

Care Home Commissioning

September 2022



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Care Home Commissioning

August 2022

About the Committee

The Committee was established on 23 June 2021. Its remit can be found at:
www.senedd.wales/SeneddPAPA

Current Committee membership:



Committee Chair:
Mark Isherwood MS
Welsh Conservatives



Natasha Asghar MS
Welsh Conservatives



Rhys ab Owen MS
Plaid Cymru



Mike Hedges MS
Welsh Labour



Rhianon Passmore MS
Welsh Labour

The following Members attended as substitutes during this inquiry.



Mabon ap Gwynfor MS
Plaid Cymru



Peredur Owen Griffiths MS
Plaid Cymru

The following Member was also a member of the Committee during this inquiry.



Cefin Campbell MS
Plaid Cymru

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Chair's Foreword

This report intends to highlight and examine the challenges faced in the complex area of Care Home Commissioning for older people, with the aim of making the system more equitable for all. This report reflects on the issues raised and recommendations made by the Auditor General's recent national summary report on Care Home Commissioning for Older People and contains reflections from key stakeholders within the sector.

The Committee heard evidence about the accessibility and quality of care home provision in Wales, the variations and complexity associated with funding care home placements, the difficulties faced in attracting and retaining staff to the industry and the proposed policy reforms relevant to this field.

Our report makes a series of recommendations aimed at addressing some of these important issues and will help to strengthen and simplify the process of care home commissioning. The aim of the Committee is to make the social care system more accessible, less complex and fairer for vulnerable individuals, and their families, across Wales. These recommendations are important for us all, as social care is a service that touches the lives of individuals and families in every part of Wales.

A handwritten signature in dark ink, appearing to read 'Mark Isherwood', followed by a long horizontal line.

Mark Isherwood MS

Chair of the Public Accounts and Public Administration Committee

Recommendations

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.....Page 18

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.Page 18

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.....Page 18

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.Page 25

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.
.....Page 26

Recommendation 6. We endorse Recommendation 14 of the recent report of the Health and Social Care Committee in relation to the Welsh Governments which calls upon the Welsh Government to undertake a robust evaluation of the WeCare.Wales recruitment campaign.
.....Page 26

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.....Page 26

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. Page 38

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. Page 38

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. Page 38

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..... Page 46

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. Page 46

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. Page 46

1. Introduction

1. The Auditor General for Wales's national summary report, *Care Home Commissioning for Older People*¹, was published in December 2021.

2. The report contained some **key facts** about care home commissioning in Wales, including:

- There are just under 700 care homes in Wales – of which just under 100 are run by local authorities.
- Around two in five care homes provide nursing care.
- Local authorities spent £297m on nursing and residential placement for people aged 65 and over in 2019-20.
- Health boards spent £415m on continuing healthcare and funded nursing care costs in 2019-20.
- Adults aged 65 and over were supported in residential care homes for some 6.24 million days in total in 2018-19.

3. It **concluded** that current arrangements for commissioning older people's care home placements were not resolving long-standing issues. It recommended that the Welsh Government should:

- Recommendation 1: consider what the findings from the Auditor General's work in North Wales mean for planned policy reform and whether these reforms will go far enough to tackle the root causes of the issues; and
- Recommendation 2: more specifically that it:
 - should reduce the complexity of the funding responsibilities across partners to streamline arrangements;
 - clearly describe and communicate how it expects pooled funds to operate across health and social care partners;

¹ Audit Wales, *Care Home Commissioning for Older People*, December 2021

- takes measures to require strengthened scrutiny arrangements and accountability of Regional Partnership Boards (following through with further action in response to a recommendation in our previous report on the Integrated Care Fund); and
- develops a framework for outcome-based performance reporting, which links to policy ambition and the seven well-being goals for Wales

4. In a press statement (16 December 2021) accompanying the report, the Auditor General **stated**:

"The Welsh Government must assure itself that proposed policy reforms address these issues and achieve the aim of putting quality and outcomes at the heart of the commissioning process".²

5. The report reflected Audit Wales's work on the **commissioning of care home placements for older people in North Wales**. This built upon previous work on social services budgetary pressures in **Conwy** and **Denbighshire** council, as well as work on **Continuing Healthcare arrangements at Betsi Cadwaladr University Health Board**. The former report **concluded**:

"In overall terms, our review found that partners are working individually and collectively to provide care home placements for vulnerable service users; this is made more difficult by complex national processes, resulting in a significant focus on costs, which causes division amongst partners and has the potential to impact adversely on service users and their families. Strengthening accountability and developing a regional strategy and delivery plan has the potential to drive positive change and better partnership working, especially in relation to complex and more specialist care."³

6. The Public Accounts and Public Administration Committee ('the Committee') considered the national summary report at its meeting on **9 February 2022**. The Committee agreed to undertake an inquiry at this meeting, having considered a scoping paper on 28 March 2022.

7. The Committee took evidence from the following stakeholders:

² Audit Wales, *Current arrangements for commissioning older people's care-home placements are failing to address some long-standing issues*, 16 December 2021

³ Audit Wales, *Commissioning Older People's Care Home Placements – North Wales Councils and Betsi Cadwaladr University Health Board*, December 2021

- **27 April 2022** – **Care Forum Wales** and **Age Cymru**.
- **12 May 2022** – **Welsh Local Government Association** (WLGA), **Association of Directors of Social Services Cymru** (ADSS) and the **Older People's Commissioner for Wales**.
- **25 May 2022** – Welsh Government officials.

8. The Committee has also received written evidence from the following stakeholders:

- The Welsh Government.
- Age Cymru.
- Regional Partnership Boards including North Wales, Cwm Taf Morgannwg, Gwent, West Glamorgan and West Wales.
- Older People's Commissioner for Wales.
- Care Inspectorate Wales.
- Jackie's Revolution Expert group.

2. Broader policy context

9. The Auditor General published a report in October 2021, **A Picture of Social Care**⁴, which looked at the social care sector as a whole as part of wider work on public services in 2021. The report considered strategic operating context, funding, performance and capacity within the sector. The report identified **three key issues for the sector**, including:

- The long-standing challenges facing the sector, including achieving financial sustainability and funding arrangements.
- That progress in addressing challenges in the sector has been slow.
- COVID-19 has made the need for change more pressing, but that transformation will be challenging.

10. In their national summary report on Care Home Commissioning, the Auditor General concluded:

"The pandemic has exposed the fragility of care services across Wales, but most of the issues now faced were there before to some degree. The issues include the capacity and capability of RPBs to facilitate regional working and, for example, concerns around fee levels, which are considered by councils to be local issues rather than regional or national. We were told during our review that a regional approach does not always suit commissioning of care homes. It is unclear whether the solutions proposed by the rebalancing care and support white paper around regional working are practical and will deliver the required change".⁵

Legislative context

11. The Auditor General's national summary report summarised the duties on public bodies relevant to care home commissioning, drawing largely from the provisions of the Social Services and Well-being (Wales) Act 2014:

- The requirement for local authorities to undertake market stability reviews, which are now underpinned by the Partnership Arrangements (Amendment) and Regulated

⁴ Audit Wales, *A Picture of Social Care*, October 2021

⁵ Audit Wales, *Care Home Commissioning for Older People*, December 2021, p14

Services (Market Stability Reports) (Wales) Regulations 2021, with a reporting deadline of 1 June 2022.

- The Act's statutory guidance relating to partnership arrangements says that health boards and local authorities should undertake population needs assessments and market analysis. They should also agree appropriate integrated regional market position statements and a regional commissioning strategy, to include the outcomes required of care homes and consensus on the methods of commissioning. The guidance says they should:
 - agree a common contract and specification.
 - agree common contract monitoring criteria and processes that include service user feedback.
 - develop an integrated approach to agreeing fees with providers.
 - develop an integrated approach to quality assurance.
 - adopt a transparent use of resources. Budgets must be aligned with overall expenditure identified, together with the financial commitments of both agencies to the commissioning of care homes. These arrangements will need to be subject to a written agreement.

