

**Pwyllgor Deddfwriaeth Rhif.5
Legislation Committee No.5**



Cynulliad National
Cenedlaethol Assembly for
Cymru Wales

Bae Caerdydd / Cardiff Bay
Caerdydd / Cardiff CF99 1NA

4 February 2010

Dear Sir / Madam

Consultation on *Proposed Carers Strategies (Wales) Measure*

As part of its Stage 1 consideration, the National Assembly for Wales' Legislation Committee No.5 is calling for evidence on the general principles of the *proposed Carers Strategies Measure*.

What is a Measure?

A Measure is a piece of law made by the Assembly, which has a similar effect to an Act of Parliament. The Assembly is able to pass Measures on any 'matter' listed in [Schedule 5](#) to the Government of Wales Act 2006. The proposed Carers Strategies (Wales) Measure uses matters relating to partnership working between the NHS and Local Authorities in Wales to produce a joint strategy in relation to carers.

While a Measure is in progress through the Assembly, it is known as a 'proposed Measure'.

There is a four stage process for the consideration of a proposed Measure. Stage 1 involves consideration of the general principles of the proposed Measure by a committee (which includes the taking of written and oral evidence from interested parties and stakeholders), and the agreement of those general principles by the Assembly.

What does this proposed Measure seek to achieve?

The Explanatory Memorandum that accompanies the proposed Measure states:

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“The purpose of this Measure is to enable the National Assembly to legislate to introduce a new requirement on the NHS and Local Authorities in Wales (“the relevant authorities”) to work in partnership to prepare, publish and implement a joint strategy in relation to carers.

The strategy will provide for the provision of information and advice to carers and for the effective involvement of the relevant authorities with carers when making decisions about the provision of services to or for carers or the person cared for.”

What is the committee’s role?

The role of Legislation Committee No. 5 is to consider and report on the general principles of the proposed Measure. In doing so, the Committee has agreed to work within the following framework:

To consider:

- i) the need for a proposed Measure to deliver the stated objectives of:
 - Ensuring that carers have the right information at the right time to support them in their caring role.
 - Ensuring that statutory agencies properly engage with carers as partners in the provision of care involving them at all levels in the assessment, delivery and evaluation of care arrangements.
- ii) whether the proposed Measure achieves its stated objectives;
- iii) the key provisions set out in the proposed Measure and whether they are appropriate to deliver its objectives;
- iv) potential barriers to the implementation of the key provisions and whether the proposed Measure takes account of them;
- v) the views of stakeholders who will have to work with the new arrangements.

How you can help – the consultation questions

Further details of the proposed Measure and the accompanying Explanatory Memorandum can be found on the National Assembly’s website at:

http://www.assemblywales.org/bus_legislation_meas-cs

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The Committee would like to invite you to submit written evidence to assist in its scrutiny of the proposed Measure. In particular, we would welcome your views on the questions listed in **Annex 1**.

If you wish to submit evidence, please send an electronic copy of your submission to legislationoffice@wales.gsi.gov.uk and entitle the e-mail *Consultation Proposed Carers Strategies Measure*.

Following the consideration of evidence submitted to Legislation Committee 3, when scrutinising The National Assembly for Wales (Legislative Competence) (Social Welfare) Order 2009 (relating to Carers), the Committee is keen for consultees not to duplicate time and effort. If you consider that your consultation response to the LCO adequately covers any issues on the Measure, please indicate this in your consultation response. Alternatively, you may wish to supply additional evidence now you are able to consider the full details of the proposals in the legislation.

Alternatively, you can write to:

Leanne Hatcher, Deputy Committee Clerk, Legislation Office, National Assembly for Wales, Cardiff Bay, CF99 1NA.

Submissions should arrive by Thursday 18 March 2010. It may not be possible to take into account responses received after this date.

Further information on the **legislative process** can be found at:
<http://www.assemblywales.org/bus-home/bus-legislation/bus-legislation-guidance/bus-legislation-guidance-measures.htm>

When preparing your submission, please keep the following in mind:

- your response should address the issues before the Committee. Please reference your response using the title applied above;
- the National Assembly normally makes responses to public consultation available for public scrutiny and they may also be seen and discussed by Assembly Members at Committee meetings. **If you do not want your response or name published, it is important that you clearly specify this in your submission;**
- please indicate whether you are responding on behalf of an organisation, or as an individual; and
- please indicate whether or not you would be prepared to give oral evidence to the Committee.

