

## **AGENDA ITEM 7**

### **RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL**

#### **CABINET**

**17<sup>TH</sup> MARCH 2016**

#### **SOCIAL SERVICES AND WELLBEING ACT: IMPLEMENTATION PROGRAMME**

#### **REPORT OF GROUP DIRECTOR, COMMUNITY & CHILDREN'S SERVICES, IN DISCUSSION WITH THE RELEVANT PORTFOLIO HOLDER, COUNCILLOR FOREY**

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#### **1. PURPOSE OF REPORT**

- 1.1 The purpose of the report is to update Cabinet on the implementation of the Social Services and Wellbeing (Wales) Act (SSWB Act) and its implications for RCT on the commencement of the Act i.e. 6<sup>th</sup> April 2016.
- 1.2 To seek approval for the recommended changes to relevant Social Care procedures and Public Information leaflets to enable RCT to be compliant with the SSWB Act, regulations and Codes of Practice to be delegated to the Statutory Director of Social Services and relevant Cabinet members .
- 1.3 To seek Cabinet authorisation to continue charging for residential and non-residential care services and to update the Council's charging Policies and procedures to meet the requirements of Part 5 of the SSWB Act

#### **2. RECOMMENDATIONS**

It is recommended that Cabinet:

- 2.1 Acknowledge the breadth and range of the SSWB Act and delegate responsibility for the necessary changes to current procedures to the Statutory Director of Social Services and relevant Cabinet member.
- 2.2 Authorise officers to continue charging for residential and non-residential care services and to update the Council's charging Policies, procedures and Public Information to address the changes required by Part 5 of the SSWB Act.

- 2.3 Agree to receive six monthly reports to update on progress in implementing the range of requirements set out in the SSWB Act.
- 2.4 Agree that the Health and Wellbeing, and Children and Young People Scrutiny Committees consider regular reports on progress for implementing the requirements set out in the SSWB Act.

### **3 REASONS FOR RECOMMENDATIONS**

- 3.1 The SSWB Act will fundamentally change the way in which we consider the delivery of Social Care in Rhondda Cynon Taf and has a significant number of implications for current strategies, policies and procedures which will need to be amended to comply with the SSWB Act.
- 3.2 Codes of Practice and Statutory Guidance accompany the SSWB Act and whilst these statutory documents provide detailed guidance for the Social Services functions, local guidance is required to support staff to apply the requirements within the local context.
- 3.3 The timescale for receiving the Codes of Practice and Statutory guidance from Welsh Government means that a range of procedures, staff guidance and public information have to be updated in a short space of time
- 3.4 It is therefore proposed that the most effective way of achieving this would be to delegate the decisions to the statutory Director of Social Services and relevant Cabinet Members to allow officers to present revisions in a timely manner and as they are updated.

### **4. BACKGROUND**

- 4.1 The Social Services and Wellbeing (Wales) Act was enacted in May 2014 and will come into force on the 6<sup>th</sup> April 2016.
- 4.2 The SSWB Act provides the legal framework for improving the well-being of people who need care and support, and carers who need support, and for transforming social services in Wales.
- 4.3 The SSWB Act applies to children, adults and carers equally and as such is groundbreaking in its approach. Whilst it consolidates a range of legislation some legislation, most notably parts of the children's act 1989 and 2004 remain extant.
- 4.4 The SSWB Act comprises 11 parts and is supported by detailed regulations codes of practice and statutory guidance on the exercise of Social Services functions which are binding on Local Authority and which is legally enforceable for all partners.

4.5 The aim of the SSWB Act is to:

- Put individuals and their needs, at the centre of their care, and giving them a significant voice in, and control over, achieving the outcomes that help them achieve well-being.
- Encourage individuals to self-support wherever possible, with local authority intervention being focused on the most vulnerable.
- Develop sustainable social services through a co-productive approach that leads to more people being able to be supported without the need for eligibility assessments and managed social care support

4.6 In order to oversee the implementation of the SSWB Act and in accordance with the direction of Welsh Government the Cwm Taf Social Services and Wellbeing Partnership Board was established in January 2015 comprising of Cabinet members from Merthyr and RCT, Executive and Non Executive members of Cwm Taf UHB, the Directors of Social Services for Merthyr and RCT, third sector representatives, independent sector representative and representation from Welsh Government and the Care Council for Wales.

4.7 This Board is supported by an Executive group and a number of working groups charged with developing and delivering an implementation plan for both the SSWB Act and wider transformational change

4.8 Work is ongoing to further develop the Terms of Reference and work priorities for this Partnership Board (with reference to the requirements in the SSWB Act and the work being undertaken to develop the Terms of Reference for the Public Service Board)

4.9 The responsibilities of the Partnership Board are clarified in Part 9 of the SSWB Act but in summary what it will oversee should include:

- An in-depth shared population assessment with shared plans for working across agencies to meet needs more effectively
- The development of a wider range of community, wellbeing and preventative services, particularly delivered through social enterprises, aimed at supporting people in the community
- The development of constructive and mature relationships with the independent sectors including market sufficiency analysis
- The development of effective early help services for those beginning to struggle
- The delivery of better quality Information, advice and assistance for the public to support people make good care choices
- Flexible, proportionate assessment and record keeping, reducing bureaucracy