12. In early 2021, the Welsh Government consulted on a series of proposals for reforming the sector, summarised in its *Rebalancing Care and Support* white paper. These aims were subsequently reflected in the Welsh Government's updated Programme for Government 2021-26, which committed to a series of reforms, including⁶:

- Investing in a new generation of integrated health and social care centres across Wales.
- Creating a Chief Social Care Officer for Wales.
- Launching a National Social Care Framework.
- Developing more than 50 local community hubs to co-locate front-line health and social care and other services.

⁶ Welsh Government, *Programme for Government – Update*, December 2021

13. These updated aims are also reflected in the Cooperation Agreement between the Welsh Government and Plaid Cymru, which committed to setting up an expert group to explore creating a National Care Service, free at the point of need, as a continuing public service. The Agreement notes that an **implementation plan will be agreed by the end of 2023**, with the aim of continuing to integrate health and care and “work towards parity of recognition and reward for health and social care workers”.

14. On 29 October 2021, the Minister for Social Services in a written statement⁷ reaffirmed a commitment to introducing a National Framework for care and support, with a national office to oversee its implementation. The Minister stated that they would work with Regional Partnership Bodies to strengthen their arrangements in relation to:

- Governance and scrutiny.
- Planning and performance.
- Engagement and voice.
- Integrated service delivery.
- Rebalancing the social care market.

15. In their written evidence to the Committee, the Welsh Government provided a further progress update on the Welsh Government’s Rebalancing Care and Support Programme, which is focussed on three core areas⁸:

- developing a strategic National Framework for commissioned care and support, to set standards for commissioning practice, reduce complexity and to focus on quality and outcomes.
- the creation of a National Office to oversee the implementation of this framework.
- strengthening regional partnership arrangements so joint working delivers integrated services for local populations.

16. The written evidence went on to say:

“The Welsh Government welcomes the Auditor General’s reports on care home commissioning in North Wales and on the national implications of that work. We

⁷ Welsh Government, Written Statement: Rebalancing Care and Support White Paper- next steps, 29 October 2021

⁸ Welsh Government, Written Evidence Paper

recognise the value this work has for informing our planned policy reforms, and in particular the delivery of our national and regional work programmes under the Rebalancing Care and Support Programme. We will ensure that the findings and recommendations from these reports are fed into the Technical and Task and Finish Groups which have been set up in support of this programme".⁹

National Framework for care and support

17. In relation to the proposed new National Framework, the Chief Social Care Officer for Wales provided the following update in his letter of response to the Auditor General, following the publication of the national summary report:

"At the national level, we have set up a Technical Group to advise us on the development of a national framework for care and support. The new framework, which will be set out in a statutory code of practice, will set standards for commissioning practice, reduce complexity and rebalance commissioning to focus on quality and outcomes. It should help to establish a simplified system, focused on quality and social value, rooted in partnership and integration and focused on people's outcomes. Consultation on the new code of practice will take place in the first half of next year"¹⁰.

18. In oral evidence, the Chief Social Care Officer explained they would seek to strengthen regional partnership arrangements and Task and Finish Groups have been established to take forward this work. We heard that these groups will consult on a code of practice for the new framework in April 2023, with a view to publishing that code in Autumn 2023¹¹.

National Care Service

19. When questioned, some stakeholders have expressed uncertainty about what a National Care Service would seek to achieve. The Welsh Local Government Association remarked that they looked forward to hearing the Welsh Government's aspirations around a national care service¹². The Association of Directors of Social Services Cymru told the Committee:

⁹ Welsh Government, Written Evidence

¹⁰ Letter from Chief Social Care Officer for Wales to Auditor General for Wales, 19 April 2022

¹¹ RoP [para 62], 25 May 2022

¹² RoP [para 77], 12 May 2022

"I still think there are things like the national care service where we're not 100 per cent clear, certainly within the sector, what that references, what that means, what that would look like".¹³

20. The Chief Social Care Officer for Wales provided an update on the work of the expert group looking into the policy, stating:

"That group is operational now, and that group will report—this is important in terms of timescales for the committee—towards the end of June. I think within the last couple of weeks of June, we are expecting the report. It will be helpful to understand what that report from that independent group tells us. It will be really important in what will be the practical steps of care being provided free at the point of need, but also how do we work together increasing the sustainability of the workforce and ensuring that all care needs are met. So, within our time frame and approach, we believe that our work that's currently in progress is very much complementary and helpful to us in our shared ambitions".

21. The conclusions of the expert group are not reflected in this report as they were not available at the time of publication.

Regional Partnership Boards (RPBs)

22. The Auditor General's national summary report concluded that the governance and operation of RPBs was "maturing", but that the structures were "extensive and complex", with issues identified about their accountability¹⁴.

23. The Committee questioned stakeholders about the status of RPBs, in particular about whether they should be placed on a statutory footing. The Committee received some mixed evidence on this topic, with the Older People's Commissioner for Wales telling Members that there was an "argument" for them to be placed on this footing¹⁵, which was corroborated by Care Forum Wales¹⁶. Despite this, the Commissioner described wider issues with RPBs, stating:

"I think the issue for me is about a clarity of accountability and responsibility, in terms of what the regional partnerships ought to do and what they're about. If you asked a

¹³ RoP [para 140], 12 May 2022

¹⁴ Audit Wales, *Care Home Commissioning for Older People*, December 2021, p12

¹⁵ RoP [para 180], 12 May 2022

¹⁶ RoP [para 88], 27 April 2022

member of the public, they would never have heard of a regional partnership board, or what it does, but they would know about the local council and what its responsibilities are, and the health boards".¹⁷

24. The Association of Directors of Social Services Cymru told the Committee that RPBs were largely on a statutory footing in any event, because of their requirements under Part 9 of the Social Services and Well-being Wales Act 2014. However, they did not see significant benefits in changing the legislative basis of the RPBs, telling the Committee:

"I think they are becoming more significant in their role. I'm not sure if any kind of legislation would significantly move that forward, would be my opinion".¹⁸

25. When asked whether the RPBs had been effective in managing cross border issues and in managing regional strategies, the Association of Directors of Social Services Cymru told the Committee that Gwent, as an example, had built strong relationships which were "getting stronger", across a large region containing five local authorities¹⁹. They stated that the population needs assessments and market stability reports were now coming into place, but that the pandemic had affected the pace in which change had been achieved. Despite this, it was felt that relationships had actually strengthened during this period.

26. When asked about the strengths and weaknesses of the system, Care Forum Wales stated that the improved dialogue between the statutory sector, local authorities, health boards and other partners was the key strength of the arrangements, but that this had taken some time to gel²⁰. However, they also identified some challenges, stating:

"...some of the people around the table have statutory responsibilities, have funding pots that they manage, and others don't, but actually, in terms of delivering for citizens, we do need that engagement from right around that regional partnership board table.... again, one of the challenges is that the accountability sits primarily with the statutory bodies, and within the statutory bodies, rather than the people sitting around the table necessarily having that delegated authority to make agreements on a regional partnership board basis So, that can become quite clunky".²¹

¹⁷ RoP [para 180], 12 May 2022

¹⁸ RoP [para 48], 12 May 2022

¹⁹ RoP [para 36], 12 May 2022

²⁰ RoP [para 73], 27 April 2022

²¹ RoP [para 74], 27 April 2022

27. Age Cymru told the Committee that older people needed to have a greater say in the work of the RPBs and in shaping care home provision more generally, stating:

"What we're hearing back from some of the regional organisations is that the level of involvement of older people representation isn't as good as they would like it to be, and through the development of regional partnership boards we'd like to see more meaningful engagement of more older people, and their representatives being involved in those developments, particularly when we're looking at market stability and what people are going to need for the future"²².

