

Social Services and Well-being (Wales) Bill

Summary of changes at Stage 3

Introduction

This document sets out some of the key changes made to *the Social Services and Well-being (Wales) Bill* (“the Bill”) during Stage 3 proceedings.

Background

The Bill was introduced by Gwenda Thomas AM, Deputy Minister for Social Services (“the Deputy Minister”), on 28 January 2013 and was remitted by the Business Committee to the Health and Social Care Committee (“the Committee”) for Stage 1 scrutiny.

The Children and Young People Committee also took evidence on the Bill at Stage 1 and communicated its findings to the Health and Social Care Committee. The Health and Social Care Committee published its Stage 1 report in July 2013. The Constitutional and Legislative Affairs Committee also published its report on the Bill in the same month. The Bill was approved at Stage 1 by the Assembly following a debate on its general principles in Plenary on 8 October 2013.

Stage 2 commenced on 9 October 2013 and the Health and Social Care Committee met to consider and dispose of amendments on 13 November, 27 November, 5 December and 11 December 2013.

Stage 3 commenced on 12 December 2013 and the Assembly met in plenary to consider and dispose of amendments on 4 February and 11 February 2014. Further information about the Bill (as introduced) is available in a **Bill Summary** prepared by the Research Service.

Amendments agreed at Stage 3

Please note that section numbers refer to the Bill as amended at Stage 3.

Social care for people in custody

- Amendments 50-53 add new sections 179-182. These clarify the eligibility for social care services of adult prisoners in Wales, reflecting similar provisions in the English Care Bill. The local authority in which the prison is located will be responsible for providing care services to prisoners. The new sections also provide for social care services to children and young people in custody, as currently set out in the *Children Act 1989*. However, unlike adults, the local authority in which they were resident before entering custody will be responsible.

United Nations Principles for Older Persons

- Amendment 292 (Darren Millar) inserts a reference in section 6 of the Bill to the United Nations Principles for Older Persons, and requires a person exercising functions under the Act to have due regard to the Principles.

Carers' strategies

- Amendment 115 inserts new subsections into section 13 of the Bill which will amend section 40 of the *National Health Service (Wales) Act 2006*. This aims to maintain the leadership role of Local Health Boards in carers' strategies, as set out in the *Carers Strategies (Wales) Measure 2010* which is to be repealed by the Bill. The amended 2006 Act will require Local Health Boards to submit to Welsh Ministers any part of their health and well-being strategy that relates to carers. The Deputy Minister said that the amendment was intended to address concerns about the repeal of provisions in the *Carers Strategies (Wales) Measure 2010*.

Registers of sight-impaired, hearing-impaired and other disabled people

- Amendments 122, 123, 124 and 126 to the Bill require local authorities to record the linguistic needs of people (for example Welsh speakers) who are included on registers of sight-impaired, hearing-impaired and other disabled people under section 17. The Deputy Minister said that this aimed to address an issue raised at Stage 2 by Elin Jones. The amendments also provide for identifying personal data about individuals to be excluded from registers if the person so wishes.

Assessment of disabled children

- Amendment 131 inserts a new subsection to section 20 which provides that the duty to assess disabled children does not depend on the local authority determining that there is an appearance of need, as required by subsection (1). The Deputy Minister said that this aimed to put into effect her commitment to the 'passporting' of disabled children to a needs assessment to address concerns that provisions in the *Children Act 1989* were not being fully replicated in the Bill.

Review of needs assessments and care and support plans

- Amendment 142 inserts a new subsection into section 26 which provides for regulations for the review of needs assessments, including persons who may request a review, and the circumstances in which a local authority may refuse a request.
- Amendments 159-164 and 176-181 make similar provisions in relation to care and support plans for both adults and looked after children. Sections 48 and 77 are amended, for adults and looked after children respectively, to require re-assessment where the operation of a care and support plan is affected by a change in circumstances. Regulations must specify persons who may request a review of a care and support plan, and when a local authority may refuse a request.

Those who must be involved in care planning are set out in sections 48 and 77, including service users themselves and their carers.

Regulations on eligibility criteria

- Amendment 18 puts into effect, in section 29, a Stage 2 commitment by the Deputy Minister to subject regulations on eligibility criteria to a super-affirmative procedure.
- Amendment 59 provides that the regulations to be made using powers in section 29 must be in force before the duties in section 29(1) and 29(2) can be commenced. The effect of this is that the levels at which the eligibility criteria are set must be agreed by the Assembly before they can be implemented.

Charging 16 and 17 year olds

- Amendments 23-38, 40-45, 60 and 47 remove the power in section 54 (and amended other relevant sections and schedules) of the Bill to charge 16 and 17 year olds for care and support services, and 16 and 17 year old carers for support services. The amendments give effect to a commitment the Deputy Minister made at Stage 2.

Review of decisions relating to the transfer of assets to avoid charges

- Amendments 168 and 169 make provision for the review of decisions relating to the transfer of assets to avoid charges. They extend the regulation-making powers under section 67 accordingly and reflect a commitment made by the Deputy Minister at Stage 2.

Accommodation for former looked after children

- Amendment 75 inserts a new section into the Bill which places a duty on local authorities to provide support, where appropriate, for a “Category 1” young person placed with a foster carer to continue their placement after their 18th birthday. Amendment 76 amends section 104 of the Bill to place duties on local authorities responsible for a “Category 3” young person in a post-18 living arrangement to monitor and support such arrangements.

Advocacy

- Amendments 78-80 insert new sections 175-177 into the Bill which make provisions for advocacy services. Amendment 78 (as amended) provides for regulations to require local authorities to make advocacy services available to certain persons in certain circumstances. Amendment 81 provides for the affirmative procedure to apply in the making of these regulations.
- Amendment 78 (as amended) requires local authorities to publicise their advocacy services, and amendment 80 makes the same requirement on care home providers through amendments to the *Care Standards Act 2000*. Amendment 78A (Lindsay Whittle) removes the provision within amendment 78 for charges in relation to advocacy.

Institutional abuse and neglect

- Amendment 85 (William Graham) adds “institutional abuse” to the definitions of abuse in section 191 of the Bill.
- Amendment 94 (William Graham) provides a definition of “neglect” for both adults and children in section 191 of the Bill with the stated aim of providing clarity and ensuring neglect receives sufficient priority in safeguarding.

Next steps

An amended version of the Bill has been prepared by clerks in the Policy and Legislation Committee Service. Report Stage commenced on 12 February (the day after Stage 3 proceedings were completed). Report Stage proceedings will take place on 18 March 2014. The deadline for tabling Report Stage amendments is 18.00, 11 March 2014.

Further information

For further information on the Bill please contact the lead responsible clerk, Helen Finlayson (helen.finlayson@wales.gov.uk).

