

Response to the Report of the Senedd Public Accounts and Public Administration Committee Report on Care Home Commissioning

Provided by: Julie Morgan AS, Deputy Minister for Social Services

The Welsh Government welcomes the findings of the Committee's report and offers the following response to the thirteen recommendations contained within it.

Recommendation – 1. We note the ongoing work to evaluate the implementation of the Social Services and Well-being Act 2014 but recommend the Welsh Government provides assurances as to how it is working with Local Authorities, Health Boards and other stakeholders to review compliance with the care home commissioning provisions set out in the Social Services and Well-being Act 2014.

Accept

The core purpose of the Social Services and Wellbeing Act evaluation studies is to understand the experiences and expectations of the people using services. The function of regulatory bodies, in this case CIW and HIW, is to assess compliance with the statutory framework as it applies to the social care sector, including the commissioning of provision. This is supplemented by a national performance improvement framework and local authority reporting including annual reports from statutory social services directors.

We will ensure this compliance and performance framework evolves through our Rebalancing Care and Support reforms which will be the basis of public consultation in 2023, and in the context of agreed recommendations from the Expert Group on the National Care Service.

Additionally Audit Wales reports and other independent reviews (KPMG review 2019) of joint commissioning and pooling of budgets between health boards and local authorities for the purpose of commissioning placements for older people have indicated limited impact and effectiveness of current arrangements. Through the rebalancing care and support programme of work to develop a national commissioning framework and strengthen regional working the existing duties and expectations will be reviewed and clarified. Further to this the rebalancing programme of work is looking to develop performance monitoring and joint inspection arrangements for integrated working.

Recommendation – 2. The Committee recommends that the Welsh Government considers the voice of service users as part of their policy reform in this area.

The Committee would welcome further information from the Welsh Government about how they've consulted with service users and their families, as part of the work of the expert group on social care.

Accept

The independent Expert Group to establish a National Care Service, free at the point of need, was established and began meeting in February 2022.

The Group is independent from government and consists of individuals from a range of diverse backgrounds who offer perspectives of citizens, service management, public administration, workforce representation and academia. The Expert Group also aims to represent the views of Black, Asian, and Minority Ethnic people, and to enhance to use the Welsh Language in social care.

The Terms of Reference for the Expert Group, set by Ministers and the Plaid Cymru Designated Member, did not include expectations about extensive public consultation. This is because once the Expert Group report is considered by Ministers and the Designated Member, there will be an extensive period of public consultation, including with service users and their families, as part of the process to develop an Implementation plan.

Recommendation – 3. The Committee recommends that the Welsh Government's Task and Finish Groups developing the new National Framework for social care should consult service users as part of its work. The Welsh Government should provide an update about how this will be achieved, as part of its consultation in Spring 2023.

Accept

The Rebalancing Care and Support Programme Partners - composing of the membership of the Technical Group for the National Framework and membership of Task and Finish Groups to Strengthen regional partnership arrangements – include a range of voices from across the social care and healthcare sector. The members have committed to accurately represent the views, in relation to care and support, of their nominating organisation and/or region and to communicate updates from Group discussions to their own networks to feedback appropriately.

The task and finish group on citizen voice and engagement is reviewing the effectiveness of regional partnership mechanisms in including the views of service users, carers and other citizens. Citizen representatives have been engaged directly in the work of this task and finish group.

The whole programme will undertake extensive public consultation commencing in Spring 2023, and in the interim we are communicating using our programme newsletter.

Recommendation – 4. We recommend the Welsh Government give consideration to encouraging and supporting the role of volunteers in care homes but within

the strict boundaries of supporting quality of life such as developing shared interests and activities. Volunteers must not be used to provide professional care services.

Accept

In 2021 the Welsh Government funded a small pilot project to recruit volunteers to support safe visiting between residents and relatives during the pandemic. This supported care homes by alleviating pressures on staff to undertake this specific role.

We are now building on the approach to recruiting, training and inducting volunteers that was developed during the initial project. Our new project aims to broaden the role, reach, skills, and number of volunteers across care homes in Wales, based on feedback from the pilot project, whilst ensuring volunteers' roles are clear and appropriate. The target is to recruit 80 new volunteers across 20 care homes in Wales in four geographical areas (Gwynedd, Rhondda Cynon Taf, Gwent and Pembrokeshire) with the support of a local organisation in each area. The aim is to work with 5 care homes in each area. We have provided Age Cymru with £63,000 of grant funding to undertake this work.