- Assessments that are flexible, proportionate and undertaken in partnership with others to reduce bureaucracy
- Strong regional safeguarding arrangements for children and adults and duties on professionals to report suspicions
- The development of advocacy
- The development of integration arrangements and pooled budgets with particular emphasis for service to older people with complex needs and long term conditions, including dementia, People with learning disabilities, Carers, including young carers, Integrated Family Support Services and Children with complex needs due to disability or illness

4.10 In order to support the implementation of the SSWB Act the Care Council for Wales has developed training materials and supporting information to prepare the workforce for the changes required. These training materials developed through Care Council Wales are used locally to deliver the Learning and Development plan for Social Services staff in Cwm Taf to date this has included:

- An overview of the SSWB Act. This overview has been available since the summer of 2015 as a training session (and more recently as as a e-learning package). The training introduces the Social Services and Well-being (Wales) Act and raises awareness of what it means for those working in social care to pave the way for implementing the legislation and establish a foundation for more in-depth and specialist training that people might need.
- Core modules These more detailed knowledge based learning materials have been available since January 2016 and are for those whose roles are most affected by the SSWB Act and are intended to assist to help them implement the change. There are four core modules and they are:
  - Introduction and general functions ,
  - Assessing and meeting individual needs
  - Looked after and accommodated children and
  - Safeguarding

4.11 The availability of the training was delayed and therefore RCT and Merthyr have prioritised senior staff, managers and those working at “the front door for” the training before the end of March. Further roll out will continue for others which will be reviewed in July 2016

4.12 Further information regarding the training resources for the SSWB Act is available on the Care Council website on <http://www.ccwales.org.uk/learning-resources-1/>

## 5 SOCIAL SERVICES AND WELLBEING (WALES) ACT

- 5.1 The SSWB Act provides a new statutory framework for social services in Wales. The framework consists of three main elements – the Act itself, regulations made under the Act, and supporting codes of practice and statutory guidance – which together form the framework within which social services will operate from 6 April 2016.
- 5.2 The SSWB Act is built on the following principles:
- It aims to change the way people's care and support needs are met – putting an individual, and their needs, at the centre of their care and support, giving them a voice in, and control over, reaching the personal outcome goals that matter to them.
  - Central to the SSWB Act is the concept of **well-being** – helping people to maximise their own well-being.
  - The SSWB Act attempts to rebalance the focus of care and support to **prevention** and earlier intervention – increasing preventative services within the community to minimise the escalation of needs to a critical level.
  - **Collaboration** – strong partnership working between organisations and co-production with people needing care and / or support is a key focus of the SSWB Act.
- 5.3 The Act requires a culture change from the way in which services have often been provided to an approach based on collaboration, and an equal relationship between practitioners and people who need care and support.
- 5.4 In order to give people a strong voice in, and real control over, their care and support practitioners will need to tap into the resources that people themselves, their families and the community, have. This will require better access to information and community resources and an increased level of preventative services.
- 5.5 It will also require different types of interaction between practitioners and individuals needing care and support. For example, professionals will need to help people to think about 'what sort of life they would like and what needs to change to make this happen?' This will require a shift from thinking '*we do to*' the individual requiring care and support to '*we do with*' the individual who may need care and support or the carer who may need support.

## 5.6 Part 1

Part 1 provides a brief overview and Introduction to the Act

## 5.7 Part 2 General Functions

<http://gov.wales/docs/dhss/publications/151218part2en.pdf>

Central to the Act is the well-being duty. This duty applies to local authorities (or other organisations they have delegated functions to) and their practitioners when, for instance, carrying out assessment or providing information and advice.

Promoting well-being includes focusing on preventing the need for care and support and stopping people's needs from escalating, as well as providing people with the information, advice and assistance they need to take control over their day-to-day life.

Responsibility for well-being must be shared with people who need care and support and carers who need support. Practitioners must look at what people can contribute in achieving their well-being and empower them to contribute to achieving their own well-being with the appropriate level of support.

In the Act, well-being is defined with eight common aspects (e.g. suitability of living accommodation or domestic, family and personal relationships) and two more that are specific to either children or adults. While all aspects of well-being in the definition have equal importance, it is likely that some aspects will be more relevant to one person than another. Practitioners should adopt a flexible approach that allows for a focus on which aspects of well-being matter most to the individual, or family, concerned and co-produce solutions with people themselves.

There are other overarching duties that underpin the Act:

- to take note of an individual's views, wishes and feelings;
- to promote and respect their dignity;
- to enable them to fully participate; and
- to have regard to their characteristics, culture and beliefs.

The local authority must take steps to ensure that all care and support is delivered in a way which complies with these duties. The UN Principles for Older Persons, Convention on the Rights of the Child and Convention on the Rights of Disabled People also apply, as well as the European Convention of Human Rights.



