

	Briefing for Assembly Members around the Health and Social Care (Quality and Engagement) (Wales) Bill
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Date:	17 th June 2019

Introduction

This briefing has been produced for Assembly Members in preparation for the statement by the Minister for Health and Social Services on the **Health and Social Care (Quality and Engagement) (Wales) Bill** being held on Tuesday 18th June 2019.

The Welsh NHS Confederation will be engaging with our members, the seven Local Health Boards, three NHS Trusts and Health Education and Improvement Wales (HEIW), over the summer to develop a response to the Bill.

This briefing provides an overview of the key areas that we highlighted in our written evidence to the “*Our Health: Our Health Service*” Green Paper in November 2015 and the White Paper “*Services Fit for the Future, Quality and Governance in Health and Care in Wales*” in September 2017.

Key points to consider:

- The Welsh Government’s long-term plan for health and social care, *A Healthier Wales*, sets out a whole-system approach to the provision of services that is based on health and wellbeing and preventing illness. The proposed legislation is a lever to achieve this vision, particularly in relation to developing a shared understanding of how the health and care system will develop in future.
- During our response to the Green Paper in 2015 and the White Paper in 2017 we emphasised that any proposed legislation in this area would need to support the planning and delivery of a truly integrated health and social care system that supports the long-term goals of the Social Services and Well-being (Wales) Act 2014 and the Well-being of Future Generations (Wales) Act 2015.
- If we are to ensure that we put the needs of people at the centre of our services, then a duty of quality is fundamental and integral. Previously we highlighted the need to be clear around what we mean by quality, especially in an integrated health and social care environment.
- Previously our members broadly supported the proposal within the White Paper around the introduction of a duty of candour and the proposal to allow NHS Trusts to appoint Vice Chairs.
- We recognise and value the patient voice to support, plan and deliver healthcare services. Through having a new Citizens’ Voice body we hope it will strengthen the voice of the service user in the health and social care system by representing the interests of people who access NHS and/or social services in Wales.
- The Health and Social Care (Quality and Engagement) (Wales) Bill is only part of the much broader agenda to improve the quality of care across NHS Wales organisations and social services.

Duty of Quality

If we are to ensure that we put the needs of people at the centre of our plans and services, then a duty of quality is fundamental and integral to the ways in which we work with organisations delivering health and care services. However, within our response to the White Paper we highlighted whether having further legislation as regards a duty of quality for the integrated system is needed because it is considered that this is already dealt with adequately within existing legislation.

In our response to the White Paper we highlighted the need to continue to build on the existing systems and apply the tools which already exist which evidence quality and safety of care. In light of the Mid Staffs review, the Andrews review and recent review into services in Cwm Taf Morgannwg UHB, there needs to be a focus both on quality and safety.

Previously we highlighted that we need to be clear what we mean by quality, especially in an integrated health and social care environment. The gap that needs addressing is for health and social care to be working towards the same quality standards and targets, with the standards and targets to be agreed with the Welsh public.

While quality assurance through the NHS planning framework is adequate, further consideration is required to promote quality in the broader service integration agenda.

Duty of Candour

Previously our members broadly supported the proposal within the White Paper around the introduction of a duty of candour. However, we highlighted that if a duty of candour is introduced it must be recognised that there will be training and culture implications that would need to be addressed and the relevant professional bodies would also have to recognise such a duty in their own standards.

Our members are committed to ensuring that honesty and transparency are the norm. We are broadly supportive of the introduction of a statutory duty of candour in the aftermath of the failings at Mid Staffordshire NHS Foundation Trust. However, this is more than considering a legislative approach but considering the values, principles and culture of organisations and the way individual members of NHS staff seek to provide the best service for citizens every day.

The principles of openness and candour must extend beyond the current requirements set out in Putting Things Right regulations, to include the design of care plans as well as the delivery of health care, building upon the duty of candour already held by registered health professions.

As previously highlighted while professional groups already hold a duty of candour, it would be powerful if this is extended across the NHS. The NHS in Wales needs to be clear about our duty of candour for patients and their families. Promptly identifying negligence, actively responding to complaints in a timely and open way and also providing redress for the patient and their family should also be encouraged. However, these principles of openness and candour need to apply from the design and agreement of plans and care plans for patients and not come as part of redress or part of investigations. If we apply these principles in our

design and delivery of services and behaviours of our staff, the expectations of patients, their families and their carers, should be more clearly understood and as a result they should receive the quality services they expect. Key to this will be how we measure quality and how citizens play a key role in that measurement.

