

## A. CHILDREN'S RIGHTS IMPACT ASSESSMENT

### **Market Stability Reports – commencement of section 144B of the Social Services and Well-being (Wales) Act 2014, and development of supporting regulations and code of practice / statutory guidance.**

#### **1. Describe and explain the impact of the proposal on children and young people.**

The proposals to implement section 144B, which requires LAs to prepare MSR, and to require them to do this on a regional footprint via RPBs, should have a positive impact upon the lives of the following groups of children and young people:

- looked after children who need care and support
- children on the edge of care or at risk of going into care
- disabled children and young people who need care and support
- adopted children
- care leavers who need support
- young carers.

Children in a number of these categories are highly likely to have experienced ACEs.

Other groups of people who are likely to benefit from the proposals are the families and carers of these children, and those who provide care and support to these children and their families.

The aim of MSR is to ensure that LAs / RPBs assess the sufficiency of provision of care and support, and the stability of the market for regulated services, across the RPB area.

Regulated services are listed in Schedule 1 of the Regulation and Inspection of Social Care (Wales) Act 2016. They include the main forms of placement for looked after children (fostering and children's homes) as well as adoption and secure accommodation.

Domiciliary care and residential 'respite' services for disabled children, residential family centres, and advocacy services, are also regulated services. Also relevant will be Shared Lives (adult placements) services, which although not yet available to 16-17 year olds in Wales (as they are in England) are a regulated service to which some disabled or other vulnerable children may transition at age 18.

Non-regulated care and support provision includes preventative and family support services, support for young carers and for the carers of disabled children, as well as independent visitors for looked after children, accommodation and other support for 16-17 looked after children or care leavers, and services for care leavers aged 18+ including 'When I am Ready' arrangements, supported lodgings, personal advisers and other support. These types of provision will be covered by the sufficiency assessment, but there is no requirement under section 144B of the Act for LAs / RPBs to assess the stability of the market for these services. (It should be noted that the term 'market' is not easily applied to some of these services. An attempt to define what we mean by the social care market has been included in the code of practice.)

It is our intention to use the code of practice to place a requirement upon LAs to consider how these wider care and support services impact upon the market for regulated services and *vice versa* – e.g. when assessing the market for fostering and residential care for older looked after children, LAs would also need to consider what accommodation options are available for them to move on to when they are preparing to leave care, or how ‘When I am Ready’ arrangements might impact upon the availability of foster placements. Likewise, the code will make it clear that LAs will need to consider the impact of preventative services on the need for regulated provision – e.g. how far the availability of family support, safeguarding or other early intervention services impacts upon the need for children to go into care.

In general, the expected benefits of MSRs in relation to children and young people are:

- MSRs will contain an assessment of the sufficiency of care and support for children and young people, their families and carers, measured against the need and demand identified in the population needs assessments. They will help identify where there is insufficient provision and why, as well as the factors affecting current and projected provision (trends, challenges, risks etc.) and mitigating actions that can be taken.
- MSRs will also contain an assessment of the stability of the market for regulated services providing care and support to children and young people. The regulations will specify that this must include sufficiency, quality, trends, challenges, and the impact of commissioning and funding decisions on the market for these services. We will also encourage LAs, through the code of practice, to take a holistic view of the social care market so that non-regulated services are also considered in the market stability assessment.
- The sufficiency and market stability assessments will enable social care commissioners to make more strategic and informed decisions about the commissioning and provision of services for children and young people, families and carers. Together with population needs assessments, they will help inform and shape the joint area plans as well as local decision-making. MSRs will also help providers and potential providers of services to make informed decisions about future investment, better matching demand and supply.
- This should lead to more children and young people receiving the care and support they need within their local communities, as markets become more responsive to local needs. It should help reduce the number of looked after children who are placed out of county and outside of Wales.
- The regional partnership approach we are proposing will also support RPBs to make strategic decisions about which care and support services are best planned and commissioned regionally. This is likely to include specialist provision for disabled children, and residential care for children with complex needs or challenging behaviours (i.e. those at the highest end of the continuum of need). In particular, MSRs will help with plans to develop ‘safe accommodation’ for children and young people who are at risk of going into secure accommodation or who are stepping down from such placements.

