



Voices From Care
Social Service (Wales) Bill
Organisational Response

June 2012



Voices From Care's Response to the Consultation on the Social Services (Wales) Bill

Social Services (Wales) Bill - Consultation Response Form

Your Name:	Carol Floris
Organisation (If applicable):	Voices From Care
Email address:	carol@vfcc.org.uk
Telephone number:	02920 451 431
Your address:	39 The Parade, Roath, Cardiff, CF24 3AD

Information About Voices From Care

Voices From Care is an organisation for children and young people who are or have been looked after in Wales. Voices From Care is unique in that it is run by people who have experienced the care system themselves.

Voices From Care was set up in 1993 after children and young people in England and Wales began to ask questions about how the looked after system was being run. Voices From Care's mission is to bring children and young people together throughout Wales, who are, or have been looked after by local authorities, voluntary and private organisations, in order to: 1) provide opportunities, 2) improve conditions, 3) promote the voice of children and young people, 4) protect their interests.

Voices From Care is a user - led organisation, and a number of the staff team have experienced the care system. A number of young people are heavily involved in our work, either as volunteers or board members. Volunteers assist in the work of the organisation, particularly in the delivery of training and in consultation work. The work areas include: membership, advice and support work service, the training service, research, consultation and campaigning



Consultation Response

Introductory Points

Voices From Care welcomes this opportunity to respond to the consultation on the Social Services (Wales) Bill. As a general point the organisation would like the name of the Bill to be amended to the Social Care and Well-Being Bill to reflect the role of all the partner agencies who need to be involved in the delivery of the Bill, if it is to deliver its objectives.

Whilst Voices From Care welcomes the broad principles of the consultation document we have some caution in that the document does not give enough detail on the vision of the Welsh Government and on what the proposed changes would look like for citizens who are users of services. Whilst we welcome the principles underlining the Bill, Voices From Care is not certain that the changes proposed will necessarily result in those principles becoming a reality. It will be the detail of Bill and subsequent regulation and guidance which will start to give us an idea if these principles are really achievable.

The document does not inform us about whether and how the Bill will build on existing legislation. The Bill will need to demonstrate clarity about how it will build on existing rights and mechanisms for participation, and also demonstrate that there are adequate government and statutory structures to deliver the principles of the Bill. Without knowing this detail and having these reassurances, Voices From Care retains a position of caution in relation to the Bill.

Voices From Care would like the document to be stronger in its reference to the United Nations Convention on the Rights of the Child (UNCRC) as well as its referencing to human rights. The organisation would like to see the principles of the document set in a rights framework and the empowerment this offers, rather than in a needs framework. We believe this would be more in line with the vision of the Bill.

Voices From Care has some concerns that in the document and its proposals the rights, developmental needs and voices of children and young people may be lost in relation to the people in need agenda. We feel it is essential that the Bill safeguards the position and interests of children and young people. The organisation has further concerns that children and young people looked after and leaving care may become a further marginalised and voiceless group, particularly in relation to the setting of services for children in a family context. The unique position of children living away from their families needs



particular attention.

Voices From Care is also concerned that those who lobby for the rights of children and young people will also have their influence reduced against the various adult representative groups in regard to the people in need framework.

Voices From Care feels that the document is weak on the explicit promotion of participation mechanisms and advocacy services, and that these should be strengthened within the Bill, particularly if the principle of a strong voice and control is to be achieved

Voices From Care would like further clarity on how the principles, which are very adult focused, relate to children and young people - particularly those of a stronger voice and control.

Voices From Care would see that although the Bill may achieve savings in the long-term, the implementation of the Bill will require extra funding and resources in its implementation.

1. Maintaining and enhancing the wellbeing of people in need

1.1 Wellbeing of people in need

Question 1 - Do you agree with our proposals to base this legislation on the concept of maintaining and enhancing the wellbeing of people in need?

Voices From Care welcomes this proposal to base this legislation on the concept of maintaining and enhancing the wellbeing of people. We felt that this concept would give an essential benchmark enabling people to monitor their well-being and to gauge if they may be eligible for services. However we would like to see the proposal set out in a rights based framework as opposed to a needs based framework. The concept of maintaining and enhancing the well being of people in need to must take account of the particular rights, developmental needs and societal position of children and young people.

Question 2 - Do you agree with our working definitions of "wellbeing" and "people in need"? Do you wish to suggest alternatives?