As part of this project, which runs from July 2022 to March 2023, volunteers will be trained to engage with care home residents using the 'appreciative enquiry' approach; this works with people's values, respecting hidden stories of experience and personal narratives, demonstrating a sensitivity to feelings. Training volunteers in this way will support residents to give feedback to the care home on the issues that matter to them. Volunteers will also be trained to support activities co-ordinators to reinvigorate care homes during this transitional period out of the pandemic towards a more normal and more vibrant way of life.

Recommendation – 5. The Committee recommends that the Welsh Government's considers, as part of the development of a National Care Service, what more can be done to review the salaries and terms and conditions of care workers, to ensure parity with NHS staff and to be competitive with other industries, such as the hospitality industry. Without parity of pay and conditions, the sector will continue to face problems recruiting and retaining staff.

Accept

Introducing the Real Living Wage (RLW) for social care workers has been a priority for Welsh Government and a key commitment in the programme for government. The sector urgently needed support to address recruitment and retention issues, exacerbated by the extreme challenges presented during the Covid-19 pandemic. £43m of funding was made available to Local Authorities and Health Boards for 2022/23 financial year, to deliver the RLW commitment.

In 2020, the Welsh Government convened the Social Care Fair Work Forum, a social partnership group in which trade unions, employers and Government come together to look at how the working conditions of social care workers can be improved in Wales and find viable medium and long-term options to address the recruitment concerns,

improve workforce terms and conditions and to find ways to improve and build a sustainable sector for the future. The Forum is committed to working together to influence national priorities and policy regarding fair work in the social care sector in Wales and to work ambitiously and pragmatically to achieve practical and implementable change.

It has prioritised certain issues with regard to fair work in the sector:

- The payment of Real Living wage to all social care staff as a minimum;
- Developing a pay and progression model for social care staff;
- Determining how a model of collective bargaining could operate in the sector;
- Examine the role and experiences of Personal Assistants in social care and their access to fair work;
- Supporting safe, healthy and inclusive working environments in social care;
- Understand the impact on workers of non-guaranteed hours and the extent to which workers have knowledge of, and are able to access their rights.

In the short term the Social Care Fair Work Forum has focussed its efforts on improvements to pay and has provided advice on how we can take forward the Real Living wage, it is now focusing on its wider priorities. These include tackling low pay in the commissioned independent sector through looking at pay structures and developing a model that could be applied across Wales. An overarching progression structure for the sector is currently being designed for consultation in early 2023. This model was developed with input from HR experts from across the sector and trade unions and is based around the existing qualification bands within social care, registration levels for the workforce and existing competency frameworks.

Recommendation – 6. We endorse Recommendation 14 of the recent report of the Health and Social Care Committee in relation to the Welsh Governments [sic] which calls upon the Welsh Government to undertake a robust evaluation of the WeCare.Wales recruitment campaign.

Accept

We will work with Social Care Wales to ensure robust evaluation of the WeCare.Wales campaign through a range of evaluation activities.

WeCare.Wales is made up of a series of focussed campaigns managed by Social Care Wales addressing key issues and challenges facing the sector. This includes facilitated training through the Introduction to Social Care scheme and the website including a jobs portal.

As the WeCare.Wales campaign is managed by Social Care Wales, it is Social Care Wales that is responsible for evaluation of this campaign. Welsh Government contribute funding towards WeCare.Wales, and we consider it appropriate that Social Care Wales has the responsibility for evaluating the impact of its work. There are

existing mechanisms in place for Welsh Government to oversee the work of Social Care Wales and how it is achieving against its strategic outcomes.

Social Care Wales is commissioning detailed research to better understand care employer methods of recruitment and barriers encountered. The research will also understand employers' involvement and awareness of WeCare.Wales and how this may have impacted on their recruitment and will be completed by April 2023. Social Care Wales is also running a public perception survey which will build on surveys carried out in 2018 and 2020 and provide trend data on public opinion and views of the social care, early years and childcare sectors. The second perceptions survey carried out in 2020 showed public attitudes about the value of the sector and its workforce had improved. This third run of the public perceptions survey is due for completion early 2023.

Recommendation – 7. The Committee recommends that the Welsh Government works with the industry and other stakeholders to attract more volunteers to the care home sector to provide additional quality of life services, but not to replace professional care.

Accept

We are working with a number of key stakeholders as part of our grant-funded volunteer project to broaden the role, reach, skills, and number of volunteers across care homes in Wales. These include Age Cymru, the WCVA, Care Forum Wales, Social Care Wales and Care Inspectorate Wales. The inaugural meeting of the project stakeholder group will be held in October.

Recommendation – 8. The Welsh Government needs to mandate a more proactive approach to sharing information across the care home sector, particularly information on service user experience and satisfaction, linked with the seven well-being goals for Wales. This mandatory requirement to share information should be implemented on a national level, to ensure providers, service users, the Welsh Government and other have access to consistent and relevant information. The Welsh Government should work with providers to proactively seek consent from service users and their families for the sharing of information.