Our View

28. The Committee is concerned about the slow pace of policy reform more generally and specifically the implementation of the Social Services and Well-being Act 2014.. We are concerned that providers and commissioners are still not meeting the obligations contained within the Act. We are aware the Welsh Government has commissioned evaluation work on the Act with further outputs of this work expected in the autumn.

29. On the development of the National Framework, the Committee notes the work of the Task and Finish Groups in developing and delivering this programme of work. The Committee believes that the voices of service users should be heard by these groups as part of their ongoing work.

30. In relation to the proposed National Care Service,, the Committee awaits the report of the expert group on social care with interest. We note from a written Ministerial statement on National Care Service – Expert Group, published in February 2022²³, the expectation on the group to have provided recommendations by the end of April 2022. The evidence we heard from the Chief Social Services Officer would imply a delay.

31. In order for such a proposal to work, the Committee believes it would need to set a baseline standard of care for across Wales with a blended approach involving national oversight, information-gathering and policy, coupled with local decision-making. The Committee would like to get more clarity from Welsh Government about what the service will look like and how it can address some of the systemic issues affecting the sector, such as funding complexity.

²² RoP [para 176], 27 April 2022

²³ Deputy Minister for Social Services, Written Statement: National Care Service – Expert Group, 21 February 2022

32. The Committee notes the evidence received from stakeholders about the work of RPBs and is unconvinced that placing the bodies on a statutory footing will yield further benefits for the sector. The Committee hopes to see increased representation of the views of older people and service users in the work of RPBs, to ensure the views of all stakeholders are brought together to influence sound regional strategies.

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.

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.

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.

3. Workforce

33. The Committee considered the sustainability of the sector's workforce, hearing valuable evidence about the challenges facing the sector.

Stakeholder views

34. The introduction of the real living wage for care workers was broadly welcomed by Care Forum Wales, but that the pay for the role needed to go "above and beyond that to recognise people's skills and experience". They stated that they felt that local authorities and the Welsh Government were "batting that challenge between them"²⁴.

35. They went on to say that staff were being lost to the retail and hospitality industries because of improved pay and less pressure²⁵. Similarly, staff are being lost from the sector because of increased pay and improved conditions in the NHS²⁶. When asked about additional funding for retaining staff, she stated:

"I think the top priority in terms of funding is improving the terms and conditions for care workers. We're obviously in a position where we've just had the real living wage pledge from Welsh Government, but prior to that, most local authorities were commissioning at the legal minimum wage, or if not the legal minimum wage, a rate just very small amounts above... It's a responsible job, it requires a significant amount of training. We actually need to put money into investing in those people, both in terms of providing that training, but also in terms of the rewards they get for doing the work that they need to do. That will be the top priority".²⁷

36. On the subject of retaining staff, Care Forum Wales stated that it was still a struggle, with issues around retaining, motivating and registering the workforce identified, particularly given the inflationary pressures affecting the sector²⁸. They added:

"It feels like we've got one arm tied behind us as we're making that progress".

²⁴ RoP [para 70], 27 April 2022

²⁵ RoP [para 145], 27 April 2022

²⁶ RoP [para 53], 27 April 2022

²⁷ RoP [para 48], 27 April 2022

²⁸ RoP [para 147], 27 April 2022

37. Wales Fiscal Analysis's report, *The future of care in Wales: resourcing social care for older adults*²⁹, acknowledged the need for improving pay and working conditions for the care home workforce but also noted that this would have a significant impact on providers, stating:

"The current low levels of remuneration of the workforce, and variability in terms and conditions of service does not look sustainable in terms of quality and consistency of care and staff turnover. It also raises significant concerns about equity and fairness. Given that staffing accounts for a large proportion of providers' total costs, addressing pay and conditions will have substantial resource implications for government and private providers alike".

38. When asked about the impact of the WeCare.Wales campaign on the sector, Dave Street of Association of Directors of Social Services Cymru remarked that an "encouraging number of new people" were coming to the sector, but that a significant amount of carers were also retiring³⁰. Despite this, the Deputy Minister for Social Services told the Health and Social Care Committee that it was difficult to evaluate how many additional applications had been made to work in the sector as a consequence of the WeCare.Wales campaign, stating:

"(as) the majority of social care services are in the independent sector, it was difficult to access comprehensive information as to the recruitment activity across Wales".³¹

39. The Health and Social Care Committee expressed concern about the lack of evaluation, stating in its recent report:

"We were surprised that the Welsh Government is not collecting data on the results of its national advertising recruitment campaign. While there has been an increase in the number of people looking at the WeCare.Wales jobs portal, it is unclear if this has translated into an increase in actual applications, or in people taking up roles. Without this information, it is impossible to judge the success of the campaign".³²

40. On pay, the Association of Directors of Social Services Cymru stated:

²⁹ Wales Fiscal Analysis, *The future of care in Wales: resourcing social care for older adults*, August 2020

³⁰ RoP [para 134], 12 May 2022

³¹ Health and Social Care Committee, RoP [para 85], 24 March 2022

³² Health and Social Care Committee, *Hospital discharge and its impact on patient flow through hospitals*, June 2022

"I think anything that increases pay rates for carers is fine, but, quite frankly, £9.90 isn't going to cut it. The view of directors of social services in Wales is that an hourly rate somewhere akin to £12 an hour will mean that we could start being competitive with the tourism and hospitality sector".³³

41. However, workforce issues have been exacerbated by the COVID-19 pandemic. The Welsh Local Government Association told the Committee:

"We do also have issues, or we certainly experienced issues during the period of the pandemic, where some care home placements are technically vacant, but actually can't be filled because of workforce shortages".³⁴

42. The Royal College of Nursing told the Committee in written evidence that a registered nurse's presence in a care home was essential for monitoring and assessing the health and well-being of service users³⁵. They can also manage acute illness, make decisions around the management of long-term conditions and intervene in emergency or crisis situations and ease the transition from hospital to care home. Despite this key role, the written evidence went on to summarise the conclusions of Social Care Wales in their Workforce Profile 2019:

"According to Social Care Wales (SCW), the number of registered nursing staff employed by commissioned care providers in 2018 was only 1,438, making up 3% of all staff employed by commissioned care providers in Wales. The percentage of registered nursing staff ranged from 0% in care providers commissioned by Powys, to 4% in Gwynedd, Wrexham, Swansea, Neath Port Talbot, Rhondda Cynon Taf, the Vale of Glamorgan, Monmouthshire and Newport."

43. The Royal College of Nursing also discussed the distinction between nursing care and personal care in dual registered homes. In these settings, nurses would have been limited to providing clinical services to residents with an assessed nursing need, whilst district nursing teams would provide clinical or "nursing" services to residents assessed as only having personal care needs³⁶. The Regulation and Inspection of Social Care (Wales) Act 2016 introduced a

³³ RoP [para 124], 12 May 2022

³⁴ RoP [para 24], 12 May 2022

³⁵ Royal College of Nursing, Written Evidence

³⁶ Royal College of Nursing, Written Evidence

provision that registered nurses can provide care to all residents, but that this needs to be specified in a care home's Statement of Purpose. The evidence goes on to say:

"Care home service providers are advised to consider the wider implications for all the people using the service. For instance, if a high number of residents required wound care, which would normally be undertaken by district nurses, this may detract from registered nurses caring for individuals with "nursing" needs (as defined by the funding system)".

44. The Senedd's Health and Social Care Committee recently considered these issues in their report, *Hospital discharge and its impact on patient flow through hospitals*³⁷. The Committee expressed its concerns that lack of staffing capacity was delaying transfers of care, stating:

"...until there is true parity in pay and terms and conditions for social care staff with their NHS counterparts, the sector will continue to struggle to recruit and retain staff. This is something that has long been called for by committees. It should not be the case that social care is losing staff to the NHS—the sectors must align and support each other. The current situation is not acceptable and steps must be taken to address this".