In general Voices From Care agreed with the definitions - the organisation feels that there may be further

work needed to ensure that the definitions cover the issues which children and young people face.

Question 3 – What are your views on the proposed general duty on local authorities and their partners to maintain and enhance the wellbeing of people in need in their local areas?

Voices From Care is very supportive of this duty

Question 4 – What are your views on the proposals to provide guidance on this area through the Code of Practice?

Voices From Care welcomes this proposal.

1.2 Defining social care services

Question 5 – What are your views on the proposed broad power for local authorities in Wales to provide or make arrangements for the provision of social care services?

Voices From Care welcomes this proposal.

Question 6 – What are your views on our proposed definition of “social care services”?

Voices From Care welcomes the proposed definition of ‘social care services’ as this will assist people seeking and using services



2. A stronger voice and real control

2.1 Information, advice and assistance

Question 7 - Do you agree that we need to make a significant step forward in making information, advice and assistance accessible?

Yes

Question 8 - Do you think that the legislation should specify any particular organisational form for this, such as an information hub?

Voices From Care that there should be some direction given, but that there is a need for discretion at a local level to fit the needs of the local population.

Question 9 - Do you think that the legislation should specify more clearly how local government and the NHS should work more closely together in the provision of information, advice and assistance?

Voices From Care that there should be some direction given, but that there is a need for discretion at a local level to fit the needs of the local population.

2.2 Assessment of need

Question 10 - Do you agree there should be a single right of assessment?

Yes, however it must be able to cover the particular developmental needs of children and young people and their particular circumstances and position in society.

Question 11 - Do you agree the new system will benefit service users and their carers, as well as professionals in understanding their duties of assessment? If not, why?

Yes

Question 12 - Do you agree that law and policy should provide for proportionate assessments i.e. a formal prescribed assessment for people who have social care needs?

Yes, but there will need to be clarity on who decides what is proportionate and the mechanisms for this. Access to advocacy services will be important at this point.

Question 13 - Is it helpful to prescribe the assessment process and who should be involved?

To some extent, but this should not be overly prescriptive.

Question 16 - Do you see a role for self assessment and if so, how would this work?

Voices From Care is supportive of the principle of self assessment, although there must be support available to enable people to achieve this.

2.3 Portability of assessments

Question 17 - Should the Bill impose a general duty on local authorities and their partners to provide social care services to a person in need who resides in their area?

Yes

Question 18 - Do you agree that portability of assessment will bring greater consistency of care for services users? Do you agree that it will lead to savings?

Yes Voices From Care agrees that portability of assessment will bring greater consistency of care for services users. We agree that it will lead to savings in the long term once systems are well established, although in the short term there may be a need for extra resources.

Question 19 - When someone moves into a new local authority area, what do you think is an acceptable period for which to require that the new authority must maintain the assessment of a service user before it reviews the case?

3 months

Question 20 - Do you agree with our proposals for notification and transfer of information?

This will require robust mechanisms.

** Voices From Care notes that looked after children would be excluded from these arrangements for portability - however there may be some need to consider their position particularly in respect of health and education. The position of care leavers will also need clarity. Voices From Care is concerned that these groups have equality in regard to the issue of consistency in services if they move area.

2.4 Management and review of care plans

Question 21 - Do you agree that the statutory duty changes we have outlined above are the right ones to improve care and support plan and review systems?

Yes

Question 22 - Do you agree that it will be important to prescribe, in the regulations and guidance, the

different arrangements for the different needs?

Yes, although being too prescriptive may not be helpful.

2.5 National eligibility framework

Question 23 – Do you think that a new national eligibility framework will be beneficial?

Yes, but Voices From Care is concerned about how people being assessed for services would contribute to this on as an individual and how citizens on a collective level would contribute.

Question 24 – What do you see as the local authority’s role in setting criteria for eligibility and what do you see as the Welsh Government’s responsibilities?

Question 25 – Do you believe that the current four-level definition of eligibility: “critical, substantial, moderate and low” is a helpful way of categorising eligible needs?

Voices From Care is concerned about how the voices of individual citizens would be heard, and that some people may be denied access to services, although we accept the need for some categorisation.

Question 26 – Do you agree the new framework should extend to all categories of people in need – both children and adults?

It is concerning that the document suggests that children with what may be categorised as a low level social care need may not receive a service. Voices From Care would like to see more detail on the impact of the proposal for a national eligibility framework and what this might mean for children and young people.