Reject

We agree fully that citizen experiences must be the basis and impetus for improvement in the provision of social care services. This citizen-centred perspective is central to the Social Services and Wellbeing Act. Therefore we are seeking to develop an environment where stronger national data sets are a basis for learning and drive service improvement. A range of measures are already in place to this end.

For local authorities we have set out in a Code of Practice that local authorities should collect service user experiences and outcomes, and use that information to drive improvement, as part of the Performance and Improvement Framework. Evidence of

that research they have done this must be provided in the Directors of Social Services Annual Reports. Care Inspectorate Wales also puts the views of care users at the heart of its own work, and the conclusions of its inspections are published.

However, we are not at this time seeking to mandate the sharing of information about individuals' experiences, as we do not view the high cost of implementing such an approach across many hundreds of providers would create a proportionate benefit in terms of data development over and above the measures we have already taken and have in hand.

Recommendation – 9. The Code of Practice on inspection flowing from the requirements of the Regulation and Inspection of Social Care (Wales) Act 2016 requires inspectors to seek service user voices in all inspections. The Committee seeks assurances and evidence that the provisions are now being implemented and monitored in full.

Accept

People who are in receipt of care and support are the primary focus of every inspection by Care Inspectorate Wales (CIW). CIW has undertaken 705 inspections of 614 adult care homes between 1 October 2021 and 31 August 2022 and spent 9,181 hours on site at those care homes. This provides the opportunity to always talk to people who live in the care homes and their families and friends when they are present during our visit.

Where people are unable to talk with CIW, for example if they are living with dementia, an evidence-based tool called Short Observation Framework for Inspection (SOFI) is used which helps us understand people's experience of living in the care home. CIW also considers how well people have been involved in the development of their personal plans and look for evidence whether people have a voice in the running of their home in accordance with the requirement of the regulations. Where CIW finds this is not evidenced, we would highlight this as an area for improvement and check this is actioned at the next inspection.

In addition, CIW have a short feedback survey which can be completed during an inspection or at any other time as it is available online. Between 1 October 2021 and 31 August 2022, CIW received 982 feedback surveys about care homes in Wales including 672 from staff, 98 from people living in care homes and 182 from their representatives and 30 from other health and social care professionals. CIW also reflect the views of people in our inspection reports as appropriate. Here are some extracts from recent inspection reports:

- "The health and wellbeing of people is actively supported. People told us *"they are always interested in how we are doing"*, another person told us; *"staff are really good with no problems here"*. We also spoke to three relatives, one of whom told us *"the care is fantastic"*.
- "Another person living with dementia has recently moved into the service. They are comfortable and relaxed following a period of initial distress when moving in. Their relative attends the home daily and is extremely positive

about staff and the environment, saying *“it’s the best home I have ever been in, and I’ve been in many”.*

Recommendation – 10. The Welsh Government should provide the Committee with data about the number of inspections conducted of care homes in Wales so far in 2022, outline the future inspections work being undertaken for the remainder of the year. The Committee would also like to hear about the Welsh Government intends to address the backlog in inspections over the pandemic.

Accept

As of 31 August 2022, there are 1,044 adult care homes registered with CIW. CIW has inspected 486 of these since January 2022. CIW’s approach to inspection is set out in its code of practice ([210122-code-of-practice-for-inspection-RISCA-en.pdf](https://careinspectorate.wales.gov.uk/210122-code-of-practice-for-inspection-RISCA-en.pdf) (careinspectorate.wales.gov.uk)). CIW prioritise inspections on the basis of the intelligence we hold about services. During 2022, CIW initially focused on inspecting services where our intelligence raised concerns, or where CIW had identified poor outcomes for people at previous inspections and CIW needed to inspect again to consider if improvements had been made. CIW also prioritised inspection of services which were due for inspection following their re-registration under the Regulation and Inspection of Social Care (Wales) Act 2016. The re-registration of 1,639 services took place between 1 April 2018 and 26 January 2021.

The timetable for the inspection of adult care homes has to be considered alongside the requirement for CIW to inspect 927 other regulated adult and children’s services including domiciliary support services, care homes for children, boarding schools, etc.

Between 1 October 2021 and 31 August 2022, we have inspected 614 adult care homes. The aim of the current inspection programme is to have inspected all registered adult care homes in the 18-month period between 1 October 2021 and 31 March 2023. However, CIW are acutely aware of the continuing impact of the pandemic on the social care sector exacerbated by staff recruitment and retention pressures. Where CIW find poor outcomes for people, they will require the provider to take action and we will return to inspect the service to check improvements have been made. Such additional inspections could delay the completion of the planned programme which is difficult to predict or quantify.