Under this part of the Act there is a duty on Local Authorities to:

- Seek to promote the wellbeing of individuals who have a need for care and support and carers who have a need for support.
- Local Authorities and Local Health Boards to carry out and produce a population needs assessment for those people who may have a need for care and support or carers for support.
- to develop and have in place a range of preventative services
- to develop and encourage the use of social enterprises to deliver preventative services or to support those with care and support or support needs
- provide an Information and advice service.
- Maintain registers of sensory impaired people and children with a disability.

#### Implications for Part 2 for RCT

A major emphasis of part 2 is the development of information and advice for people who may have a need for care and support and the development of a range of preventative services to support early intervention and people's wellbeing.

The development of an effective approach to the provision of Information Advice and Assistance for both children and adults will require a transitional period in the new financial year. Of note one of the requirements is to have in place a directory of services to provide good quality information from the network of social care, health and third sector organisations. As with the other regions in Wales we will commission the 'Dewis Cymru' website <http://www.dewis.wales/> to achieve this but it will be an evolving resource and will need to be continually updated.

Work has begun to develop the population needs assessment and as there are strong links to the requirements within the Wellbeing of Future Generations (Wales) Act this is being done within a single project in Cwm Taf. Whilst the requirements in the Population Needs analysis are significant this is on track for reporting in 2017

RCT is well placed in its support for the 3<sup>rd</sup> sector and social enterprise. Work undertaken through the Intermediate Care Fund and RCT together has improved dialogue and funding capacity. Work is required however to further develop and coordinate targeted community based responses and to formalise the way social enterprise can be promoted by the local authority and it is anticipated that this will be a focus in the new financial year

Work to complete the Older Peoples Commissioning statement, develop a preventative strategy for children and young people, a carers

strategy and a commissioning strategy for learning disability services has been supported by the Social Services and Wellbeing Regional Partnership during this past year and this work has led to a greater understanding of the preventative services that the region needs to commission or support.

It is envisaged that the population needs analysis will further clarify the requirements for preventative services across the borough more effectively (for people who need care and support) but it is recognised that the development of community capacity to provide effective alternatives to statutory care will take some years to establish.

Part 2 of the SSWB Act covers a wide range of requirements which includes the requirement to establish and maintain registers of people ordinarily resident in their area who are sight or hearing impaired and for children who are disabled or have a physical or mental impairment which gives rise, or may in the future give rise to, needs for care and support.

Work to establish these registers are underway. There is no requirement to maintain a register of adults who are disabled and members are advised that RCT will not use discretion to establish an adult disability register on a voluntary basis as this is not considered to be productive in terms of planning. Commissioning or performance

#### 5.8 Part 3 Assessing the needs of individuals

<http://gov.wales/docs/dhss/publications/151218part3en.pdf>

The SSWB Act creates a **right to an assessment** where it appears that the individual may have needs for care and support. The duty to assess applies to adults and children who are ordinary resident in the area regardless of their level of need or of the financial resources of the adult or child or any persons with parental responsibility for the child. The aim is to streamline assessments through a **single process** for children, adults and carers (while recognising the different needs of children and adults) to ensure greater consistency of practice across Wales.

The purpose of an assessment is to work with an individual, carer and family to understand their capacity and resources and the **personal outcomes** they want to achieve, as well as the barriers preventing them achieving the outcomes, and what contribution the individual and their family or the wider community can make to achieving those outcomes.

The intention is that such assessments will be centred on 'what matters to the person' and to be proportionate to the situation.



The code of practice details 5 elements to the duties of the local authority

- assess and have regard to the person's circumstances;
- have regard to their personal outcomes;
- assess and have regard to any barriers to achieving those outcomes;
- assess and have regard to any risks to the person or to other persons if those outcomes are not achieved; and
- assess and have regard to the person's strengths and capabilities.

#### Implications for Part 3 for RCT

Both Children and adults services have over the last few years been moving to the position of outcome focussed assessment in line with the principles and spirit of the SSWB Act as it was understood at the time. Good proportionate assessment is essential if positive outcomes for the individual are to be achieved whilst ensuring that increasingly strained resources are to be used to best effect.

However Part 3 has to be considered alongside the Information, advice and assistance (detailed in Part 2 and Part 4). The changes in this area in particular are complex for staff and Operational managers are developing some practical guidance and tools to support staff with decision making during the transitional period.

In addition and more generally RCT are reviewing procedures and guidance for assessment staff which will reinforce the available training and provide the specific RCT context for this group of staff.

#### 5.9 Part 4 Meeting the needs

<http://gov.wales/docs/phhs/publications/160106pt4en.pdf>

This part of the SSWB Act

- determines the point at which the authority has a legal duty to provide or arrange care and support;
- sets eligibility criteria that will apply to all people – children, adults and carers;
- sets out the requirements of a care and support plan;
- sets out the circumstances required by a local authority when making direct payments.

This part of the SSWB Act provides a single eligibility framework. The determination of eligibility flows from, and is a product of, the assessment process

Following assessment a judgement must be made about whether the assessed need is eligible based on the national eligibility criteria for adults, children and carers

In each case there are four separate conditions which must all be met for the assessed need(s) to be eligible but Local authorities are automatically required to meet needs to protect a person from, or the risk of, abuse or neglect or (for children) harm

#### Eligibility for adults

There are four separate conditions which must all be met for the adult's assessed need to be eligible.