Question 27 – Do you envisage any particular barriers in operating a single eligibility threshold? How would you overcome these barriers?

Question 28 – Should people be able to self assess for access to services? If so, how would you see this working?

Yes but information and support will need to be available to facilitate this.

2.6 Rights of carers

Question 29 - Do you agree that the proposed definition of a carer should be based on the one referred to in paragraph 2.6.8?

Yes

Question 30 - Should we allow local authorities to include some carers who receive payments or have a contract for the care they provide within the definition of a carer, where the relationship is not a commercial or ordinary volunteering one? (In order that carers can receive an assessment and benefit from other support provided to unpaid carers.)

Question 31 - Are there other groups of carers that are not covered but should be included?

Question 32 - Should local authorities be allowed discretion to consider requests from Foster Carers or Adult Placement / Shared Lives Carers to be classified as a 'carer' and be entitled to request a carers' needs assessment?

Voices From Care does not generally believe that foster carers should be able entitled to a carer's assessment. This is because there should be other mechanisms for support. Allowing local authority's discretion may lead to inconsistencies across Wales.

However we do see that there may be a case for kinship carers (family and friends) being able to request an assessment or in very particular circumstances where a child has complex needs and is in a long term placement.

Question 33 - Do you agree that there should be a duty placed on local authorities to publish information on carers' rights and the services offered to carers in their local areas?

Yes

Question 34 - Do you agree that local authorities should be required to offer a carer's assessment to anyone who appears to the authority to be a carer with substantial caring responsibilities?

Yes, if there are not other mechanisms for support available to that person.

2.7 Direct Payments

Question 35 - Do you agree with the proposal to use this Bill to bring together legislation regarding the provision of Direct Payments in Wales?

Yes

Question 36 - Do you agree with the proposals to allow Welsh Ministers broad powers to extend the existing Direct Payments arrangements so that they can introduce an effective model of self-directed support and control that also encourages a greater uptake of Direct Payments arrangements in Wales?

Yes

Question 37 - Do you have views on other ways in which Direct Payments could be extended beyond the current scheme? For example, should they be extended to allow the purchase of residential accommodation or to allow a local authority or independent organisation to be an agent or a broker for services and hold a budget on the service user's behalf?

Yes

2.8 Complaints and the Public Services Ombudsman

Question 38 - Do you agree with the proposal that people funding their own social care should have their complaints considered by the Public Services Ombudsman for Wales (PSOW)?

Question 39 - Do you agree that the PSOW's remit should be extended to care homes and domiciliary care agencies only, or that a wider extension to his remit should be considered?

Question 40 - Do you agree that the PSOW's remit should be extended to independent palliative care services?

Question 41 - Do you agree with the proposal to allow the PSOW to consider complaints about matters arising, prior to the PSOW's powers being extended?

Question 42 - We are not proposing that "information sharing powers" between CSSIW and the PSOW be included in the proposal, and expect that a protocol between the two bodies will be established. Do you agree that this is sufficient, or should information sharing powers be considered?

Question 43 - Do you agree that individuals who have complaints about independent palliative care services should also be able to access advocacy services?

3. Strong national direction and local accountability for delivery



3.1 National Outcomes Framework and Standards for Social Services

Question 44 - Do you agree that there should be a duty on Welsh Ministers to encourage improvement in social services and social care services (as defined in this Bill) in Wales?

Yes

Question 45 - Do you agree that Welsh Ministers should have a duty to publish (from time to time) and review (periodically) a statement of national outcomes for social services and social care services?

Yes

Question 46 - Should there be a power to specify performance standards to be met by local authorities and social care service providers to sit beneath the national outcomes framework?

Yes, but there must be input from all stakeholders and in particular all groups who use services to these.

Question 47 - Should the standards be measured through performance indicators?

Yes, but there must be input from all stakeholders and in particular all groups who use services to these.

3.2 Code of Practice

Question 48 - Should there be a duty on Welsh Ministers to prepare a Code of Practice to bring together statutory guidance on social services matters?

Yes

Question 49 - Should Welsh Ministers be required to consult on the contents of the Code of Practice before it is introduced?

Yes



Question 50 - Should Welsh Minister be required to consult in advance on any substantial amendments that they propose to make to the Code of Practice?

