



Welsh Assembly Government

The Proposed Vulnerable Children LCO Committee

Scrutiny of drafting of Proposed Order No. 3

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2007 Consultation

Submission by British Association of Social Workers, Cymru

1. Introduction

- 1.1. The British Association of Social Workers (BASW) is the largest professional association for social workers and social care staff in the UK. The Association has approximately 11,000 members employed in frontline, management, academic and research positions in all social work settings, of whom 700 are working in Wales.
- 1.2. This response by BASW Cymru follows from discussions with members of the Wales National Standing Committee, the members of which represent a cross section of interests as specified above.
- 1.3. As a professional association BASW is concerned to promote the highest possible standard of service for those individuals and groups who require a social care service, often at times of particular vulnerability. BASW's primary objects are:-
 - 1.3.1. "To promote the education and training of social workers for the benefit of the public
 - 1.3.2. To relieve poverty and its effects
 - 1.3.3. To promote the education of the public in matters of social policy, social organisation and social problems
- 1.3.4. To promote the advancement of social work as a profession in all or any of its aspects"
- 1.4. The association actively campaigns on social policy issues and requires members to adhere to the "Code of Ethics". Advice and representation services are provided when required.

2. General Response

- 2.1. BASW welcomes the fact that the Welsh Assembly Government is considering how to provide services which will assist children thought to be vulnerable in Wales, and who are not sufficiently protected by existing legislation.
- 2.2. We are also supportive of measures that will draw together the multitude of pieces of legislation about vulnerable children and young people into a coherent framework, workable in Wales. We do not believe the present arrangement of Acts of Parliament, which have sections pertaining to England and sections pertaining to Wales, is a satisfactory way for policy makers and practitioners in either country to carry out their functions effectively. Currently many practitioners (and sometimes policy makers) become confused by the number of Acts of Parliament and are unsure what has been amended, not brought into force or only applies in one jurisdiction.

- 2.3. BASW members are not experts at drafting of legislation, and hence our comments should be read in that context.
- 2.4. BASW members also struggled to consider the very specific questions about the content of the LCO. Opinions about whether the wording needs re-drafting depend upon an understanding of what outcomes the Welsh Assembly Government specifically wishes to achieve. The attached Memorandum explaining future policy direction was helpful to a degree, but during discussion it became obvious that there were different interpretations about intended outcomes. For instance the definition of ‘vulnerable children and young people’ opened a debate about the relationship of ‘vulnerable children’ to ‘children in need’. Is there a difference? What is that difference? Should vulnerability be defined in terms of what a child might be vulnerable to? We appreciate that this is not the place to find those answers, but... not having clarity about the intended recipients of further Measures makes it difficult to know whether the LCO as drafted will sufficiently open the way for such Measures.

With this rider in mind we offer the following comments

Question 1

Would the terms of the proposed Order allow for the implementation of the policy agenda on vulnerable children and child poverty by means of Measures? If not, how would the proposed Order need to be re-drafted and why?

As we have already stated we are not experts at legislative drafting, so cannot offer in depth analysis in response to this question. However taking the objectives as set out in paragraph 17 of the Memorandum we believe that it:

- will allow for the rationalization and consolidation of existing provisions for vulnerable children (see question 3 for a discussion about the definition of the term vulnerable).
- may allow the Welsh Assembly Government to carry out its policies as outlined in the Memorandum although we are not sure – see question 2 for specifics.
- will allow for top-ups of Child Trust Funds etc, but are not sufficiently knowledgeable about legislation to comment authoritatively.

Question 2

Are the terms of the proposed Order drafted appropriately, too narrowly or too broadly? If necessary how should the proposed Order be re-drafted and why?

Bearing in mind our rider about expertise in reading the legalese of the Order, we offer the following:

1. We understand that the Welsh Assembly Government wishes to protect vulnerable children by offering support to families, thus enabling parents to remove their children from the ‘vulnerable’ banding. If we are correct, we thought that the LCO focused too much on the individual child, and insufficiently on the family, although we acknowledge that 15.3 includes the phrase ‘and the persons who care for them’.

2. In addition we would like to see provisions to support parents per se, regardless of whether they needed an ‘adult’ service as an individual in their own right. We would like to ensure that adults who are ‘disabled’ parents (whether by virtue of physical disability, mental ill-health, misuse of alcohol or substances or learning disability) get a properly integrated service that recognizes them as parents.
3. The LCO gave insufficient attention to duties/responsibilities of communities, although we acknowledge that it is difficult to legislate for this.
4. The LCO was insufficiently clear about which groups of children and young people were to be the subject of the Order and subsequent Measure(s). The Memorandum talks of a “diverse range of children: any child in need, who is on the periphery of care, in care, or who has left care” whereas the LCO is broader. This broad sweep does allow for further exploration of the different groups of children and young people who might be the target of a Measure, which is to be welcomed. However the reverse side of this argument is that there is little discussion in the Memorandum of the extent to which the state should interfere in the lives of citizens, regardless of their age.
5. It is of course difficult to comment on the LCO provisions without reference to the Memorandum, which we are told will form the basis of possible Measures. However we wondered if there ought to be more information about which parts of current legislation that the Assembly is minded to change. We are concerned that the term ‘vulnerable children’ is being suggested as one that will ‘catch’ more children than those currently caught by the term ‘children in need’. If this is the case then we need some information about where the boundaries of such a definition might be placed, in order to assess whether the LCO is broad enough to cope with such intentions.
6. Matter 15.6 covers strategic planning by local authorities, which is fine. However we know that children and their parents do not exist in a vacuum. We would have welcomed the inclusion of wording to cover community action, partnership working and the involvement of the Health Service. We would hope that a holistic approach will be taken to services that support families, from the statutory (including those not under the ambit of Social Services, but concerned with services for parents, children and young people), voluntary and private sectors.
7. Our deliberations led us to urge the Welsh Assembly Government to ensure that any Measures arising from this LCO do not simply produce more procedures and responsibilities for Social Services. It must lead to addressing issues of parents’ inequality of access to resources in its broadest sense. We must also be mindful of the reasons behind the failure of current legislation to protect and promote the well-being of children, and whether this is due to inadequate legislation or an inability of

those with responsibility to carry out their duties (and this may equally be about shortages of skilled staff, lack of resources for the prevention and support agenda)

Question 3

Are the definitions of ‘well-being’ and ‘social care’ in the proposed Order appropriate? If not, how should they then be re-drafted?

1. We support the term ‘well-being’ as defined. We have a query as to whether this may include the future well-being of children and young people, and would ask that the needs of children conceived by assisted reproduction techniques be also brought within the thinking of this legislation.
2. We have been trying to decide whether the definitions of social care and well-being relate to children and young people only or to the adults who care for them as well. There is a sense in which ‘well-being’ reads as though applicable to children and young people, whilst ‘social care’ certainly relates to “any person”. We would suggest that this could be made clearer.
3. We wondered whether it might be appropriate to include a definition of carer/parent.

Question 4

The proposed Order includes a table setting out certain exceptions from the scope of Matters 15.1 – 15.8. Are these exceptions appropriate? If not, how should they be re-drafted and why?

These exceptions are obviously a consequence of the limitations on the Assembly Government’s powers, and we are unable to comment on the specific questions. However we feel that reading the list gives rise to feelings of frustration at the Government’s ability to take a holistic approach to the ‘well-being’ of children and their families.

Penny Lloyd
Professional Officer
On behalf of British Association of Social Workers, Wales