45. The Committee made the following recommendations:

Recommendation 12. Significant reforms to the pay and working conditions for social care staff must be delivered at pace. By the end of 2022, the Welsh Government should provide an update on the work undertaken to improve the pay, terms and conditions and career progression opportunities for the social care workforce, and address inequities with their NHS counterparts. This should also include an update on the introduction of a national pay structure for care.

Recommendation 13. By the end of 2022, the Welsh Government should provide an update on the work that has taken place to address the issue of sickness pay for social care workers and an outline of the Social Care Fair Work Forum's planned work (including timescales).

Recommendation 14. The Welsh Government should explain how it will increase recruitment to the social care sector. It should also undertake a robust evaluation of

³⁷ Health and Social Care Committee, *Hospital discharge and its impact on patient flow through hospitals*, June 2022

the WeCare.Wales recruitment campaign to demonstrate that it has provided value for money and increased the actual number of applications for social care jobs and take up of social care roles.

Welsh Government view

46. When asked what the Welsh Government was doing to make working in care a viable and appealing option, the Chief Social Care Officer for Wales explained:

"One is how we professionalise the workforce, working with Social Care Wales around the registration, the skills, the training and the support. We've mentioned in various committees over the last year the action of the WeCare.Wales campaign to get more information out to young people and prospective social care employees... Alongside that, then, the changes that are taking place around the sustainable funding for the sector. The Welsh Government's financial settlement this year to social care was greatly enhanced, and alongside that then we have introduced... the real living wage as a benchmark for all those who are working in the sector in those social care roles as well".³⁸

47. Despite this, the Chief Social Care Officer acknowledged that more workers in sector needed to be paid a "fair deal"³⁹. The Deputy Minister for Social Services told the Health and Social Care Committee on 24 March 2022 that she had asked the Social Care Fare Work Forum to look at a national pay structure for social care⁴⁰, and confirmed that Social Care Wales was working with local authorities and the British Association of Social Workers (BASW) to develop a "social workforce plan" to look at what more can be done to assist with recruitment⁴¹. She went on to say:

"It does take a minimum of two years to train new social workers. So, I think we've got to think more broadly about how to attract and retain social workers".

³⁸ RoP [paras 101, 102], 25 May 2022

³⁹ RoP [para 104], 25 May 2022

⁴⁰ RoP [para 50], Health and Social Care Committee, 24 March 2022

⁴¹ RoP [para 58], Health and Social Care Committee, 24 March 2022

Volunteers

48. Helen Twidle of Age Cymru noted that there was role for volunteers in the sector, however there were limitations to what could be achieved by volunteers compared with paid workers:

"In terms of providing care, that actually needs to be done by paid people, because a volunteer can't do everything that's needed to be done and get all those levels of training".⁴²

49. This view is supported by the Welsh Local Government Association, who refer to positive work from the WCVA with their Helpforce initiative. They also point to grants available during the pandemic which have supported local community voluntary councils. They state:

"I think it really adds quality, particularly to individuals that either don't have family or don't have family nearby. So, I think there's a significant opportunity for volunteers, but they're almost an additional service element, or additional quality element. We still need to have suitable numbers of workforce that are registered, that need to have all the training and induction, et cetera, which you wouldn't necessarily expect of a volunteer, to meet all of those competences. So, I think that they're really positive and add a layer of quality, but we still need that main baseline service as well".⁴³

50. The Older People's Commissioner also referred to the positive role of volunteers in care home settings explaining that her first experience of working with older people was volunteering in a care home. She stated:

"I think where volunteering is at its best is shared interests, shared activity; I think it's wholly positive. I think it needs to be supported, so volunteers need to be supported, and, obviously, care homes need to have the capacity to manage that well and to support volunteers well. What we don't want to see is where volunteers are being brought in to do basic essentials that should be done by paid staff. So, as long as that doesn't happen, I'm very supportive of volunteers in care homes".⁴⁴

⁴² RoP [para 204], 27 April 2022

⁴³ RoP [para 137], 12 May 2022

⁴⁴ RoP [para 226], 12 May 2022

Our View

51. It is clear from the evidence heard that the issue of staff recruitment and retention is causing significant stress for the sector and contributing to the difficulties in providing quality care for all. The Committee is concerned that this situation is fettering the ability of providers in providing good quality social care to service users and is an issue that must be addressed through governmental support.

52. The Committee believes that additional Welsh Government support is required to support the industry, which goes beyond the scope of the WeCare.Wales campaign. The Committee shares the concerns of the Health and Social Care Committee about how the campaign's success is being evaluated. The Welsh Government needs to undertake a robust evaluation of the WeCare.Wales campaign and understand the strengths and shortcoming of the programme. They should then consider introducing an alternative scheme that does more to attract new to the sector.

53. The Committee welcomes the Welsh Government's opinion that more should be done to provide a fair deal for care workers in terms of pay. However, the Committee believes that parity in terms and conditions is just as important in retaining staff within the sector and agree with the Health and Social Care Committee's view that more should be done to align the Health and Social Care sectors in terms of employment conditions.

54. The terms and conditions of staff should be considered by the Welsh Government's expert group on social care, as part of the development of a National Care Service. More needs to be done to provide parity in pay and terms between the health service and social care sector, to ensure more staff can be trained and retained within the social care sector.

55. The Committee acknowledges the role and value of volunteers in the sector, but agree that their presence should not be in place of primary care givers, but rather as an additional element of the wider social care offering. We also recognise that volunteering can be a precursor to starting a career in the social care sector.

56. The Committee believes more should be done to attract volunteers to the sector, but this should be limited to additional quality of life services and should never be in place of professional care.

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.

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.

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

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.

4. Performance and quality

Performance Information

57. The Committee considered how performance information relating to health and social-care commissioning could be improved to demonstrate delivery of well-being goals, to gather evidence on service user experiences and to understand in more detail whether policy aims are being delivered.

58. The Auditor General's report identified that the performance information being collected and reported in respect of care home commissioning was fragmented across sectors and was not providing a good indicator of whether policy aims were being achieved, well-being goals being delivered and service-user outcomes⁴⁵.

59. When asked about the value of performance information, Care Forum Wales noted that there were requirement under the Registration and Inspection of Social Care (Wales) Act for providers to provide an annual report to Care Inspectorate Wales, before stating:

"One of the things that we've sought to do is streamline these requests, effectively... You know, a care home may cater for residents from a couple of local authorities, particularly if it's in a border situation. Streamline those requests so that, actually, we're not asked to provide slightly different information in slightly different ways to a number of people. I think the annual report will provide some of that information that goes to CIW. That should have come in already, but because of the pandemic and the other pressures on the whole system it has been delayed. But then there is significant monitoring information required, both around the care home as a whole and around individual placements within that care home".⁴⁶

60. When asked about the quality of information within the sector, in particular in relation to the experiences of service users and their relatives, the Welsh Local Government Association told the Committee:

"I think there will be local arrangements in terms of contract management performance monitoring, and in some areas, there will be regional arrangements. So, I think it will differ. Again, we don't have a national oversight perspective; that's

⁴⁵ Audit Wales, *Care Home Commissioning for Older People*, December 2021, p12

⁴⁶ RoP [para 125], 27 April 2022

something that the Welsh Government is looking at in terms of what a national oversight scheme may be. So, I think it will very much depend on local surveys and capacity within contracts and commissioning teams, which do vary significantly across local authorities—how many workers they have to go out and undertake that activity. I think the trick for us, or what we really should be aiming to work towards is really good information sharing, so the information that's supplied by care homes and care providers to Social Care Wales, to CIW, to health boards, to local authorities—that we bring all that together into high-level oversight information that helps us to make some of those judgments".⁴⁷

Market stability reports and population assessments

61. When asked about how market stability reports can influence the future direction of the sector, Age Cymru told the Committee:

"The reports themselves don't really identify solutions in terms of how to change things for the future, and I think that's where the real work will be needed, because there needs to be more done looking forward to the future, because the changes that seem to be happening—. And we have seen some improvements through the Social Services and Well-being (Wales) Act 2014, we have seen some improvements through the regional partnerships, but there's still an awful lot more to do".⁴⁸

62. When asked about how effective the RPBs have been in shaping the care home market in Wales, the Older People's Commissioner for Wales told the Committee that it was too soon to fully evaluate the impact of the bodies to date⁴⁹.