Yes

Question 51 - Should the Bill specify that the Code of Practice must be followed by authorities acting under the legislation and can only be deviated from where there are good reasons to do so (although this proviso would not give the freedom to take a substantially different course)?

Yes

Question 52 - In addition to the Code of Practice, should Welsh Ministers retain their existing power to issue directions on certain matters, such as policy or practice guidance?

Yes

3.3 Directors of Social Services

Question 53 - Do you agree that we should place the requirement to appoint a Director of Social Services on the face of the Bill and have powers to specify the competencies that a Director of Social Services should have?

Yes

Question 54 - Do you agree that the local authorities should be able to share a Director of Social Services?

Yes

3.4 Collaboration in integrated Social Services

Question 55 - Do you agree with the proposal to introduce a single consistent set of powers relating to the creation of formal partnerships in Wales, for the purpose of delivering integrated services?

Yes

Question 56 - Do you agree with our proposal to introduce powers to define in Regulations and guidance the parameters for developing formal partnerships and pooled budgets and to set out how and when these will be used?

Yes

4. Safeguarding and protection

4.1 A National Independent Safeguarding Board

Question 57 - Do you agree with the view of the Welsh Safeguarding Children Forum on the role and function of the National Independent Safeguarding Board?

Yes, although Voices From Care would welcome more detail and consultation.

Question 58 - What type of organisation do you think the Board should be? How would the relationship and accountabilities with Welsh Ministers and Safeguarding and Protection Boards be constructed (see section 4.2 - Safeguarding and Protection Boards)?

Question 59 - How should the Welsh Government achieve service user representation on the Board?

Voices From Care would like to see a range of methods used to achieve service user representation. It may be that links to regional service user representative bodies such as junior safeguarding boards are the best ways to achieve service user input. Voices From Care would be disappointed to see the progress in the representation of services users through such mechanisms as junior safeguarding boards lost.

4.2 - Safeguarding and Protection Boards



Question 60 – What do you think the functions of the Adult Protection Boards and Safeguarding Children Boards should be?

Question 61 – Do you agree that a funding formula is needed? What approach should be taken to devising this formula?

Yes

Question 62 – Do you think that the existing statutory membership of LSCBs is sufficient for Safeguarding Children Boards? What additional members should be included within the membership of Adult Protection Boards?

Question 63 – Should there be a requirement that all Safeguarding and Protection Boards have independent Chairs? Please explain your rationale.

4.3 Adult Protection – a new legal framework

Question 64 – Is the scope of what would constitute an ‘adult at risk’ reasonable?

Question 65 – Should the duties on agencies to protect adults at risk be based on someone being the victim, or potentially the victim of ‘harm’?

Question 66 – Should the definition of an ‘adult at risk’ also take account of where, or in what circumstances, the abuse has taken place and whether someone is unable to safeguard themselves as a result of their health and social care needs (paragraph 4.3.9)?

Question 67 – Is the range of agencies that the Bill will place duties on appropriate? Are there any other agencies that should be considered for inclusion in this framework, and if so why?

Question 68 – Should a duty to report apply to all the agencies encompassed by other duties? If not, why not? Who should the duty apply to?

Question 69 – Should the legislation include powers of intervention? If so, what should be the nature of these powers?

Voices From Care welcomes this consultation in regard to adult protection, although we are cautious and feel that the implications, particularly for young adults need to be carefully thought through. The organisation would like to see a legal framework that is supportive and not punitive or oppressive, and a framework that promotes appropriate intervention and quality services. We feel that the details of the implementation of framework for adult protection will be crucial. We are concerned about over intervention. Some level of risk is necessary for young adults to develop. We welcome this agenda as an opportunity for progress on issues such as sexual exploitation and trafficking. We also welcome this as an opportunity to raise issues of protection for young people, who are often lost in the gap between services for children and adults.

5. Regulation and Inspection

5.1 Workforce registration

Question 70 - Do you believe that the current definitions of social care workers in the Care Standards Act 2000 are broad enough to capture workers in new models of service delivery?

Question 71 - Do you agree that the Care Council should have powers to regulate the training of all social care workers, not only social workers?

Question 72 - Do you agree that Welsh Ministers should have powers to make regulations that reserve certain activities to staff with certain specified qualifications?

Question 73 - Do you have views about what activities should be reserved to staff with certain specified qualifications?

Voices From care would be concerned about over bureaucracy, and would welcome more details to be able to comment further.

