paper recognises that there is now a case to rebalance the social care system to co-producing better outcomes with people by moving:

- Away from complexity and towards simplification;
- Away from price and towards quality and social value;
- Away from reactive commissioning and towards managing the market;
- Away from task-based practice and towards an outcome based practice; and
- Away from an organisational focus and towards more effective partnership.

There are four specific proposals set out in the paper for consultation. These are:

1. Development of a **national framework** which will set fee methodologies; standardise commissioning processes; ensure social value commissioning; increase transparency of service performance; and implement future recommendations, e.g. of the Social Care Forum.
2. Establish a **national office** to develop and deliver the framework – either through developing a function within WG or setting up a small arms-length body of WG. The national office will maintain an overview of market stability; drive national policy initiatives; consolidate activity of other national fora including the National Commissioning Board; and work with Social Care Wales to support service improvement.
3. Introduce a **Chief Social Care and Social Work Officer** located within WG to function as the national, professional voice for the social care and social work workforce
4. Establish **Regional Partnership Boards as corporate legal entities** and enhance their functions to enable RPBs to directly employ staff; ensure transparent accountability in relation to pooled budgets and joint commissioning by local authorities and health boards; hold integrated budgets; undertake direct commissioning of health and care with agreement from local partners; establish a planning and performance monitoring framework within each RPB; and be required to report to Welsh Ministers on progress of joint delivery against integrated priorities.

The White Paper also states that local authority commissioning functions will continue to be accountable locally providing care and support. Based on the proposals in the paper, it states that in future local authorities and local health boards will exercise these functions in accordance with the national framework ensuring the full and fair use of its methodologies.

The White Paper has not set out a timeframe as to when the legislation will come into practice.

Impact on Newport City Council and its Consultation response

The Consultation set out by The Deputy Minister for Health and Social Services seeks views on the proposals to introduce the new legislation to improve social care arrangements and strengthen partnership working. The Deputy Minister is seeking views that will be considered in developing any new legislation and responses must be submitted by **6th April 2021** at the latest. The consultation has set out 12 questions covering all aspects of the proposals. The Council's draft response to the Consultation questions are outlined in **Appendix 1**.

Full details of the consultation paper can be found here: <https://gov.wales/improving-social-care-arrangements-and-partnership-working>

Attached at **Appendix 1** is NCC's draft response to the consultation.

Attached at **Appendix 2** is the Consultation Document including the proposals.

Attached at **Appendix 3** is the Consultation Document (Easy Read Version).

Financial Summary

There are no direct financial implications at this time as we are responding to a consultation. The changes outlined would, if implemented, have potentially significant financial implications and would need to be assessed when the details of the changes, in particular the Regional Partnership Board becoming a legal entity, are known.

Risks

| Risk | Impact of Risk if it occurs* (H/M/L) | Probability of risk occurring (H/M/L) | What is the Council doing or what has it done to avoid the risk or reduce its effect | Who is responsible for dealing with the risk? |
|--|--------------------------------------|---------------------------------------|--|--|
| Not properly considering and preparing for the implications of the proposals set out in the white paper. | High | Low | Cabinet will receive update reports as the consultation and programme progresses and respond to consultations accordingly. | Chief Executive Director of People Services Head of Adult & Community Services Head of Children and Young People Services |

* Taking account of proposed mitigation measures

Links to Council Policies and Priorities

The White Paper and consultation impact on the following Council Policies and Priorities:

- Corporate Plan 2017-22;
- Gwent Regional Partnership Board 'Regional Area Plan'; and
- Population Needs Assessment 2017

This also links into the Council's requirement to comply with the Well-being of Future Generations Act 2015, Social Services and Well-being (Wales) Act 2014 and Regulation and Inspection of Social Care (Wales) Act 2016.

The proposed changes being considered may require changes to Council policies and priorities as outlined in the report and proposed response.

Options Available and considered

1. To note the proposals as outlined in the White Paper and endorse the proposed response to the consultation (Appendix 1).
2. To amend the response to the consultation and respond to Welsh Government by the consultation deadline.

Preferred Option and Why

To endorse the proposed response to the consultation.