In addition to our inspection activity, CIW work closely with partners to underpin and support our inspection programme. For example, we meet regularly with local authority and health board commissioners to share information about care services. This includes sharing feedback commissioners may have from people living in care homes and from health and social care professionals who regularly visit care services. CIW have developed a formal information sharing protocol and memorandum of understanding with commissioners. CIW also actively encourage people using services, their friends and families and care staff to share any concerns they have about care home services. This intelligence informs the planning of our inspection activity.

Recommendation – 11. The Committee is deeply concerned about the charging of top-up fees and recommends that the Welsh Government issues binding restrictions, to limit the areas where such fees are charged, which should be kept to a minimum and published. The Welsh Government should undertake a comprehensive review of this at the earliest possible opportunity

Reject - See joint response below for 11 and 12.

Recommendation – 12. The Committee recommends that a robust independent redress system be implemented, to allow service users or their relatives to challenge top-up fees.

Reject – Joint response for 11 and 12

The Welsh Government would be deeply concerned where any individual is being charged for care where that care is already provided free of charge through the public purse.

There are already clear guidelines in place within the Continuing Healthcare Framework which set out the approach to additional services, defined as services which are over and above those detailed in the care plan developed to address assessed need. The guidelines are clear that such personal contribution arrangements must never be utilised as a mechanism for subsidising the service provision for which the Local Health Board is responsible, should be a matter of personal choice, and that individuals are not put at risk of financial exploitation. The guidelines also provide a clear accountability framework which we expect Local Health Boards to adhere to.

In relation to local authority commissioned or arranged care, the regulations and code of practice for charging for adult social care only provide very limited and specific situations where additional cost payments may be appropriate; e.g. when a local authority has agreed to a person's request to be provided with more expensive accommodation than they would usually provide. For local authority commissioned or arranged care, access to advocacy, the local authority complaints system and the public services Ombudsman are further resources or channels of recourse that an individual can pursue.

For people that self-fund and arrange their own care we expect care home providers to be clear and upfront about the fees they charge individuals for residential care. They are required by law to set out this information in their written guide for the service as well as an individual's service agreement.

With these arrangements in place, until we have given full consideration to the findings of the National Care Service Expert Group, and engaged with partners on next steps, it would not be appropriate to commit to any wholesale amendments of regulation or to initiate a new independent redress system at this particular time, in the absence of that detail.

However, in keeping with evidence provided to the committee, subject to the outcome of the Expert Group and as part of any new system we would provide any further or updated clarification needed about charging for additional services. In terms of redress, we would need to carefully consider how any consequential refinements we might make to the existing regulations and frameworks sit in the context of any new system, and the Competition and Markets Authority's existing advice on consumer law for UK care home providers for older people, which already provides a level of protection for people.

Recommendation – 13. The Welsh Government should write to the Committee to outline their intentions for pooled funding for care home commissioning, in the context of the ongoing policy reform in the sector and the proposed National Care Service and National Framework.

Accept

As part of the rebalancing care and support programme, five task and finish groups have been established to consider and strengthen regional integration and joint working via Regional Partnership Boards. The Integrated Services Task and Finish group has been specifically reviewing existing provision and arrangements for the regional pooling of funds and in particular taking into account the recommendations of the 2021 Audit Wales Report on the commissioning of care home placements for older people. It will also review and consider the impact and usage of the ADSSC pooled budgets toolkit that was co-produced in 2019 with a range of stakeholders to provide practical guidance on how to overcome potential barriers to pooled fund arrangements.

Engagement with the task and finish group members and learning from the KPMG review of pooled budget arrangements suggests change is needed to ensure joint commissioning is more effective, outcomes focused and that pooled funds are considered as a tool within a joint commissioning arrangement as opposed to it being perceived as the end goal in itself.

To that end the task and finish group will likely be making recommendations about amending the part 9 guidance that will:

- Focus on the pooling of resources, which goes beyond just the pooling of budgets;
- More clearly positions pooled funds within a joint commissioning context;
- Provide greater flexibility for partners in relation to how, when and where they pool funds i.e. regional, sub regional, local or individual; and
- Highlight other priority areas for joint commissioning and the pooling of resources.

Recommendations from the task and finish group will, subject to Ministerial consideration and decision, shape the revised Part 9 statutory guidance which is due to be consulted upon on in Spring 2023.

Following ministerial approval to the revised draft guidance, the Committee will be formally issued a copy of the consultation documents for their consideration and comment.