The first condition relates to the adult's circumstances and is met if the need arises from the circumstances which are specified in the regulations.

- physical or mental ill-health;
- age;
- disability;
- dependence on alcohol or drugs; or
- other similar circumstances.

The second condition is met if the need relates to one or more of the outcomes specified in the regulations

- ability to carry out self-care or domestic routines;
- ability to communicate;
- protection from abuse or neglect;
- involvement in work, education, learning or in leisure activities;
- maintenance or development of family or other significant personal relationships;
- development and maintenance of social relationships and involvement in the community; or
- fulfilment of caring responsibilities for a child.

The third condition is met if the need is such that the adult is not able to meet that need alone, with the care and support of others who are able or willing to provide that care and support; or with the assistance of services in the community.

The assessment should establish whether the individual's needs are such that the needs **cannot** be met through: services available in the community which are accessible to them without the need for a care and support plan; care and support co-ordinated by themselves, their family or carer, or others; or by any other means.

The above means that if an individual's need for care and support is being (or will be) met by a carer, and that carer is willing and able to meet the individual's needs then the duty on a local authority to meet those needs does not apply.

The fourth condition is met if the adult is unlikely to achieve one or more of their personal outcomes unless the local authority provides or arranges care and support to meet the need in accordance with a care and support plan or it enables the need to be met by making direct payments.

If the four conditions are met the individual has a right to a care and support plan and the individual will have an enforceable right to support from the local authority.

In determining eligibility, the local authority must ensure the individual is involved as a full partner in assessing to what extent they are able to meet their personal outcomes; or with the support of others who are willing to provide that support; or with the assistance of services in the community to which they have access. The eligibility criteria must not be used as a tool to require individuals to demonstrate they have exhausted every other possible avenue of support before becoming eligible for local authority assistance.

#### Eligibility for children

There are four separate conditions which must all be met for the child's assessed need to be eligible.

The first condition relates to the child's circumstances and is met if the need arises from the circumstances which are specified in the regulations

- physical or mental ill-health;
- age;
- disability;
- dependence on alcohol or drugs; or
- other similar circumstances

**OR** if the need is unmet it is likely to have an adverse effect on the child's development.

The second condition is met if the need relates to one or more of the outcomes specified in the regulations

- ability to carry out self-care or domestic routines;
- ability to communicate;
- protection from abuse or neglect;
- involvement in work, education, learning or in leisure activities;

- maintenance or development of family or other significant personal relationships;
- development and maintenance of social relationships and involvement in the community; or
- achieving developmental goals.

The third condition is met if the need is such that neither the child, the child's parents nor other persons in a parental role are able to meet, either alone or together, or with the support of willing others or with assistance of services in the community to which the child, the parents or other persons in a parental role have access.

The assessment should establish whether the child's needs are such that the needs **cannot** be met through: services available in the community which are accessible to them without the need for a care and support plan; care and support co-ordinated by themselves, their family or carer, or others; or by any other means.

The above means that if a child's need for care and support is being (or will be) met by the child's family or other carer and they are willing and able to do so then the duty on a local authority to meet those needs does not apply.

The fourth condition is met if the child is unlikely to achieve one or more of their personal outcomes unless the local authority provides or arranges care and support to meet the need in accordance with a care and support plan or it enables the need to be met by making direct payments.

#### Implications for Part 4 for RCT

The main implication for RCT is the move away from our current local eligibility criteria for adults and children to the single national eligibility criteria

This significant change in practice for our assessment staff will take time to embed. While the training programme and the development of procedures and guidance is ongoing, our staff will require specific support and information to assist them to develop the confidence to apply this framework in practice whilst working at pace. The modernization work we have undertaken across children and adults aims to provide a robust support and management structure but will need to be flexible as we imbed these models.

The Direct Payments scheme in RCT has been reviewed in the past 2 years. During this review the scheme was developed with the SSWB Act in mind and therefore only requires some minor adjustment to be compliant with the SSWB Act

## 5.10 Part 5 Charging and Financial Assessment

<http://gov.wales/docs/phhs/publications/160106pt45en.pdf>

The charging and financial assessment framework introduced by the Act, is intended to make charging more consistent, fairer and more clearly understood by everyone. The framework is based on principles that local authorities must take into account when deciding whether to charge a person and in setting the level of any charge they make. The overarching principle is that people who are asked to pay a charge should only be required to pay what they can afford.

Part 5 of the SSWB Act will replace current legislation and allow local authorities the discretion to set a charge for the non-residential and residential care and support they provide or arrange for **adults**. The SSWB Act introduces one set of charging and financial assessment arrangements rather than the, previously, differing arrangements for non-residential and residential care and support.

Regulations determine the maximum amount a local authority can charge a person for non-residential care and support. The current level of the weekly maximum charge and “buffer” will be maintained. The current level of the capital limit used to determine who pays the full cost of their residential care and support themselves will also be maintained.