Comments of Chief Financial Officer

There are no direct financial implications to consider at this stage, as Cabinet is required to respond to the consultation only. The intention of the White Paper is to improve social care arrangements and strengthen partnership working, which is a positive change. There is already a requirement to work towards standardising fee methodologies regionally which could pose a risk to budgets.

Reshaping RPB's as a legal entity to employ staff, hold budgets and undertake significant joint commissioning will add a layer of complexity. It also cannot be quantified whether in future funding that would have come direct to local authorities in the form of grants may go directly to the RPB's as they have a legal status to employ, hold budgets and commission which could remove some choice and decisions at local authority level. The financial implications will need to be considered when further clarification around funding arrangements is available.

Comments of Monitoring Officer

There are no specific legal implications at this stage as the Cabinet is being asked to endorse the proposed consultation response to the Welsh Government White Paper on Rebalancing Care and Support. For the most part, the underlying principles of the White Paper are to be supported, to the extent that they seek to improve social care provision and strengthen partnership working. However, there are aspects of the proposals that require further details and clarification, particularly in relation to how the national framework would operate, the role of the national office, joint funding and commissioning of services. The proposal to re-constitute the RPB as a corporate body would effectively put it on the same footing as corporate joint committees, albeit with health involvement, and it would become an autonomous decision-making body. Further clarification is required in terms of roles, statutory responsibilities and funding and the relationship with local authorities.

Comments of Head of People and Business Change

There are no specific HR issues with respect to this consultation from Welsh Government. The Consultation aligned with the Well-being of Future Generations goals and also the Social Services and Well-being Act. The response included in Appendix 1 demonstrates the progressive work that the Council has made in the last five years in collaborating with providers, the care sector market, other Gwent Local Authorities and Aneurin Bevan to improve the value and delivery of services to residents. Any new legislation that comes into place will need to build on and strengthen this work already in place.

Comments of Cabinet Member

The Cabinet Member for Social Services is engaged in the consultation on the development of the Council's response to the White Paper.

Local issues

None.

Scrutiny Committees

NA

Equalities Impact Assessment

Not applicable.

The White Paper proposals are being led by Welsh Government as part of its drafting of the new legislation.

Children and Families (Wales) Measure

The proposals set out in the Welsh Government consultation paper take into account the Children & Families Measure as part of its considerations.

Well-being of Future Generations (Wales) Act 2015

The proposals set out in the White Paper and consultation questions are considering the Goals that are set out in the Well-being of Future Generations Act. The Well-being Goal 'A Healthier Wales' is at the forefront of the proposals to simplify the health and social care sector that will support future legislation. Any new legislation that is introduced by Welsh Government will be based upon the sustainable development principle.

The Council has considered the Act and the sustainable development principle in the response to this proposal as outlined in the report.

Crime and Disorder Act 1998

Not applicable.

Consultation

Comments received from wider consultation with the Gwent RPB, Corporate Management Team.

Background Papers

<https://gov.wales/improving-social-care-arrangements-and-partnership-working>

Dated: 10 March 2021

Appendix 1 – NCC Response to the Draft White Paper Questions

Question 1: Do you agree that complexity in the social care sector inhibits service improvement?

Response outline:

The social care sector is by its nature an extremely complex landscape involving a wide range of partner agencies such as the Police, Education, Health and the voluntary sector. The workforce issues are very challenging and recruitment and retention of social care staff a constant challenge especially given the disparity with NHS terms and conditions.

Budget challenges and the increasing pressures on local government has been a critical factor in delivering on our commitments. There have been initiatives that have been supported through the regional collaboration approach as set out in the SSWB Act, such as engagement activity with the provider sector.

It could be argued that some of the complexity has come from an historic pattern of having to manage budgets at a local level and not looking at shared approaches across local authorities and partner health boards. However there are examples of excellent practice that can be built on.

Question 2: Do you agree that commissioning practices are disproportionately focused on procurement?

Response outline:

The commissioning of social care services is not heavily impacted by procurement as the approach is more driven by effective commissioning and procurement is only the final stage in this process.

For example there has been an increasing focus on commissioning for outcomes and as a means of planning and designing services. However a focus on the quality of services and the experience of people with care and support and carers is essential in making sure we have the right range of services and care and support in place for the residents of Newport.

