

Social Care Market Stability Reports



A RESPONSE FROM WCVA

1. Wales Council for Voluntary Action (WCVA) is the national membership organisation for the voluntary sector in Wales. Our purpose is to enable voluntary organisations to make a bigger difference together.
2. The voluntary sector in Wales comprises over eight per cent of the paid Welsh workforce. This equates to approximately 100,000 employees. 156,000 people in Wales also volunteer in health, disability, and social welfare organisations with over 48,500 voluntary organisations supporting and improving the health and social well-being outcomes of citizens (service users and unpaid carers).
3. WCVA welcomes the opportunity to respond to this consultation.

Do you agree that market stability reports should be prepared on a regional basis, by local authorities and local health boards through the regional partnership boards? If not, please give your reasons.

4. As a current mechanism, the Regional Partnership Boards (RPBs) are - given the timescale to involve, consult and prepare, and in the absence of a workable or agreed alternative - the relevant bodies to prepare the regional Market Stability Reports.
5. However, in the spirit of co-production, there are other partners not mentioned in the question who should also support the preparation and comment on the regional Market Stability reports, which reflect the stability (or not) of voluntary sector care and support provision.
6. We are mindful that the following factors will have an impact on how the social care market is stabilised:
 - The social care market is still in Covid-19 response mode.
 - The Stabilisation and Re-construction agenda is working in a binary fashion, alongside the planning and response to the ever-changing Covid-19 situation.

- The fragility of the social care market pre-Covid-19 - more accentuated during the crisis - has been widely reported. There is a need to focus on specific issues but not at the cost of other care and support services delivered in the community.
- Voluntary sector organisations, despite changing their delivery, are in a similarly insecure position due to several factors, including loss of income.
- This consultation also needs to be looked at in the context of the option appraisals set out in Social Care Futures. Extrapolating the key needs of the population, service users, and unpaid carers in this context is crucial to provide more coherence and reduce the complexities in social care provision.
- There is the need to reflect on the way the previous population needs assessment was conducted to improve the involvement of people (service users and unpaid carers).

Do you agree that market stability reports should be produced on a five-yearly cycle alongside the population needs assessments? If not, what alternative arrangements would you propose, and why?

7. We agree that a five-year cycle is appropriate and aligned to the timetable to produce the Population Needs Assessments (PNAs) and to inform the Local Area Plan, which should reflect the content of the Market Stability Reports (MSRs) and vice versa.
8. But both (PNAs and MSR) should have in place checkpoints and an ongoing process of data collection and involvement to respond to changing needs. This is critical as we live a context that is subject to change, and those changes cannot be weathered without a quick response.
9. The essential feature is how the Population Needs Assessments are conducted and the ways in which people are involved and how their views, experiences and needs clearly inform the Market Stability Reports. We know from colleagues in the voluntary sector, who were involved in the previous Population Needs Assessment process, that some of the data was not as clear or accurate as it should have been, which may not have reflected the true nature of the regional position across the groups identified in the Social Services and Wellbeing Act.
10. It is important to understand each local authority's reporting mechanisms, including differences in how data is handled and interpreted. Whilst there is a drive to have a mixed market, the trick is to maintain the balance that is needed, while being mindful that the huge array of small organisations providing similar care and support services is not sustainable. There will be a need for conversations on developing workable partnerships across organisations and sectors.

Have we specified all the key matters that need to be included in market stability reports? If there are other matters you think should be included, please specify.

11. It is good to see the reference in the Code of Practice that 'local authorities must take reasonable steps to engage with citizens when preparing their market stability reports'. Nonetheless, we would expect that Regional Partnership Boards set out clearly how they have involved citizens. This needs to be defined in the Code of Practice, plus what is expected and how such involvement is conducted - not just setting out who should be involved.

Do you agree that market stability reports should be kept under regular review and revised as necessary, but at least at the mid-way point of the five year cycle? If not, what other monitoring and review arrangements would you propose, and why?

12. Yes, unless the context changes – for instance, the need to bring forward a checkpoint, or when there are issues with delivering certain services.

In your opinion, does the draft code of practice strike the right balance between what is required of local authorities and what is left to their discretion? Are there further requirements or guidelines you would like to see added, or other ways in which the document might be improved?

13. The Code of Practice needs to set out what is considered to be 'reasonable', and who makes the decision as to what is acceptable and what is not, particularly from a citizen involvement perspective.
14. Likewise, what is considered 'sufficient' must be set out, because this can also mean adequate/just enough and not necessarily a market that could cope with future national crisis. It could also create restricted choice for people due to funding uncertainties and Brexit (including fair pay and the lack of EU nationals seeking work in the UK post-Brexit):
 - There needs to be clear guidance on the types of mechanisms that must be in place to involve people. Central to that is the importance of embedding co-productive principles into involvement practices. This means working together with citizens (service users and unpaid carers) and not between partner organisations - that is collaboration. Importantly, listen to people's experiences and needs and the types of care and support services they think will meet their needs to ensure that there is choice and an abundant mixed market care and support sector. Point 3.19 is important to ensure that preference and needs are identified to inform and deliver a mixed market of regulated care and support services.