63. Whilst noting that the population needs assessments are due to be published, the Commissioner expressed concern that the reports were based on potentially out-of-date information, relying on Census information from 2011, and that the pandemic had scuppered some of the work that would have been undertaken to properly understand population levels, such as face-to-face engagement and disrupted data collection. In their written evidence, the Commissioner stated:

"...more robust data is required to accurately assess the social care needs of the population and the extent to which those needs are currently unmet. Much of the

⁴⁷ RoP [para 89], 12 May 2022

⁴⁸ RoP [para 193], 27 April 2022

⁴⁹ RoP [para 173], 12 May 2022

data that is currently collected under the 2014 Act relates to existing service provision, and population data is not sufficiently disaggregated by age. There is not a clear picture across Wales of the number of older people waiting in hospital and in the community for domiciliary care, or the numbers who are frail and at risk of a life-changing event which may lead to their needing social care.

Forecasts of likely future need for care homes tend to be based on simple age-based projections. Robust data collection that reveals the characteristics of the people using, in need of, or at risk of needing, social care is essential if we are to effectively assess and meet the needs of the population. Data collection should also include factors such as the numbers of people living alone, the provision of accessible housing, and what types of services older people want to use. It is vital also that data is collected to ensure that social care services can respond to cultural needs and language needs".⁵⁰

Meeting future needs

64. Care Forum Wales told the Committee that there was “unmet demand” and empty beds in the sector, with a greater need for dementia care in both the residential and, in particular, the nursing sectors⁵¹. They noted that there was a significant level of upskilling needed for staff to effectively deal with dementia patients, with specialist training available, with the issue of recruiting and retaining staff in the industry exacerbating the issue⁵².

65. They went on to discuss the balance between private and non-private provision, stating:

“We've seen relatively few new builds of care homes in Wales in recent years, and, in particular, where they are coming in, it's where there is a significant private market, where fees are going to be higher fees than local authority rates, because it just isn't feasible to build to modern standards on the rates that are offered by local authorities and health boards across Wales. There are geographic issues—rural homes tend to be smaller because you've got a smaller catchment area, but, actually, you're providing care close to home for people to enable them to remain part of their communities, to enable friends and family to visit more easily, and we do need to get that balance right. We need care where it's needed and we need the right type of care as well”.⁵³

⁵⁰ Older People's Commissioner for Wales, Written Evidence, May 2022

⁵¹ RoP [para 53], 27 April 2022

⁵² RoP [para 54], 27 April 2022

⁵³ RoP [para 53], 27 April 2022

66. Age Cymru expanded on the geographical spread of suitable homes, stating that they would like to see all categories of care provided in local areas, to ensure service users and their relatives aren't travelling long distances⁵⁴.

67. The Association of Directors of Social Services Cymru told the Committee that post-pandemic there were questions about whether there was the right number of the right types of homes, stating:

"We've probably got a surplus of general residential homes. Elderly mentally infirm provision is always under pressure, and we could do a little bit more, we need a little bit more, and then we always have a dearth of provision in nursing homes. We can never get enough nursing home places. That principally settles around their inability to recruit registered nurses. You will know the pressures in the NHS in terms of recruiting nurses, and if the NHS can't recruit, then the private sector are going to find it even more challenging".⁵⁵

68. Wales Fiscal Analysis notes that there are challenges associated with forecasting and planning for future demand, noting that residential care numbers have been stagnant for a decade and local authority spending on older adult residential care placements has been "broadly flat" in real terms for ten years⁵⁶. Their report goes on to say:

"...there is also some evidence that patterns of demand may be changing in favour of care at home, supported by changes in social care practice, with public funding increasingly directed at complex needs, frailty, and dementia. Although future demand for formal care cannot simply be linked to the growth in the over-75 and over-85 cohorts, projected growth in the numbers of older people with complex care needs is highly likely to result in increased pressure on formal care services. A strategy for future resourcing will need to consider these complexities, what the future mix of care provision – including specialist provision – might be, and who will meet this cost".

69. The Welsh Local Government Association told the Committee that there was a risk that the not-for profit sector of housing associations were considering their future in social care, as they couldn't make the business sustainable. They went on to say:

⁵⁴ RoP [para 233], 27 April 2022

⁵⁵ RoP [para 101], 12 May 2022

⁵⁶ Wales Fiscal Analysis, *The future of care in Wales: resourcing social care for older adults*, August 2020

"I think there are real risks and challenges ahead, albeit that we also need to manage some of that shaping, as we do potentially need a different pattern of services in the future".⁵⁷

70. When asked about the balance of provision within the sector, the Association of Directors of Social Services Cymru told the Committee that they would like to see a "little bit of a better balance", with more public sector provision⁵⁸. They expanded on this point to state that new public provision should be in addition to the current levels of private provision, stating:

"It doesn't mean that I would lose the private sector provision that we've got, but in terms of certainly any new provision and any capital, I would like to see local authorities building care homes again. I think that the way that we've looked at it, as directors of social services, is that Welsh Government has run a very, very successful twenty-first century schools programme. Could we run a very, very successful care home building programme along those lines? If we were to do that, I think that's where the public sector could step in, with perhaps more of a balance than we've got at the moment. I think, very roughly, around 70 per cent of provision in Wales at the moment is private sector, the other 30 per cent public sector. Personally, I think if we took it to 50:50, that would be a nice place to be".⁵⁹

71. When asked about what the Welsh Government was doing to attract more third sector and smaller providers, the Chief Social Care Officer for Wales told the Committee that the Welsh Government's policy was to rebalance the social care provision in Wales by local authority and third sector partners, whilst recognising the value of private providers in Wales⁶⁰.

72. Their written evidence refers to the work of the Rebalancing the Social Care Market Group, which "aims to strengthen the social care sector by creating a more stable and sustainable market"⁶¹. The group will review market stability reports (due 1 June) to identify key messages as part of a national overview report. The paper refers to the group's main objectives for rebalancing the social care market:

⁵⁷ RoP [para 104], 12 May 2022

⁵⁸ RoP [para 118], 12 May 2022

⁵⁹ RoP [para 118], 12 May 2022

⁶⁰ RoP [para 165], 25 May 2022

⁶¹ Welsh Government, Written Evidence Paper

- to rebalance the provision of social care by increasing local authority and third sector provision and reducing an over-reliance on the private sector in certain aspects of social care provision.
- to develop an approach to market stability and market oversight which promotes sustainability and responds to the changing needs of local populations.
- to build commissioning capacity and capability at national, regional and local levels.