It would be a very positive step to encourage strategic partnership with the not for profit sector but it should be noted that this sector has not developed at the pace that was anticipated following the publication of the SSWB Act.

Question 3: Do you agree that the ability of RPBs to deliver on their responsibilities is limited by their design and structure?

Response outline:

RPB's are very health outcomes focussed because of the funding streams and how these are categorised and distributed. Funding is targeted at groups of people based on their conditions e.g. Dementia, ASD or on supporting people to leave hospital e.g. Winter Planning and D2RA funding. This lead to an inequity of service and it should also be noted that the RPB's have not been focussed on Children's Services and it has taken considerable effort to push this up the agenda. Local Authorities need to be confident that the proposals in the white paper redress the balance of funding between health and social care and raise the profile of social care and not perpetuate the current situation.

The Social Services and Wellbeing Act provides 'enabling' legislation to allow for better integration and partnership working between local authorities, health boards and with provider organisations/third sector bodies. Creating a positive environment that encourages collaboration and partnership is an evolving process that cannot be driven solely by legislation. On the other hand the RPB would become a more powerful body which could better hold the Health Boards to account.

Question 4: Do you agree a national framework that includes fee methodologies and standardised commissioning practices will reduce complexity and enable a greater focus on service quality?

Response outline: Such an approach has been explored widely for many years and has previously seen provider legal challenges if methodologies have been perceived to be inequitable in any way. There is already a good level of shared commissioning practice and this is best enabled and incentivised through encouragement and feedback rather than trying to legislate and impose process. There is no 'silver bullet' and it would be unrealistic to expect that a national framework will be a panacea for all perceived difficulties in commissioning within the social care sector. As an example the national 4 C's Children's Commissioning Framework is well developed but has not been able to fundamentally improve the range or affordability of commissioned services for children and young people. A national framework may contribute to improving the situation but there is a high risk that this will inhibit creativity and innovation. The way in which this is developed and put into practice will be as important as what it contains. The statutory responsibilities would still remain with the Local Authorities regardless of any national framework and this may impact on their ability to shape services based on their local population needs and achieve a best fit with other services that work within communities' e.g. third sector, community resources.

Question 4a: - What parts of the commissioning cycle should be reflected in the national framework?

Response outline: The first parts of the commissioning cycle, population needs assessment and market position statements and demand modelling can be used to shape any national framework. High level outcomes could also be covered including workforce sustainability which could include reference to terms and conditions. The delivery models should be developed locally as there are very different profile of needs in Newport as opposed to Ceredigion for example.

Question 5: Do you agree that all commissioned services provided or arranged through a care and support plan, or support plan for carers, should be based on the national framework?

Response outline: Not completely. If there are innovative approaches to service delivery and/or provision then these may not feature in a national framework, but require implementation and evaluation before being shared more widely. If a national framework sets out principles and broad guidance, then there will be greater applicability to all commissioned services, but if it seeks to be detailed and directive, then it may be more restrictive. It is not clear where Direct Payments sits in this landscape as there is a risk these would be squeezed out in a move to standardise the whole social care and support system. It is worth noting that there is no reference to Direct Payments or self-funders in the document at all.

Question 5a- Proposals include NHS provision of funded nursing care, but do not include continuing health care; do you agree with this?

Response outline:—The arguments either way are not fully explored. It seems that a pragmatic approach is being suggested, recognising that funded nursing care is a clearly defined element of service provision, that is consistent and tied closely to the type of care provision that requires this nursing care component. Continuing Health Care is more contentious as there are varying thresholds applied across different groups of people for example children and those with a complex learning difficulty. However for fundamental service reform, bringing Continuing Health Care funding into partnership funding arrangements would be a positive opportunity to make real change.

Question 5b- Are there other services which should be included in the national framework?

Response outline: In principle, the sensible approach is to start with one or two agreed service areas and to build on this if the national framework approach starts to become more successful and better understood by all stakeholders – including providers as well as commissioners. However there can't be one framework for Childrens and Adults as the services and provider market are completely different.

Question 6: Do you agree that the activities of some existing national groups should be consolidated through a national office?