The Act prohibits charging **children and young people** under 18 for care and support received under Part 4 of the Act. The regulations disapply the discretion to charge parents or guardians for the care and support their child receives under Part 4.

The Act requires mandatory deferred payment agreements for residential care and support. Deferred payment agreements allow a person to ‘defer’ or delay the need to sell their property to meet the costs of their residential care and support until a later, more appropriate time for them. Instead the cost of their residential care is met by their local authority with the cost of this secured against the value of their property by means of placing a first legal charge upon it.

A local authority can charge a low-level flat-rate charge for preventative services or assistance provided to adults although not for preventative services or assistance to children. Note that the provision of information and advice, as well as assessment and care and support planning, are exempt from charging under the Act.

### Implications for Part 5 for RCT

Welsh Government has indicated that they will be advising on changes to the National weekly cap on non-residential charges in 2017.

It is proposed that we review the Council's Charging Policy for all Social Care services during 2016/17 with particular consideration to the impact of new charging options raised in the SSWB Act such as

- Introducing flat rate charges for preventative services
- Introducing charges for carers
- Introducing charges for shared lives schemes

In light of this proposed review and the anticipated change to the weekly cap it is recommended that Cabinet agree to an interim arrangement for residential and non-residential charges for 2016/7 to ensure compliance with the SSWB Act and agree to receive a more detailed proposal for a revised charging policy for social care services in preparation for 2017/18.

#### **Interim arrangements - non residential charging**

It is advised that RCT continues to charge for non-residential services and the requirements of the SSWB Act are addressed as follows

- Short Term Placement / Respite Care - Respite Care must now be considered under the non-residential care charging arrangements. This will have financial implications for the Council as the maximum weekly charge will now apply
- 6 weeks free services following hospital discharge - RCT currently provides all services free of charge for 6 weeks following a hospital discharge. This must now be restricted to Reablement/Intermediate care services only from April 2016

#### **Interim arrangements Residential charging**

The Council does not have a charging Policy for Residential care as the application of this process has been governed by the **Charging for Residential Accommodation Guidance (CRAG)** issued by Welsh Government each year

CRAG will no longer be issued by WG and Local Authorities will be required to include the requirements for Residential care charges within their overall charging Policy

It is recommended that RCT put in place an interim Residential charging policy for 2016/7. Further, it is recommended that this interim policy adopt the general principles and approach set out in the Welsh Government Charging for Residential Accommodation Guide (CRAG) 2015, but in addition and in order to comply with the SSWB Act we recommend:



- Producing formal statements of assessed charge and disregards for residential charges, and
- managing a robust appeals/review process

In addition to the above and to support the requirements in part 5 we will also

- Introduce a formal Deferred Payments scheme to comply with the requirements of the Code of Practice
- ensure that we contract with Care homes on behalf of people who are self funding their own care placement if requested
- negotiate fee's with the care home sector locally each year to formally agree fee's levels that are sufficient to meet the care needs of individuals accepted by care homes for placement. Thus we would not expect third party payments to be charged against residents to cover costs **for care** as a result.
- Advise people to take independent financial advice and refer where required to the CAB (an organisation commissioned by the council)

#### **Interim arrangements - Direct Payments**

The Direct Payments scheme is extended by the SSWB Act and can now be used to purchase Care home placements and also Council run non-residential social care services

It is recommended that as part of the interim charging arrangements for 2016/17

- For care home Placements - the value of the weekly Direct Payment is set according to the agreed weekly care home fee's and required category of care for the placement
- For Council run non residential services - Where Direct Payment is to be used to purchase a council run service (home care for instance) the hourly service rate should be equal to the value of the direct payment

Finally:

- The existing charging policy will remain in place for existing services users until they are re-assessed as part of annual benefit increases
- There is a requirement to soften the debt recovery process for people receiving social care services in order to reflect the nature of the services we provide and work is ongoing with the debt recovery service within the council to ensure compliance with the requirements
- The Council commission services from CAB and we will ensure that people requiring Independent financial advice we are signposting appropriately

- Staff will work to the requirements of Ordinary Residence as set out in the Code of Practice for Part 11 of the SSWB Act Part 11  
<http://gov.wales/docs/dhss/publications/151218part11en.pdf>
- The Protection of Property procedures have been reviewed and refreshed in line with the requirements of the SSWBN Act

#### 5.11 Part 6 Looked After and Accommodated children

<http://gov.wales/docs/phhs/publications/160106pt6en.pdf>

##### This part of the act:

- provides for the interpretation of references to a child or young person looked after by a local authority
- requires local authorities to secure sufficient accommodation in their areas for the children they look after and to accommodate children without parents or who are lost or abandoned or are under police protection, in detention or on remand
- provides for the functions of local authorities in relation to the children they look after
- provides for the circumstances in which local authorities may or **must** provide support for young people
  - leaving, or who have left, local authority care
  - formerly accommodated in certain establishments
  - formerly fostered
  - with respect to whom special guardianship orders are or were in force
  - provides for the placement of children in secure accommodation
  - requires the assessment by local authorities of children who are accommodated by health authorities or education authorities or in care homes or independent hospitals and the provision of visits and services to those children