In developing our proposals we have drawn upon evidence from various sources, including:

- The Improving Outcomes for Children (IO4C) programme.
- National Fostering Framework annual reports and other papers.
- Work undertaken by the Children’s Residential Care Task and Finish Group, including scoping work on safe accommodation and alternatives to secure accommodation.
- The Children’s Commissioner’s ‘No Wrong Door’ report (June 2020) into RPBs and the development of integrated regional approaches for children and complex emotional wellbeing or mental health needs, and young people with learning disabilities transitioning to adult services.
- The ADSS Cymru report, ‘Rebalancing social care: a report on children’s services’ (August 2020).
- Children’s Commissioning Consortium Cymru (4Cs).

We have also commissioned a bespoke Wales Social Care Market Position report from the National Commissioning Board, to gather available data and information on the state of the social care market following the impact of Covid-19. This will assess the overall stability of key provision, identify vulnerabilities and risks, and opportunities for growth. The report was co-authored by the NCB and the 4Cs. The interim report was submitted to WG in December 2020.

In developing our proposals we have worked with a small reference group including RPBs, the National Commissioning Board, the Children’s Commissioning Consortium Cymru, and Care Inspectorate Wales. The proposals were subject to public consultation from 16 September to 25 November 2020, and the key messages from the consultation were considered by the reference group before the code of practice and statutory guidance was substantially revised and rewritten. These included suggestions made by the Children’s Commissioner for Wales. Due to restrictions due to Covid-19 it was not possible to do much direct engagement work with stakeholders during the consultation period.

The code of practice and statutory guidance will require LAs / RPBs to engage with citizens when carrying out their MSR, including children and young people, their families and carers. MSR must contain an equality impact assessment, including consideration of children’s rights under the UNCRC.

**2. Explain how the proposal is likely to impact on children’s rights.**

The key rights and the way the regulations and code of practice / statutory guidance will help promote them are identified in the table below. In reading this, it should be noted that MSR are a tool – whether or not the sufficiency and market stability assessments actually translate into better outcomes for children and young people depends upon how the tool is used by LAs and LHBs to develop more integrated and quality care and support. It should also be noted that MSR are to be used in conjunction with PNAs and Area Plans as part of a strategic approach to identifying and meeting need and demand.

<b>UNCRC Article</b>	<b>Impact</b>
Article 9 – separation from parents	The regulations will require MSR to cover the sufficiency and market stability of the following regulated services providing care and support



<p>Article 19 – protection from violence, abuse and neglect</p>	<p><b>Safeguarding</b>, family support and other preventative services will be included in the sufficiency assessment. LAs / RPBs will be encouraged through the code of practice to consider the market for such services as part of their market stability assessments.</p>
<p>Article 22 – refugee children</p>	<p>UASC are regarded as looked after children, and the considerations above about regulated services (children’s placements) apply. LAs / RPBs should specifically consider the sufficiency of care and support they provide for UASC and children of refugees in their MSR.</p>
<p>Article 23 – children with a disability</p>	<p>Care and support services for disabled children (and support for young carers of disabled siblings) must be included in the sufficiency assessment. Certain regulated services, such as domiciliary care, residential care providing ‘respite’, and advocacy services, that are provided for disabled children will also form part of the market stability assessment.</p>
<p>Article 24 – health and health services</p>	<p>MSRs must be prepared jointly by LAs and LHBs, working through the RPBs. The aim of this regional partnership approach is to encourage an integrated approach to provision between social services and health (and other LA services such as housing, education and leisure) in meeting children’s needs and helping them achieve their well-being outcomes. The links between PNAs, MSRs and Area Plans are also designed to help integration and joint working.</p> <p>The regional approach should particularly allow LAs, LHBs and other partners to develop a ‘No Wrong Door’ approach to meeting need, and allow for the development of innovative approaches such as safe accommodation for children whose needs are particularly complex and which need a holistic approach. MSRs should help highlight and address sufficiency and supply issues in relation to such services.</p>
<p>Article 39 – recovery from trauma</p>	<p>Many of the children and young people in receipt of care and support (and almost all looked after children) will have experienced more than one ACE. Those at the highest end of the continuum of need will need care and</p>

	<p>support that is based around trauma-informed models. This includes those in need of safe accommodation or placed in secure accommodation, but also in specialist foster placements. The MSRs will assess the sufficiency of such provision, and the market for regulated services providing this kind of care. As stated above the regional partnership approach, and particularly the involvement of health partners, should contribute to the development of integrated approaches to meeting children's needs.</p>
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