Response outline:

Social Care needs to have a strong voice at the heart of WG but we need to understand the function and purpose of any national office and its relationship with other organisations such as , CIW, Social Care Wales and those that represent people who use services and the other professional bodies that make up social care.

Is not clear how this might be done, as the paper recognises that several bodies already exist – such as National Commissioning Board. What is unclear is whether this be an administrative function for such existing bodies, or a policy development body. However the definition of what is done at national level and what at regional level needs greater clarity and whether this will be yet another body holding Local Authorities to account and making demands on officers.

Question 6a- If so, which ones?

Response outline: *See comments above. Clarity on scope and role of national office – and how it would link with LA's, NHS and RPB's – needs to be set out.*

Question 7: Do you agree that establishing RPBs as corporate legal entities capable of directly employing staff and holding budgets would strengthen their ability to fulfil their responsibilities?

Response outline: *This may support greater consistency of purpose and a shift away from grant funding dispersal and more emphasis on overall needs assessment and taking a full partnership approach. However, much of what RPB's should do is already in legislation (the SSWB Act) and creating RPB's as legal entities will significantly change the dynamic of the partnership by establishing a new corporate body. At present partners have to share and contribute resources and staff to the running of RPB's. The Legal and Governance arrangements would have to be very clearly defined especially their relationship to Local Authorities and Health Boards. The cost is likely to be significant and it is not clear that this would add any value.*

Question 7a- Are there other functions that should be considered to further strengthen regional integration through RPBs?

Response outline: *Overall it would be sensible to have consistency nationally on what sits with the RPB and what remains outside. An example could be the Housing Support Grants/RCC's and Area Planning Boards. However there is a significant risk that the RPB becomes too large to effectively deliver on its responsibilities.*

Question 8: Do you agree that real-time population, outcome measures and market information should be used more frequently to analyse needs and service provision?

Response outline: *Yes, however there is a need to balance up long term planning and shorter term review and evaluation, so that overall direction is clear but services are designed with a level of flexibility to be adjusted to meet changing demand patterns. It is equally important to understand how people will want their care and support to be provided in the future as this is changing rapidly as technology solutions become available and so any model needs to be sufficiently flexible to evolve and adjust. This flexibility needs to be built in order to be responsive to demand changes and reflect learning from experience.*

Question 8a- Within the 5 year cycle, how can this best be achieved?

Response outline: *Maintaining regular and continuous dialogue with providers and with citizens, being honest as to any change drivers so as to develop a culture of openness and trust would be key considerations.*

Question 9: Do you consider that further change is needed to address the challenges highlighted in the case for change?

Response outline: *The most obvious one is urgent clarification on paying for care, which will be fundamental in meeting aspirations to improve the quality of care and support rather than cost. This is referenced but is essential for effective transformation change.*

Question 9a- what should these be?

Question 10: What do you consider are the costs, and cost savings, of the proposals to introduce a national office and establish RPBs as corporate entities?

Response outline: It would be unrealistic to expect that any change will be cost neutral particularly if the deficit in pay and conditions for the social care workforce is to be addressed. There is little if any cost saving likely with a national commissioning approach for the care pathway for older people, as the paper acknowledges, there has been a long term drive down of costs with consequent reduction in terms and conditions. At present some Section 33 arrangements are in place from local authorities and health boards has been used to fund regional support arrangements that sit under RPB's. Creating a new corporate entity may lead to partners seeking to withdraw from pooled arrangements to support their own organisation budget pressures.

Question 10a- Are there any particular or additional costs associated with the proposals you wish to raise?

Response outline: Whilst very hard to assess in cost terms, reputation and 'creating identity' costs, legal costs and risk of 'losing' partner commitment are all factors that should be considered.

Welsh language

Question 11: We would like to know your views on the effects that a national framework for commissioning social care with regionally organised services, delivered locally would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.

What effects do you think there would be? How positive effects could be increased, or negative effects be mitigated?

Response outline: Any national framework approach should lead to greater consistency in language and terminology. This in turn should allow for consistency in use of the Welsh language and consistency in translation, as needed.

Question 12: Please also explain how you believe the proposed policy to develop a national framework for commissioning social care with regionally organised services, delivered locally could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

Response outline: similar comment as at Q11.