

## **Explanatory Memorandum to the code of practice in relation to measuring social services performance**

This Explanatory Memorandum has been prepared by the Department of Health and Social Services and is laid before the National Assembly for Wales in conjunction with the above code of practice.

### **Minister's Declaration**

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the code of practice in relation to measuring social services performance. I am satisfied that the benefits outweigh any costs.

*Mark Drakeford AM*

**Minister for Health and Social Services**

23 June 2015

## **Part 1 – OVERVIEW**

### **1. Description**

The Social Services and Well-being (Wales) Act 2014 (“the Act”) brings together local authorities’ duties and functions in relation to improving the well-being of people who need care and support and carers who need support in a single Act. The Act provides the statutory framework to deliver the Welsh Government’s commitment to focus on well-being, rights and responsibilities.

People, their families and their communities are rich assets and are at the centre of this legal framework. Everyone, adult or child, has a right to be heard as an individual, to shape the decisions that affect them, and to have control over their day to day lives.

The meaning of well-being is set out in relation to a person in section 2 of the Act. Well-being is a broad concept that relates to all areas of a person’s life, and many services will help people to secure well-being.

Section 5 of the Act puts a duty on any persons exercising functions under the Act to seek to promote the well-being of people who need care and support and carers who need support. This overarching duty applies to all persons and bodies exercising functions under this Act, including the Welsh Ministers, local authorities, local health boards and other statutory agencies.

Section 8 of the Act places a duty on the Welsh Ministers to issue a statutory statement relating to the well-being of people who need care and support and carers who need support. This statement must specify the outcomes that are to be achieved in terms of well-being and outcome measures by reference to which achievement of those outcomes is to be assessed. The statement of well-being outcomes to be achieved will be issued by the Welsh Ministers and laid before the Assembly on commencement of the Act in 2016.

The other codes of practice issued under section 145 set out requirements on local authorities in relation to their duties under each part of the Act, including the requirements in section 5.

The code of practice in relation to measuring social services performance sets out a framework for measuring the progress that local authorities make in relation to the discharge of their duties under the Act as a whole and enables local authorities to continuously improve services.

### **2. Matters of special interest to the Constitutional and Legislative Affairs Committee**

There are no matters the Minister wishes to bring to the Committee’s attention.

### **3. Legislative background**

The powers enabling the making of this code are contained in Sections 145 and 146 of the Act.

Section 145 of the Act permits Welsh Ministers to issue, and from time to time revise, one or more codes of practice on the exercise of social services functions. Section 146 of the Act lays down the procedure to be followed when issuing or revising a code under Section 145.

#### **4. Purpose and intended effect of the legislation**

People and services will have a joint responsibility for achieving well-being outcomes; services will have direct accountability for performance and service delivery. Well-being will be measured at a national level by the social services national outcomes framework. This will contain national outcome measures of well-being that all services and people themselves will contribute to. These national outcome measures will be reported on by the Welsh Government and will provide greater transparency on whether care and support services are improving national well-being outcomes for people in Wales.

Underpinning the national outcomes framework, the contribution of services will be measured in a performance measurement framework. The code of practice in relation to measuring social services performance sets out this framework for local authorities in relation to the exercise of their social services functions. It includes:

- Quality standards for local authorities that describe the activities of local authorities that contribute to the achievement of well-being outcomes, in relation to its social services functions;

- Performance measures that will be stated in relation to achieving the quality standards.

The purpose and intended effect of the performance measurement framework for local authorities is to:

- enable people themselves to understand the quality of service they are entitled to and to make informed decisions about their care and support;

- underpin local authorities' strategic planning, ensure effective and efficient service delivery, encourage innovation in the development of services and enable local authorities to target resources and improvement activity;

- support local authorities to understand what they do well to recognise and share good practice within and between local authorities and what they do less well, what they might do differently, and needs to be put right;

- enable local authorities providing care and support to compare and benchmark their performance against others and learn and improve;

- evidence responsibility and accountability for local delivery to the Welsh Ministers and inform national policy development and set national priorities for social services policy in Wales;

- drive the shift in service provision to support people and families to live independently; and

- underpin and inform the regulation and inspection regime.

## **5. Consultation**

Section 146 (1) of the Act states that before issuing or revising a code under section 145 Welsh Ministers must consult on a draft code. The code was consulted upon on in a 12 week consultation that ran from 2 February 2015 to 24 April 2015.

There were 57 substantive written responses to the consultations received, from a wide range of individuals, representative groups, duty bearers and professional organisations. Overall response to the consultation was positive and there was a clear level of support in and commitment to the changes we are taking forward. There were a number of common themes – in particular responses referred to co-production, partnership working and technical detail.

Following the consultation, the code was reviewed and amendments were made, where appropriate, to take into account the views of respondents.

A summary report of the consultation responses is available on the Welsh Government website – <http://gov.wales/consultations/?skip=1&lang=en>.

## **6. Regulatory Impact Assessment**

The code is not subordinate legislation made by statutory instrument and for that reason a RIA is not required under 4.2 of the Welsh Ministers Regulatory Impact Assessment Code.

However, consideration has been given to whether the impact of the code is in any case sufficient to warrant completion of an RIA. The code of practice has been subjected to a broad spectrum of impact assessments including: Equality Impact Assessment, Welsh Language Impact Assessment and Children's Rights Impact Assessment. These impact assessments have shown that there are no significant negative impacts on any of the areas under consideration. Additionally, the code does not create any additional regulatory financial burden; therefore a full RIA has not been completed.

The impact assessments are available on the Welsh Government website – <http://gov.wales/topics/health/socialcare/well-being/?lang=en>