Quality, service user experience and access

73. The Committee considered what more the Welsh Government and public sector partners can do to simplify access to care homes for service users. The Auditor General's national summary report concluded:

"Access to care homes by older people is complex and hard to navigate. Commissioners are aware of the impact on service users but have not been able to simplify the process; the overall policy and guidance is set out by the Welsh Government".⁶²

74. Care Forum Wales identified that the quality of care on offer for service users was often linked with staff ratios, qualifications and experience⁶³, linked with the issues identified at section 3 of this report. They stated:

"In terms of quality, I think there's a baseline of quality that everyone is expected to provide, and we would certainly expect our members to provide, to meet CIW registration regulatory requirements. I think there are some care homes that are able to go way over and above that. Some of that is about personality, some of it is about management, and some of it is about money as well, and just what you can afford in terms of both staffing inputs and other inputs in terms of provision. I talked about the quality of buildings earlier. I think the fact that staffing is quite fragile and we're struggling to both retain and recruit staff makes it harder to provide the quality of care that you'd like".⁶⁴

75. They went on to say:

⁶² Audit Wales, *Care Home Commissioning for Older People*, December 2021, p12

⁶³ RoP [para 97], 27 April 2022

⁶⁴ RoP [para 132], 27 April 2022

"I think, that honest conversation about what is being bought, what the level of quality expected is, what the level of staff ratios are, and what that means for an individual person in terms of how long you might have to wait if you need assistance to go to the toilet, for example. We need to have those honest conversations about what level of care we do want to buy, and recognise that there is going to be a limit on that. But we need to provide the best care we can and get that balance right".⁶⁵

76. The Older People's Commissioner for Wales told the Committee that the overall quality of care homes in Wales was "variable", with a number of good care homes and staff across Wales. The Commissioner summarised the work undertaken in respect of service user rights, stating:

"I'm taking action in a number of areas and I've set up a group, including key organisations in Wales and across the UK, and we're focused on how to improve the rights of older people living in care homes. Part of that is about good information and provision, which we need much more of. We've been consulting and working on a new rights leaflet for older people and their families to try and demystify and make it much more easy to understand and, therefore, uphold your rights, but also looking at some fundamental issues, for example, the contract that you have as a resident in a care home. You don't have security of tenure in a care home. You don't necessarily have your rights upheld as they should be. So, we're looking at whether, actually, contracts can change so they're much more focused on upholding people's rights in care homes and rebalancing, if you like, the power between the commissioner, the care home provider and the individual older people".⁶⁶

77. Age Cymru also identified reported issues where care was not available for service users through the Welsh language⁶⁷.

78. The Association of Directors of Social Services Cymru remarked that, in general, the quality of the sector was good, with "way more good homes than bad homes". In their written evidence, the Older People's Commissioner described the overall state of the market as "fragile"⁶⁸.

⁶⁵ RoP [para 98], 27 April 2022

⁶⁶ RoP [para 153], 12 May 2022

⁶⁷ RoP [para 189], 27 April 2022

⁶⁸ The Older People's Commissioner for Wales, Written Evidence

79. The Chief Social Care Officer for Wales was asked to comment on the quality of the sector, stating:

"I think that there are strengths and weaknesses, but they're more based upon market variation and geography of different local areas. I think, overall, most authorities are in a healthy position at the moment around basic residential care provision, but I think when you get into the more complex needs around nursing care, there is that ability and need to really strengthen in terms of planning for the future".⁶⁹

Discharge to assess

80. When considering disputes between public sector partners on commissioning placements, Care Forum Wales stated that difficulty can arise where individuals remain in hospital whilst partners wrangle about who should be responsible for their care. This can lead to issues for services users and their families, with risks associated with hospital-acquired infections, empty beds whilst care homes await assessment and beds are being taken in hospitals. In response to this issue, Care Forum Wales stated:

"We have seen some discharge-to-assess schemes that have worked quite effectively in terms of discharging someone and ironing out the finer details afterwards, but that does require greater input from the care home as well in terms of the amount of time to input into assessment processes about people's needs, but I think also you do get a better picture when someone is assessed in a care home where they're planning to live than you do when they're in hospital where, inevitably, they're disrupted by their surroundings. So, we need to recognise that actually that probably is a better way of doing it, but it does impose extra time commitments and extra staff commitments on the care home as well".⁷⁰

81. When asked about the effectiveness of the discharge to assess system, the Chief Social Care Officer for Wales told the Committee that over 1,100 assessment were being undertaken every week in Wales and around 370 people new people requiring domiciliary care were being responded to every week⁷¹.

⁶⁹ RoP [para 181], 25 May 2022

⁷⁰ RoP [para 59], 27 April 2022

⁷¹ RoP [para 105], 25 May 2022

82. They acknowledged the challenges faced in this area, but noted that new approaches, such as the discharge to recover and assess (“D2RA”) pathway, could alleviate some of these pressures. This pathway is based on the following principles⁷²:

- Think ‘Home First’ and keep the individual at the centre of all discharge considerations.
- Balance risk and agree co-produced, clearly documented plans.
- Have the community services infrastructure in place.
- Communicate.

83. In their recent report, *Hospital discharge and its impact on patient flow through hospitals*⁷³, the Senedd’s Health and Social Care Committee made the following recommendation:

Recommendation 5. *As part of its monitoring of the implementation of Discharge to Recover then Assess (D2RA), the Welsh Government must clarify how it intends to ensure that discharge planning is happening at the earliest possible opportunity and includes representatives of all relevant sectors.*

84. Welsh Government officials told the Committee that the NHS delivery unit was working on a national level to implement the D2RA pathway, supported by an additional £25m of recurring national funding⁷⁴.

Inspection

85. The Regulation and Inspection of Social Care (Wales) Act 2016 sets out that the general objectives of the legislation is to “protect, promote and maintain the safety and well-being of people who use regulated services”⁷⁵, with a requirement for Welsh Ministers to bear in mind the importance of service user well-being when making regulations about regulated services⁷⁶. In relation to the powers of inspectors under this Act, it states that an examiner:

⁷² NHS Wales Delivery Unit, *Home First: The Discharge to Recover then Assess model (Wales)*, December 2021

⁷³ Health and Social Care Committee, *Hospital discharge and its impact on patient flow through hospitals*, June 2022

⁷⁴ RoP [para 107], 25 May 2022

⁷⁵ Regulation and Inspection of Social Care (Wales) Act 2016, s4(1)

⁷⁶ Regulation and Inspection of Social Care (Wales) Act 2016, s27(3)

"may...examine the state and management of the premises and assess the well-being of any persons accommodated or receiving care and support there"⁷⁷.

86. The Act requires that an inspection report contains an assessment of the effect of the care and support on the well-being of persons to whom the care and support is being provided⁷⁸. The Welsh Local Government Association told the Committee that Care Inspectorate Wales engaged extensively ahead of the implementation of the regulation⁷⁹.

87. The Chief Social Care Officer for Wales told the Committee that the Regulation and Inspection of Social Care (Wales) Act 2016 had created a requirement for bodies, such as Social Care Wales and Care Inspectorate Wales, to exchange information. He went on to say:

"I know that Care Inspectorate Wales and Healthcare Inspectorate Wales have both worked together to share information, because the sharing of information enables the intelligence to be considered in terms of how well placed we are in delivering services at a local level, but also then what opportunities there are in terms of improvements, as we journey forward".⁸⁰

88. In their written evidence, Care Inspectorate Wales said:

"The introduction of the Regulation and Inspection of Social Care (Wales) Act 2016 (the '2016 Act') was intended to improve the quality of social care services with a focus on outcomes for people. CIW had only just completed the re-registration of care homes under the 2016 Act when the pandemic struck. Its impact meant improvements in quality envisaged by the new legislation were interrupted whilst providers focused on maintaining core levels of care and support to sustain people's health and well-being".

89. Care Inspectorate Wales also told the Committee:

"We continue to prioritise inspection of services where we have concerns and to follow up on improvements required as a result of our enforcement action. Between April 2021 and March 2022, we issued enforcement notices to secure improvement to 342 care homes for adults. Quality is being undermined in several ways including poor

⁷⁷ Regulation and Inspection of Social Care (Wales) Act 2016, s34(4)

⁷⁸ Regulation and Inspection of Social Care (Wales) Act 2016, s36(2)

⁷⁹ RoP [para 40], 12 May 2022

⁸⁰ RoP [para 202], 25 May 2022

leadership (lack of oversight), difficulties in maintenance of the environment due to lack of tradespeople and / or materials, lack of staff and overly restrictive arrangements for visiting".⁸¹

90. The Older People's Commissioner for Wales explained that the pandemic had affected the ability of inspectors to access care homes, but that their return to care homes was essential in learning what was currently working well, what areas needed to improve and to provide assurance around safety and other matters⁸². The Commissioner also noted the role of inspectors in sharing good practice and in supporting improvements in overall quality, but that this needed to be done in conjunction with other stakeholders like Social Care Wales and Care Forum Wales.