- Monopolisation means limited choice for many, and a mixed market enables people to consider their options rather than being fitted into a service because that is the only available resource, leaving them to the judgment of others.
- Sufficient must also mean that there is a quality of delivery, whoever provides it, and that the minimum standards are not seen as the place to pitch a service but that a service should aspire to more and meet the personal outcomes of people (service users and unpaid carers). Therefore, the core values espoused by Care Inspectorate Wales are crucial here to drive quality.
- The importance of improving outcomes for people and how a mixed, stable and sustainable care and support market achieves this should be upfront in the Code of Practice.
- Further clarity is required regarding Section 16 (Social Services and Well-being Act) and the role of the Social Value Forums as the initiator and architect to develop alternative delivery models. The Social Value Forums' role needs to be re-considered to decide how that happens and what resources they need.

In your opinion, does the draft statutory guidance set out clearly the partnership approach that local authorities and local health boards should take in preparing their market stability reports? Are there further requirements or guidelines you would like to see added, or other ways in which the document might be improved?

15. During the pandemic, engagement between the public and voluntary sectors has often increased and improved. There has been a recognition that it would be useful to 'hard wire' timely and appropriate conversations with the voluntary sector into all planning and processes.
16. It should be everyone's (all partners, including the voluntary sector and especially services users and unpaid carers) responsibility to ensure a partnership approach is instilled. Using the term 'must' throughout the Code of Practice strengthens how the reports are prepared.
17. However, it needs to be set out more clearly as to how citizens (services users and unpaid carers) are involved. The Code of Practice does not use the term 'co-production' or refer to it. Given that co-production is one of the core principles of the Act it is unfortunate that the Code of Practice fails to highlight the importance of it.

What impacts do you think our proposals will have on the duties of public bodies under the Equality Act 2010, or upon a local authority's duty under the 2014 Act to have due regard to the United Nations Convention on the Rights of the Child, the United Nations Convention on the Rights of People with Disabilities, also the UN Conventions of the

Rights of People with Intellectual Disabilities or the United Nations Principles for Older People?

18. The Disability Discrimination Act (1995) recently celebrated its 25th anniversary. Its replacement, the Equality Act (2010), which guaranteed minimum standards of equality, reached its 10th anniversary this year. However, there is a danger, as we have seen during Covid-19, that people's rights will continue to be eroded and their needs not be met despite having a care and support plan, as there may not be the services available to meet their needs without:

- Finding alternative ways/models to deliver care and support services home or close to home, and
- through a mixed economy of public, voluntary, community and independent activities/services.

19. The Equality Act encompasses the principles of the UN Conventions and should strengthen the duties to implement, protect and promote people's rights and the social model of disability, alongside the aforementioned Conventions that can influence Court decisions in the UK but are not directly enforceable.

20. The Equality Act actually goes further than, for example, the UN Convention on the Right of Persons with Disabilities by setting out the protected characteristics of disability. What is ambiguous about the Act is what is meant by 'reasonable adjustment' - here, the Act is open to interpretation. Where there may be issues, post-Brexit, is around EU law and the European Convention on Human Rights as it will remove a legal route for many.

21. Public bodies, including local authorities and local health boards, will be subject to the Socio-Economic Duty from the 31 March 2021. The Duty will place a legal responsibility on relevant bodies, when making strategic decisions, to have due regard to the need to reduce inequality resulting from socio-economic disadvantage. In addition to the protected characteristics and due regard for the UN conventions and principles, socio-economic disadvantage should also be integrated into any Equality Impact Assessments undertaken as part of the process for preparing a market stability report.

Under the Well-being of Future Generations (Wales) Act 2015, public bodies have a duty to consider the long-term impact of their decisions. We would like to know to what extent you think our proposals will support the principle of sustainable development set out in that Act.

22. Interestingly, there is no mention of the Well-being of Future Generations Act in the Code of Practice, yet the central premise is to create a stable market. This means

that market needs to be sustainable, which means that public bodies need to work towards and achieve all the Wellbeing Goals. The definition of 'sustainable development' is wide ranging. However, the Code of Practice needs to set out more clearly that the Market Stability Reports need to identify at regional level how stable and sustainable social care services can be achieved, especially through commissioning, use of other funding and pooling budgets in a realistic and attainable way.

DISCUSSION

23. WCVA will be pleased to discuss these or any other points relating to this consultation response with officials, committees or Ministers if requested.

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