##### Implications for Part 6 for RCT

The implications within Part 6 of the SSWB Act mainly relate to updating existing staff procedures and guidance and ensuring that staff are supported to understand the changes and apply them in practice. To achieve this across all the requirements of Part 6 will necessitate a transitional period beyond April but this is not considered to be of high risk

The management focus in this area of children's services will continue to emphasise challenge, improved decision making and supporting positive outcomes for children

## 5.12 Part 7 Safeguarding

<http://gov.wales/docs/dhss/publications/150610safeguardingguidanceen.pdf>

Statutory guidance has been issued for Part 7 which applies to all partners and

- Requires local authorities to investigate where they suspect that an adult with care and support needs is at risk of abuse or neglect
- Provides for adult protection and support orders to authorise entry to premises (if necessary by force) for the purpose of enabling an authorised officer to assess whether an adult is at risk of abuse or neglect and, if so, what if any action should be taken
- Requires local authorities and their relevant partners to report to the appropriate local authority where they suspect that people may be at risk of abuse or neglect
- Establishes a National Independent Safeguarding Board to provide support and advice to ensure the effectiveness of Safeguarding Boards
- Provides for Safeguarding Boards for adults and children and for combining such boards.

The SSWB Act introduces legal duties for the first time in relation to adult safeguarding and a duty to investigate a duty which already exists for children.

Alongside the National Independent Safeguarding Boards there is a requirement to have regional Safeguarding Boards for adults and children or a single board covering both adults and children. These Boards are required amongst other matters to produce an annual plan and an annual report.

### Implications for Part 7 for RCT

Cwm Taf have established the Regional Safeguarding Boards for both children and adults. Work is progressing to ensure compliance with the guidance on annual plans and reports and engagement with the public. The establishment of the Multi Agency single hub (MASH) is seen as best practice and is in line with the principles of the act.

The most significant changes in practice will be for adult safeguarding and whilst we are well placed to comply with the requirements it should be noted that we are still awaiting Welsh Government guidance and training in relation to the 'adult protection and support order'

### 5.13 Part 8 Social Services Functions

The Code of Practice on the Role of the Director of Social Services under Part 8 (Social Services Functions) of the Act and its explanatory memorandum were laid before the National Assembly for Wales on 28 January 2016.

The code will be laid for 40 days, after which time – if no resolutions are made – it must be issued by the Welsh Ministers and will come into effect on 6 April 2016

This part of the Act will detail;

- The role, accountability and governance arrangements for the Statutory Director of Social Services
- The grounds and process for intervention by Welsh Government of a 'failing' local Authorities in the exercise of its social services functions

#### Implications of part 8 for RCT

Whilst the final code of practice has yet to be issued, a consideration of the draft indicates that although the code updates the role of the director of social services to focus on delivering care and support services in keeping with the principles of the SSWB Act, it does not represent a fundamental change from the existing role as set out in *statutory guidance on the role and accountabilities of the director of social services*, issued in June 2009.

### 5.14 Part 9 Co-Operation and Partnership

<http://gov.wales/docs/dhss/publications/151218part9en.pdf>

This part of the act details;

- The duty of Local Authorities and Local Health Boards to establish Regional Partnership Boards and the requirements and responsibilities of those Boards
- The requirements for an Integrated Family Support Service (IFSS)
- The requirements to pool budgets in relation to
  - Family Support Service (IFSS)
  - The exercise of care home accommodation functions
  - Functions that will be exercised jointly following the population needs analysis and preventative services identified in Part 2

### Implications for Part 9 for RCT

The Cwm Taf Social Services and Wellbeing Partnership Board was established in January 2015. This Board was created as a condition of the Delivering Transformation Grant for 2015/16 to steer the work required to prepare the region for the SSWB Act

The SSWB Act provides a statutory footing for the Board and sets out in the statutory guidance its various requirements and responsibilities

The Board is currently updating its Terms of Reference through facilitated workshops to ensure these responsibilities and links to other statutory Boards are addressed and effective. Of note, amongst those new requirements :

- Cwm Taf was a pioneer region for the establishment of the IFSS whose purpose as a multi agency team is to work with parents and the extended family at an early stage before children become at risk of being taken into care. This service will continue with a pooled budget arrangement from April 2016 under the purview of the Social Services and Wellbeing Partnership Board
- The requirements in relation to pooled budgets for Care Homes will not apply until April 2018 but the planning process will commence during 2016/17.
- The most immediate requirement on the Partnership for 2016/17 will be to complete the population needs analysis for April 2017 and produce the first annual report

#### 5.15 Part 10 Complaints, Representations and Advocacy

<http://gov.wales/docs/dhss/publications/151218part10en.pdf>

This part of the act details;

- Requirements for receiving and managing complaints and representations relating to a local authorities social services functions
- ensuring that access to advocacy services and support is available to enable individuals to engage and participate when local authorities are exercising statutory duties in relation to them
- duty to arrange an independent professional advocate to facilitate the involvement of individuals in certain circumstances.

The availability and use of advocacy is seen as a key building block for assisting people to have voice and control and assisting people to have their views, wishes and feelings understood.