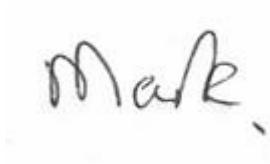
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The Committee welcomes contributions in English and Welsh and will consider responses to the written consultation during the spring term.

If you have any queries, please contact Bethan Davies, Committee Clerk on 029 2089 8120 or Leanne Hatcher, Deputy Clerk on 029 2089 8147.

Yours faithfully

A handwritten signature in black ink that reads "Mark," with a small comma at the end.

**Mark Isherwood AM
Committee Chair**

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Consultation Questions

1. Is there a need for legislation (by means of an Assembly Measure) to be made to introduce a new requirement on the NHS and Local Authorities in Wales (“the relevant authorities”) to work in partnership to prepare, publish and implement a joint strategy in relation to carers and if so why? If not, what alternatives do you propose?
2. Are the sections of the proposed Measure appropriate in terms of reforming legislation relating to the provision of information and advice to carers? If not, how does the proposed Measure need to change?

In considering this question, consultees *may* wish to consider, in particular, the nature of the provisions in the proposed Measure that:

- (a) The definition of appropriate advice and information as defined in the Measure (Section 3);
- (b) Local authorities must ensure that in deciding what services to provide to or for a carer or the person cared for, they consult the carer. Also authorities are required to ensure that they consult carers before they make decisions of a more general nature about service provision to or for carers and the persons cared for. (Sections 2 (1) (b) & (c));
- (c) Welsh Ministers with the power to make regulations about the following:
 - i. the services in respect of which the duty to prepare a strategy applies;
 - ii. the matters to be dealt with in the strategy;
 - iii. how and when the strategy is to be published;
 - iv. keeping the strategy under review (including setting a period after which the strategy must be reviewed or replaced);
 - v. the consultation which must be undertaken before or during the preparation, implementation or review of the strategy;
 - vi. arrangements to monitor and evaluate the implementation of the strategy;(Section 5 (2) (a)-(f));

- (d) Welsh Ministers would be able, for each strategy, to designate an NHS organisation as the lead authority for the purposes of co-ordinating and overseeing the preparation and publication of the strategy and any subsequent review.(Section 5 (3)); and
 - (e) The proposed Measure would also place a duty upon the lead authority, or, where there is no designated lead, the responsible authorities acting together, to submit the strategy to Welsh Ministers. Welsh Ministers would then be required to inform the responsible authorities that they are satisfied with the draft strategy, or if they were not satisfied, give the responsible authorities such directions as considered necessary for ensuring that the strategy complies with their requirements. (Section 6);
3. How will the proposed Measure change what organisations do currently and what impact will such changes have, if any?
 4. What are the potential barriers to implementing the provisions of the proposed Measure (if any) and does the proposed Measure take account of them?
 5. What are the financial implications of the proposed Measure for organisations, if any? In answering this question you may wish to consider Part 2 of the Explanatory Memorandum (the Regulatory Impact Assessment), which estimates the costs and benefits of implementation of the proposed Measure.
 6. Are there any other comments you wish to make about specific sections of the proposed Measure?

Subordinate Legislation

7. What are your views on powers in section 8 for Welsh Ministers to make subordinate legislation?
8. Question 2(c) above sets out the powers to make regulations (subordinate legislation) that the Proposed Measure would give to the Welsh Ministers. It is proposed that all of these powers would be exercised by the 'negative resolution procedure'¹.

¹ This procedure allows Ministers to make subordinate legislation without the approval of the Assembly, although the Assembly can subsequently vote to annul the legislation concerned. Alternatively the 'affirmative resolution procedure' can be used to ensure that subordinate legislation cannot come into force until the Assembly has voted to approve it.

Has the appropriate balance been struck between the provisions in the Measure and the power delegated to Welsh Ministers, to set out the detail of the requirements to be placed on the relevant authorities in Wales through subordinate legislation? Is the use of the negative procedure appropriate in each case or are any of the powers sufficiently significant for the affirmative procedure to apply?

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