Our View

91. The Committee concurs with the Auditor General's recommendation for developing a framework for outcome-based performance reporting, which links with the seven well-being goals for Wales. More should be done to gather the information that tells the story of service-user experience, which should help drive standards in the industry.

92. The Welsh Government should do more to facilitate and mandate the sharing of information between stakeholders. The Committee shares the concerns of other stakeholders that the collection and sharing of performance information is too fragmented in Wales. To address this, the Committee believes that any new framework should be national in scope, to ensure consistency in performance information gathering and sharing.

93. The Committee agreed with the Older People's Commissioner for Wales that more robust and diverse data is required to accurately forecast the future need for care homes and that the data currently being collected under the 2014 Act focusses too much on existing service provision.

94. The Committee is concerned about how the pandemic has affected the implementation of the Social Care (Wales) Act 2014 and Regulation and Inspection of Social Care (Wales) Act 2016 and would like to know more about the Welsh Government's evaluation and monitoring of the impact of these provisions.

⁸¹ Care Inspectorate Wales, Written Evidence

⁸² RoP [para 207], 12 May 2022

95. The Committee shares the concerns expressed by stakeholders that market stability reports and population assessments are not currently proving to be effective in providing quality data to influence policy reform and service transformation.

96. The Committee looks forward to hearing more about the work of the Rebalancing the Social Care Market Group, in particular the national overview report.

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.

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.

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.

5. Funding variation

97. The inquiry considered the reasons for the variation in expenditure on residential care and continuing healthcare weekly costs. The Committee sought to understand the reasons for variation in unit costs across Wales and whether the ‘Let’s agree to agree’ toolkit had led to positive results in relation to funding variation. On this topic, the Auditor General’s national summary report concluded:

*“Public-sector funding approaches for different aspects of care can create division among partners. Care-home placements are costly which can encourage an overemphasis on cost; while the implementation of the approach at a local level can increase tensions, the basis of the funding responsibilities is set out by the Welsh Government”.*⁸³

98. Appendix 1 of the Auditor General’s national summary report illustrates the variations seen across Wales in overall expenditure on residential care and continuing healthcare by local authorities and health boards. The report acknowledged that factors such as local decision making and the availability of preventative services to support people to live in their community might account for some differences. However, it noted that the overall level of variation was inexplicable and suggested inequitable application of policy across Wales⁸⁴.

Funding complexity

99. The Association of Directors of Social Services Cymru described the funding landscape for social care in Wales as being “very complex”, because of the varying streams of funding an individual may be eligible for; local authority funded placements, privately funded care or continuing healthcare funding from the local health board are cited as examples⁸⁵. The Welsh Local Government Association expanded on this point, stating:

“I think there's also complexity where there are specific grants related to short-term care provision, so, whether it be a step down from hospital six-week rehabilitation, or around about that, discharge to recover and assess, where an individual's placement may be covered by a short-term grant, and then, obviously, if there's ongoing funding responsibility, determining whether that's the right placement, if somebody's in a

⁸³ Audit Wales, Care Home Commissioning for Older People, December 2021, p12

⁸⁴ Audit Wales, Care Home Commissioning for Older People, December 2021

⁸⁵ RoP [para 12], 12 May 2022

nursing placement and it's deemed that they don't have nursing needs, or whether it's complex. I think that adds complexity into the system as well".⁸⁶

100. In their written evidence, Care Inspectorate Wales concur with the Auditor General's recommendation about reducing the complexity of funding responsibilities, stating:

"This is particularly important from the perspective of people in need of care and support and their families, as well as for providers of social care. The current complexities in relation to funded nursing care and continuing healthcare can at times compromise the way, and extent to which, people's care needs are met".⁸⁷

101. The Royal College of Nursing told the Committee in their written evidence that the current funding model was "complex and confusing for care home residents, families and social care staff"⁸⁸. They quote service users as referring to a "discriminative" system and a "them" and "us" mentality separating health and social care. They go on to say:

"The current system of accessing public funding for care requires a sharp distinction being drawn between nursing care and personal care, with nursing care funded by the NHS and personal or social care either not funded or subject to various eligibility criteria".

102. In their evidence, the Older People's Commissioner for Wales told the Committee that the pressures associated with funding are being borne disproportionately by older people who find it difficult to manage⁸⁹. They went on to say that issues around top-up fees and continuing healthcare should not be occurring, along with issues caused by cross-subsidisation. When asked whether the Commissioner would advocate the proposed model in England, she stated:

"Well, I certainly wouldn't advocate what's being proposed in England. So, here in Wales I think there are a couple of good things in terms of the funding system. So, the fact that there is a cap on how much you have to pay per week for domiciliary care, I think that is positive. So, you know that you might be contributing, but you're not going to be asked to pay more than £100 a week. The asset threshold in Wales is also, at the moment, better than in England. I think the problem with the proposals in

⁸⁶ RoP [para 15], 12 May 2022

⁸⁷ Care Inspectorate Wales, Written Evidence

⁸⁸ Royal College of Nursing, Written Evidence

⁸⁹ RoP [para 192], 12 May 2022

England is that they only deal with one very narrow element, actually, of care home funding, and the most recent amendments to what's being proposed around the £86,000 cap actually mean that, according to analysis by Age UK, more than four in five older people will not see any benefit from the cap at all".⁹⁰

Unit Costs

103. When asked about the variation in unit costs, including weekly placement costs, Social Care Wales told the Committee that variations were often down to how much priority and funding is afforded by local authorities towards care⁹¹. Age Cymru noted that the late publication of annual fee levels poses an issue for the sector. They went on to say:

"We...received a letter from a care home in March, saying that their prices were going up. The local authority prices weren't going up by that same amount and the top-up that they would have to pay would be much larger than it was previously. We know that we're in a cost-of-living crisis. This is more of an issue this year, now, than it probably ever has been before, but the way in which fees are arranged, and the differences between when a local authority will increase its fees and when a provider themselves will, there's a disconnect there; they're doing it at different times of the year".⁹²

104. On the subject of the 'Let's agree to agree' toolkit, the Welsh Local Government Association told the Committee:

"I think the principles are really sound; they build on the co-production principles of the Social Services and Well-being (Wales) Act... We need to see our care home providers and our domiciliary care providers as partners rather than contractors and improve those relationships.... Some of the difficulties we've discussed today because also people come with their different roles—funder, with all the political and governance areas of that, and a commercial operator. So, competition and collaboration all together in the mix is a challenge, but I think that, as I say, there are the principles of collaboration and working together, recognising that there are things

⁹⁰ RoP [para 194], 12 May 2022

⁹¹ RoP [para 102], 27 April 2022

⁹² RoP [para 249], 27 April 2022

we won't agree on, but that, actually, there are things that we need to agree on and can agree on together, and that joint working is a really positive approach".⁹³

105. Care Forum Wales concurred with this view, stating that the toolkit was effective in some parts of Wales but was ineffective in others:

"I think in some areas we have seen that work. Torfaen, for example, has just undertaken a significant exercise with providers in terms of a detailed analysis of costs, and what was appropriate to pay for care in their area. In other areas we are still seeing either, 'Here's the fee; maybe if you push back really hard we'll have some discussions about it, but take it or leave it', effectively, or, in some ways worse, we're seeing engagement with providers providing detailed information about costings, which is then ignored by the local authorities when they come to make their fee-setting decisions. So, I'd say it's a really patchy picture, and I don't think it's really based on reasonable local differentiation".⁹⁴

106. We note that Care Forum Wales has for some time highlighted the impact of the variation in expenditure on residential care and continuing healthcare weekly costs in policy application across Wales. Back in 2020, the Forum published its 'Cheapskate' awards which is a league table of the different care home fees set by each local authority for care homes for older people. We heard in oral evidence that Care Forum Wales believes this type of table is important in terms of ensuring information about care home fees is transparent and people in areas know what payments they are going to pay for those living in care homes⁹⁵.