We believe specific clarity is required on what “duty of candour” means and how this will fit with existing policies that empower staff to speak out and protect patients, or raise other issues concerning the organisation they work for, without fear of victimisation (e.g. whistleblowing). This must include the acknowledgement that candour is a two-way process as it also requires that any patient who is arguably disadvantaged or, worse, harmed, by the provision of less than safe or high quality care, is informed of the fact and is offered appropriate remedy, regardless of whether they have made a complaint or questioned their care; only in that way will we start to see the seismic shift that we need towards truly patient-centred care.

We also need to be clear that it is not enough to simply give staff the ability to respond to systemic problems or instances of poor care through a formal mechanism; they also need an independent authority to turn to if they feel their concerns are not being listened to or acted upon. In England there is a National Guardian and a network of local Freedom to Speak Up Guardians across all NHS Foundation Trusts and NHS Trusts. We need to know how this would work in Wales if we are considering a similar model, particularly in terms of our integration agenda and partnership working – there needs to be clear lines of sight for staff working in services to know where to go to when their efforts to raise issues have not been effectively managed via the usual chain of command.

The ability for NHS Trusts to appoint Vice Chairs

In our written response to the White Paper “Services Fit for the Future: Quality and Governance in Health and Care in Wales”, we support the Bill’s proposal to allow NHS Trusts to appoint Vice Chairs, should they consider it appropriate. This will place the Boards of NHS Wales Trusts on the same statutory footing as Local Health Boards in this respect and will strengthen their governance structure.

This model has underpinned governance arrangements in Health Boards to date. Moreover, having the ability to increase the number of Executive Directors and Independent Members would assist Trusts to increase the level of capacity and capability at officer/independent member level to deal with the broad agenda set out across health, wellbeing and public services more generally in future.

A new Citizens’ Voice body

We recognise and value the patient voice to support plan and deliver healthcare services. The Welsh NHS Confederation, and our members, value the role of the citizens (the public and patients) voice and the contribution Community Health Councils (CHCs) have made to the improvement of healthcare services. However, within our response to the Green Paper and White Paper we highlighted that we do believe that the citizen’s voice can be strengthened and that it is now necessary for the model to evolve, either by reforming the current CHCs or introducing a new body, building upon the strengths of the current system, to maintain a strong independent citizen voice.

With the introduction of the Social Services and Well-being (Wales) Act 2014 and the vision within a Healthier Wales, health and social care services are working in a more integrated way and it is important that there is one organisation representing the citizen's voice in both health and social care. Currently the way the seven CHCs are configured enables them to represent the public's interest in the health service, something which is not reflective of an increasingly integrated approach to service delivery because as it stands there is no specific statutory body for citizen engagement in social care. Local authorities are under a duty to promote user-led services and to involve people in the design and provision of services but there are no specific statutory bodies for citizen engagement in social care, as in health with CHCs. Effective citizen engagement is an expectation within the Social Services and Well-being (Wales) Act 2014 and the new proposed national arrangement will ensure this without duplication between health and social care issues. We previously highlighted that the refreshed citizen voice arrangement will provide better assurance and the impetus for health and social care organisations to improve the way they engage with the public and work in partnership to gather views and involve citizens in planning and delivery of services.

In addition to the integrated agenda, Health Boards are working in a more integrated way across organisational boundaries and services are being provided regionally, especially for specialist health services. This therefore has the potential to cause issues when there are health service changes across organisational boundaries. At present the CHCs attachment to a particular geographical area and population causes challenges when cross-boundary working or service change is proposed because when proposals are put forward around local service change the duty on local CHCs is to consider their local population and so if their local population are not happy with the proposals they can reject service redesign/ change without putting forward alternative proposals.

Through having a new Citizens' Voice body we hope it will strengthen the voice of the service user in the health and social care system by representing the interests of people who access NHS and/or social services in Wales.

Conclusion

If you require any further information on any of the issues raised in this briefing please do not hesitate to contact us: Nesta.lloyd-jones@welshconfed.org

The Welsh NHS Confederation

The Welsh NHS Confederation is the only national membership body which represents all the organisations that make up the NHS in Wales: the seven Local Health Boards and three NHS Trusts.

Our role is to support our members to improve health and well-being by working with them to deliver high standards of care for patients and best value for taxpayers' money. We act as a driving force for positive change through strong representation and our policy, influencing and engagement work.