A code of practice has only been issued in relation to advocacy, Welsh Government published revised guidance on complaints in 2014 and will be reviewing this during 2016/17.

#### Implications for part 10 for RCT

The council already has a well established and regarded complaints process which is compliant with the revised guidance issued in 2014.

We also have a wide range of advocacy services but in reviewing these gaps have been identified and work is ongoing to realign some of our advocacy services to provide a better fit with the requirements of the act. We will be developing staff procedures on advocacy.

#### 5.16 Part 11 Miscellaneous and General

<http://gov.wales/docs/dhss/publications/151218part11en.pdf>

This part of the act details

- The duties of LA's to support people in Adults in prisons, approved premises or bail accommodation (secure estate) in Wales who have care and support needs
- The duties of LA's to support Children in youth detention accommodation, prison or bail accommodation in England and Wales.
- Interpretation of ordinary residence in relation to the act.

The act and code of practice detail the different responsibilities for Local Authorities in relation to adults and children depending on where the prison etc. is situated for instance for adults the responsible LA is where the prison etc. is situated, for children it is generally where the child was ordinarily resident prior to the placement.

The code of practice provides a definition of ordinary residence i.e. who is the responsible LA to undertake an assessment and where someone has eligible care and support needs who should meet them and details how disputes between Local Authorities are resolved.

#### Implications of part 11 for RCT

We do not have any secure estate within RCT and for children the code of practice re-enforces current arrangements.



The code helpfully clarifies ordinary residence which for the vast majority of people will be straightforward and will be need to be referred to in relatively few situations, for instance when someone comes to live on a temporary basis in RCT.

Code of practice in relation to measuring social services performance

<http://gov.wales/docs/dhss/publications/151005code-of-practiceen.pdf>

This code of practice sets out a framework for measuring the progress that local authorities make against the duties under the Act as a whole and enables local authorities to continuously improve services.

This code of practice covers:

- Well-being
- Measuring well-being:
- Measuring well-being at a national level
- Measuring well- being at an individual level
- Measuring performance:
- Quality standards for local authorities
- Measuring the quality standards

The well-being of people who need care and support and carers who need support will be measured at a national level by the national outcomes framework for social services, which is available at: <http://gov.wales/topics/health/socialcare/well-being/?lang=en>

Local authorities **must** achieve the quality standards set in this code of practice which are

1. Local authorities must work with people who need care and support and carers who need support to define and co-produce personal well-being outcomes that people wish to achieve
2. Local authorities must work with people who need care and support and carers who need support and relevant partners to protect and promote people's physical and mental health and emotional well-being.
3. Local authorities must take appropriate steps to protect and safeguard people who need care and support and carers who need support from abuse and neglect or any other kinds of harm. (Abuse, neglect and harm are defined in the Social Services and Well-being (Wales) Act 2014.

4. Local authorities must actively encourage and support people who need care and support and carers who need support to learn and develop and participate in society.
5. Local authorities must support people who need care and support and carers who need support to safely develop and maintain healthy domestic, family and personal relationships.
6. Local authorities must work with and support people who need care and support and carers who need support to achieve greater economic wellbeing, have a social life and live in suitable accommodation that meets their needs.

In measuring whether the quality standards are achieved, each local authority must have arrangements in place to collect and return the data on the statutory performance measures.

The quantitative and qualitative data must be submitted annually and the first year will detail the financial year April 2016 to March 2017). The quantitative data is set out in supporting technical documents. In relation to the qualitative data this will detail a persons experiences of social services and whether this has contributed to improving their well-being.

#### Implications of measuring performance for RCT

A quality assurance framework referencing the national standards for social services will be introduced across adult and children's services in 2016/17

The technical documents for the quantitative performance measures are now available and staff are working to update the swift system to manage the amendments required. This technical work will require a transitional period to embed and it is anticipated that there will be a delay in achieving full data integrity

Work to develop an approach to the collection of the qualitative information is progressing but final guidance from Welsh Government remains outstanding

## **6. EQUALITY AND DIVERSITY IMPLICATIONS**

- 6.1 Welsh Government has undertaken Equality impact assessments, Welsh Language impact assessments and Children's rights impact assessments across all parts of the SSWB Act. The link to all assessments is included below

<http://gov.wales/topics/health/socialcare/act/assessments?lang=en>

## **7. CONSULTATION**

7.1 Welsh Government completed the consultation for the SSWB Act in two Tranches.

7.2 The outcome for Tranche 1 is summarised in the following Ministerial statement:

<http://gov.wales/about/cabinet/cabinetstatements/2015/sswellbeingact/?lang=en>

7.3 The outcome for Tranche 2 is summarised in the following Ministerial statement

<http://gov.wales/about/cabinet/cabinetstatements/2015/10115887/?lang=en>

## **8. FINANCIAL IMPLICATION(S)**

8.1 There is an expectation that a transitional period will be required to further develop the Policies, procedures and processes to support the extensive requirements of the SSWB Act.