107. Care Forum Wales informed us that potentially the league table had led to Local Authorities reflecting on the fees they were paying and increasing them⁹⁶. In terms of variations in unit costs, Care Forum Wales told us in oral evidence:

"Variations largely depend on how much priority and how much funding that particular local authority is prepared to put into care".⁹⁷

108. They went on to explain that it's a 'patchy picture' across Wales in terms of local authority expenditure on care home fees, and that this was not based on reasonable local differentiation.

⁹³ RoP [para 116], 12 May 2022

⁹⁴ RoP [para 106], 27 April 2022

⁹⁵ RoP [para 93], 27 April 2022

⁹⁶ RoP [para 93], 27 April 2022

⁹⁷ RoP [para102], 27 April 2022

On this basis, Care Forum Wales advocates for a national system for setting unit costs, along with a national framework⁹⁸.

109. The Welsh Government is expected to consult on a code of practice for the new national framework in April 2023⁹⁹, with a view to publishing that code of practice in autumn 2023

Top-up fees

110. The Older People Commissioner for Wales told the Committee that service users are often unsure about what servicers will incur top-up fees and, as such, the true cost of care is not fully understood. The Commissioner stated:

"...the information that care homes provide on their costs needs to be very clear, particularly around what the fee covers and what any additional costs might be, because otherwise, you don't really know the true cost of the care home. And we've certainly had families come to us where they've had very unexpected, sudden bills for top-up fees, quite often for things that you would expect should be in the standard fee".¹⁰⁰

111. In their written evidence, the Commissioner noted that the care home market was being sustained by:

"...inequitable fee structures in which self-funders may be subsidising the costs of publicly funded placements, and care homes charge top-up fees – the latter sometimes explicitly forbidden in guidance. There is a concerning lack of readily available redress for people who wish to dispute top-up fees. Many older people and their relatives making the life changing decision about entering a care home are doing so without adequate information and advice".¹⁰¹

112. It goes on to note that the Social Services and Well-being Wales Act 2014 Code of Practice requires authorities to assess a service user and their relatives' ability to pay prior to placing them in a care home requiring third party payments. The Commissioner states they have evidence of

⁹⁸ RoP [para 106] 27 April 2022

⁹⁹ RoP [para 62], 25 May 2022

¹⁰⁰ RoP [para 184], 12 May 2022

¹⁰¹ Older People's Commissioner, Written Evidence, May 2022, p5

families who have been issued with unexpected bills and that, in some cases, local authorities have failed to explain the requirement for relatives to pay top up fees¹⁰².

113. The Commissioner also reported instances where care home providers have asked for top-up fees on continuing healthcare funding, a situation which goes against formal guidance. She also identifies instances where service users have been charged top-up fees for accessing the garden at their residential home,¹⁰³ or to be accompanied to a GP¹⁰⁴.

114. In response to the concerns raised by Members and stakeholders, the Chief Social Care Officer noted that the Older People's Commissioner for Wales had been helpful in raising issues with them and that the Welsh Government would be looking at this area to consider what actions need to be taken¹⁰⁵. When asked about top-up fees for accessing the garden, the Chief Social Care Officer responded that these were basic human rights and would be looked at¹⁰⁶.

Pooled Funding

115. The Welsh Local Government Association told the Committee that difficulties occurred with pooled funds because the policy which underpins the principle of one funding pot for placements in care homes is built on eligibility for different funding streams, which causes "difficulties"¹⁰⁷. They went on to say:

"...if you were designing a system from scratch, would be to have a single fund that is neither local authority or health board but both, with much more straightforward eligibility... I think there's potentially a disconnect between the policy and some of the aspirations around much clearer funding".

116. Care Forum Wales remarked that the application of pooled funding had been unclear, stating:

"I think, firstly, it's not been clear what pooled funds were meant to achieve. And I think, because of that, they haven't been developed in a way that has achieved. I think the difficulty is that the way the pooled funds were probably envisaged was that you had to pool across local authorities. Local authorities have understandably been quite

¹⁰² Older People's Commissioner, Written Evidence, May 2022, p5

¹⁰³ RoP [para 185], 12 May 2022

¹⁰⁴ Older People's Commissioner, Written Evidence, May 2022, p6

¹⁰⁵ RoP [para 172], 25 May 2022

¹⁰⁶ RoP [para 174], 25 May 2022

¹⁰⁷ RoP [para 20], 12 May 2022

concerned about cross-subsidy of people living in other areas, whether that's within or without their powers...The difficulty is that boundary between local authority and health".¹⁰⁸

117. The Chief Social Care Officer for Wales told the Committee that pooled budgets were always a "means to an end", but that the Welsh Government had been convinced that bringing health and social care together more closely to commission and deliver services, because of the Social Services and Well-being (Wales) Act 2014¹⁰⁹. He went on to say that services had "developed around pooled funding" and the Welsh Government's position is they will continue to develop the model, with strengthened RPBs helping to deliver that.

118. When asked about whether care home commissioning had been the best place to start pooled funding arrangements, the Chief Social Care Officer for Wales told the Committee:

"I guess it's important for the committee...to look and think about the wider history in relation to this. This policy intent was back in 2015, and it was developed at the time where we were clearly seeing the need to progress health, social care, the interface across care home commissioning, and the sheer amount of placements across health and social care that are needed. And, of course, working across regions was really important in terms of commissioning and strategic direction".¹¹⁰

Our View

119. The Committee is unconvinced that the "Let's Agree to Agree" toolkit is an effective means of addressing the variations in unit costs, including weekly care home placement costs. The Committee concludes that alternative options should be considered to help address this issue.

120. On the subject of top-up fees, the Committee remains deeply concerned about the nature of these fees and the way they are communicated to service users. The Committee strongly disagrees with applying top-up fees for accessing basic services and rights, such as accessing the garden or being accompanied to a GP visit.

121. More should be done to restrict what services can be considered eligible for top-up fees and more should be done to ensure that any top-up fees are communicated clearly and unambiguously to service users. The Committee is also of the view that a robust independent

¹⁰⁸ RoP [para 61], 27 April 2022

¹⁰⁹ RoP [para 126], 25 May 2022

¹¹⁰ RoP [para 130], 25 May 2022

redress system should be put in place to allow service users or their relatives to challenge top-up fees.

122. The Committee welcomes the work being done in relation to the proposed new National Framework and looks forward to hearing more about the new code of practice next year.

123. The Committee is concerned about the application of pooled funding and shares the Auditor General's concerns about the clarity of the Welsh Government's expectations for how pooled funding to operate across health and social care partners. With the development of a National Care Service, the Committee is uncertain about the future of pooled funding and would like to know more about the Welsh Government's intentions in this area.

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.

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.

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.

Annex A: List of oral evidence sessions.

The following witnesses provided oral evidence to the committee on the dates noted below. Transcripts of all oral evidence sessions can be viewed on the Committee's website.

Date	Name and Organisation
27 April 2022	Mary Wimbury, Chief Executive Care Forum Wales Helen Twidle, Health and Social Care Policy and Campaigns Officer Age Cymru
12 May 2022	Dave Street Association of Directors of Social Services Cymru Maria Bell Welsh Local Government Association Heléna Herklots Older People's Commissioner for Wales
25 May 2022	Albert Heaney, Chief Social Care Officer for Wales Welsh Government Matthew Jenkins, Deputy Director – Partnership and Co-operation Welsh Government Rhiannon Ivens, Deputy Director – Inclusion and Corporate Business Welsh Government

Annex B: List of written evidence

The following people and organisations provided written evidence to the Committee. All Consultation responses and additional written information can be viewed on the Committee's website.

Reference	Organisation
1	North Wales Regional Partnership Board
2	Age Cymru
3	Care Inspectorate Wales
4	Cwm Taf Regional Partnership Board
5	Gwent Regional Partnership Board
6	Older People's Commissioner for Wales
7	Welsh Government
8	West Glamorgan Regional Partnership Board
9	West Wales Regional Partnership Board
10	Jackie's Revolution expert group