5.2 Service Regulation

5.2a Extending regulation to new service categories

Question 74 - Do you agree that Welsh Ministers should be able to bring appropriate new service delivery models into the scope of the regulator?

Yes

Question 75 - Do you agree that social work services should become a regulated service?

Yes

Question 76 - Do you agree that the registered manager of the service must be registered in the social work register of the Care Council for Wales?

Yes

5.2b Revising the registration model for social care services

Question 77 - Do you agree that there should be powers to make registration time limited? If so, should this be introduced in a staged way?

Question 78 - Should certain services, as a matter of principle, be exempt from this provision? If so, why?

Question 79 - What sectors/services do you believe would be particularly suited to this model?

Question 80 - What issues do you think this model would raise?

Voices From Care is concerned about whether these proposals may mean more bureaucracy, but feel that efforts to improve registration of individuals and services are generally welcome.

5.2c The Register



Question 81 - Do you agree that the register should contain specified information?

Yes

Question 82 - Do you think that this approach will enable service users and their carers to make decisions about services they use or may wish to use?

Yes

Question 83 - Do you agree that there should be information sharing powers afforded to the regulator?

Yes

Question 84 - Do you agree that this approach will drive up improvement?

Yes, it should contribute to this

5.2d Organisational governance and quality assurance mechanisms

Question 85 - Do you agree that these reports should be public ally available?

Yes

Question 86 - Do you agree that we should specify matters for public reporting?

5.2e National Minimum Standards

Question 87 - Do you agree that we should remove the word 'minimum' from sections 23 and 49 of the Care Standards Act 2000

Yes

6. Services

6.1 Adoption

Question 88 - Do you agree the functions that a National Adoption Service will be responsible for, as set out in paragraph bb?

Voices From Care supports the proposal for the setting up of a National Adoption Service. We feel the exact functions require further debate.

Question 89 - Do you suggest any additional functions that should be included?

Question 90 - Are there any other barriers to the current arrangements that should be considered in the development of the Social Services (Wales) Bill?

Question 91 - Do you have any other comments that you wish to make about our proposals for a National Adoption Service?

Voices From Care welcomes the role a National Adoption Agency could have in highlighting and alleviating some of the inconsistencies in adoption services around Wales and in the experiences of children. We feel it could be a central point for all those involved and affected by adoption. It could champion children's rights. Voices From care feels that money needs to be ring fenced to improve adoption services. We feel the control and management of a National Adoption Service should be separate from the local authorities, although there will need to be clear lines of communication with local authorities. Within its remit the National Adoption Service should also understand and raise awareness of the other routes to permanence for children and young people, and have an overarching concern about the whole looked after experience. Voices From Care feels that the National Adoption Agency and its work / influence should be grounded in an evidence base of what works for children and young people looked after.

6.2 Transitions for disabled children and young people

Question 92 - Are there any key, identifiable entitlements that disabled children receive that would be of continued benefit beyond age 18 for those with the most complex needs? Please provide details and rationale.

Question 93 - Do you have any suggestions for how we might define "complex needs"?



Voices From Care would welcome more detail on this proposal. Disabled care leavers who are moving from children's to adult services are currently receiving an inconsistent service. We welcome the proposal to make this transition smoother. We do not necessarily agree with the explanation for this proposal. The experience of Voices From Care is that adult services often have the most appropriate resources for disabled care leavers post 18. However it is often the lack of communication and good working relationships which can make the transition difficult.

7. Implementation of proposed legislation

7. Implementation of proposed legislation

Question 94 - Throughout this document we have identified the impacts of the proposals we would like to include in the Bill. Do you have any comments on the impacts that we have identified?

Question 95 - Do you agree with our analysis of the impacts? If not, why?

Question 96 - What do you think the potential cost implications are for the new proposals? Could the new duties be met through minor changes to current arrangements etc?

Question 97 - Are there other areas of impacts we should be considering?

Voices From Care feels that the impacts of the proposals, particularly on children and young people, and the cost implications have not been given enough attention and have not been adequately explored. Voices From Care would like details of how the impact of the Bill will be assessed in line with the Children's Rights Measure and Scheme. We would also like to know how the views of children and young people and their representatives have been used in the further development of the Bill.

Voices From Care

carol@vfcc.org.uk

02920 451 431

39 The Parade,

Roath,

Cardiff,

CF24 3AD