8.2 For 2016/17 the Delivering Transformation Grant will continue and £292,561 is allocated for the Cwm Taf Region

8.3 Whilst Welsh Government expectation is that the SSWB Act is cost neutral

8.4 The changes to the charging arrangements and in particular the requirements around the treatment of respite care are anticipated to incur additional cost pressures. Initial cost modelling is currently being undertaken.

## **9. LEGAL IMPLICATIONS OR LEGISLATION CONSIDERED**

9.1 The Social Services and Wellbeing (Wales) Act 2014 received Royal Assent on the 1st May 2014 and takes effect from April 2016.

9.2 The Act creates a new legal framework to bring together and modernise Social Services law

**10. LINKS TO THE COUNCILS CORPORATE PLAN / OTHER CORPORATE PRIORITIES/ SIP.**

10.1 The work to meet the requirements in the Social Services and Wellbeing Act will support the Council meet its priority to Promote independence and positive lives for everyone by ensuring

- Health and Social Care services will be personalised and integrated, with more people supported to live longer in their own homes
- Rhondda Cynon Taf's children and young people will receive a great start in life...

**11. CONCLUSION**

***Relevant Scrutiny Committee***

- Health and wellbeing scrutiny committee
- Children and Young People Scrutiny Committee

**LOCAL GOVERNMENT ACT 1972**

**AS AMENDED BY**

**THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985**

**RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL**

**CABINET**

**17<sup>TH</sup> MARCH 2016**

**REPORT OF THE GROUP DIRECTOR, COMMUNITY AND CHILDREN'S  
SERVICES IN DISCUSSIONS WITH THE RELEVANT PORTFOLIO  
HOLDER, COUNCILLOR FOREY**

**ITEM:**

**SOCIAL SERVICES AND WELLBEING ACT: IMPLEMENTATION PROGRAMME**

**Background Papers:**

The Social Services and Wellbeing (Wales) Act 2014

[http://www.legislation.gov.uk/anaw/2014/4/pdfs/anaw\\_20140004\\_en.pdf](http://www.legislation.gov.uk/anaw/2014/4/pdfs/anaw_20140004_en.pdf)

[The Care and Support \(Population Assessments\) \(Wales\) Regulations 2015](#)

[The Care and Support \(Partnership Arrangements for Population  
Assessments\) \(Wales\) Regulations 2015](#)

[The Social Services and Well-being \(Wales\) Act 2014 \(Social Enterprise, Co-  
operatives and Third Sector\) \(Wales\) Regulations 2015](#)

[The Care and Support \(Assessment\) \(Wales\) Regulations 2015](#)

[The Care and Support \(Eligibility\) \(Wales\) Regulations 2015](#)

[The Care and Support \(Care Planning\) \(Wales\) Regulations 2015](#)

[The Care and Support \(Direct Payments\) \(Wales\) Regulations 2015](#)

[The Care and Support \(Financial Assessment\) \(Wales\) Regulations 2015](#)

[The Care and Support \(Charging\) \(Wales\) Regulations 2015](#)

[The Care and Support \(Review of Charging Decisions and Determinations\) \(Wales\) Regulations 2015](#)

[The Care and Support \(Choice of Accommodation\) \(Wales\) Regulations 2015](#)

[The Care and Support \(Deferred Payments\) \(Wales\) Regulations 2015](#)

[The Children \(Secure Accommodation\) \(Wales\) Regulations 2015](#)

[The Care Planning, Placement and Case Review \(Wales\) Regulations 2015](#)

[The Care Leavers \(Wales\) Regulations 2015](#)

[The Visits to Children in Detention \(Wales\) Regulations 2015](#)

[The Adult Protection and Support Orders \(Authorised Officer\) \(Wales\) Regulations 2015](#)

[The Safeguarding Boards \(Functions and Procedures\) \(Wales\) Regulations 2015](#)

[The Safeguarding Boards \(General\) \(Wales\) Regulations 2015](#)

[The National Independent Safeguarding Board \(Wales\) \(No.2\) Regulations 2015](#)

[The Partnership Arrangements \(Wales\) Regulations 2015](#)

[The Care and Support \(Ordinary Residence\) \(Specified Accommodation\) \(Wales\) Regulations 2015](#)

[The Care and Support \(Disputes about Ordinary Residence, etc.\) \(Wales\) Regulations 2015](#)

[Part 2 Code of Practice \(General Functions\)](#)

[Part 3 Code of Practice \(Assessing the Needs of Individuals\)](#)

[Part 4 Code of Practice \(Meeting Needs\)](#)

[Part 4 and 5 Code of Practice \(Charging and Financial Assessment\)](#)

[Part 6 Code of Practice \(Looked After and Accommodated Children\)](#)

[Code of Practice on the Role of the Director of Social Services under Part 8 of the Social Services and Well-being \(Wales\) 2014 Act\(not yet available\)](#)



[Part 7 Statutory Guidance \(Safeguarding\)](#)

[Part 9 Statutory Guidance \(Partnership Arrangements\)](#)

[Part 10 Code of Practice \(Advocacy\)](#)

[Part 11 Code of Practice \(Miscellaneous and General\)](#)

[Code of Practice on Measuring Social Services Performance](#)

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