

Consultation response form

**Consultation
Response Form**

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Question 1: Do you agree that complexity in the social care sector inhibits service improvement?

Agree X	Tend to agree <input type="checkbox"/>	Neither agree or disagree <input type="checkbox"/>	Tend to disagree <input type="checkbox"/>	Disagree <input type="checkbox"/>
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Please explain your answer

UNISON agrees the social care sector is complex and this is one of the overriding factors that undermines the success of social care services. The sector is overwhelmed with suppliers competing over contracts.

The complexity of the sector has led to it becoming largely unregulated where there is little incentive for employers to invest in training, and high reliance on casual contracts and poor terms and conditions, including low pay, as a way to offer tender for contracts on a low cost basis in order to win the bid.

It is impossible to gain an accurate picture of the state of the workforce across the sector in Wales. As a union, we represent care workers across hundreds of care providers, with hundreds of job descriptions. There has been large scale redundancy and job loss across the sector, but it is impossible to put an accurate figure on this

Furthermore, the current lack of duty to consider delivery by public sector creates an unlevel playing field when assessing value for money and quality of service provision. In terms of the management of social care, there is an inevitable duplication of costs as public money is used within each contract for HR, payroll and chief executives, for example. This further adds to the complexity of the service and inhibits improvement by using social care funding for costs outside of direct social care delivery.

UNISON has long highlighted the failures within the social care sector, and notably launched an Ethical Care Charter to address key issues and concerns across the sector. The charter has been accepted as a valuable tool both at UK and Welsh government level, yet the sector has continued to spiral downwards.

Social care is the poor relation of the NHS which is undoubtedly a simpler structure in terms of delivery of service and employment of the workforce and culture.

The initial stage of the COVID19 pandemic serves to highlight the problems and complexities within the sector. The NHS in Wales had relatively streamlined, straightforward, and largely readily available access to personal protective equipment. Those working in the social care sector had to navigate a complex system with responsibility for PPE provision being passed back and forth between the direct employer and the commissioning local authority. This led to gaps in the availability of PPE and some care workers making their own PPE in order to provide some level of protection. There is so little slack built into the social care system, coupled with the inability to fundraise within the third sector, that some social care providers were unable to afford to provide adequate PPE for their workforce, placing both workers and care recipients at risk. This is not only an example where the complexity of the sector has inhibited improvement, but where the complexity of the sector has undeniably damaged services.

We saw these issues highlighted again through the need to develop an Infection Control Fund in order to allow workers in social care to be able to afford to self-isolate and be paid for the work they would have otherwise undertaken. Workers should never have been in the position where they had to choose between putting food on the table for their families and stopping the spread of a deadly virus.

Question 2: Do you agree that commissioning practices are disproportionately focussed on procurement?

Agree X	<input type="checkbox"/>	Tend to agree	<input type="checkbox"/>	Neither agree or disagree	<input type="checkbox"/>	Tend to disagree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>
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Please explain your answer

UNISON agrees the commissioning practices are disproportionately focussed on procurement. There is a lack of duty to consider delivery by the public sector. In addition, short-term cost-saving is a major driving force behind the need to outsource services. With long-term sustained funding shortfalls, procurement undoubtedly becomes the key means to cut costs.

Commissioning practices must bear more weight on other factors of social value including pay, terms and conditions, trade union recognition, quality of service, and outcomes. Current commissioning practices unfairly prioritise cost to the point where procurement becomes the main logical option.

Long-term austerity is now embedded within our public services, so procurement continues to provide the short-term solution to balance the books. Without the commissioning tools available to refocus the process, the spiral down will continue.

Question 3: Do you agree that the ability of RPBs to deliver on their responsibilities is limited by their design and structure?

Agree X	<input type="checkbox"/>	Tend to agree	<input type="checkbox"/>	Neither agree or disagree	<input type="checkbox"/>	Tend to disagree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>
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Please explain your answer

The Regional Partnership Boards are too cost driven and must be refocussed. It is essential that there is the ability to ensure service users needs are being met throughout all levels of decision making, ensuring at RPB level. An advocacy service could be built in to RPBs to ensure service users have a voice throughout all commissioning processes.

Question 4: Do you agree a national framework that includes fee methodologies and standardised commissioning practices will reduce complexity and enable a greater focus on service quality?

Agree X	<input type="checkbox"/>	Tend to agree	<input type="checkbox"/>	Neither agree or disagree	<input type="checkbox"/>	Tend to disagree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>
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UNISON agrees fee methodologies are an important factor for standardising commissioning practices, however, there must be flexibility with the system to recognise that one size does not fit all. The framework must be flexible enough to be able to respond to individual need and ensure access to specialist care where it is required. Cost must not be a prohibitive factor with regards to this and the user need must factor as a priority.

People should be entitled to the level of care required according to their need – yet cost will often determine the placement of people. Residential care is cheaper than specialist care, with the local authority having the power to determine where a user is placed, despite them not having the hands-on experience to make that determination. Users are then placed in services according to the cost of the service as opposed to the need of the individual and will therefore reside in inappropriate placements. This is unfair to the service user and to the care workers who are not equipped to be able to meet that person’s needs.

The local authority is sometimes too far removed from the delivery of the service to enable a fair decision to be made about the level of care required.

Any funding methodology must take this into consideration. Overall, UNISON agrees fee methodologies and standardised commissioning practices will help deliver a less

complex service and this will have benefits – but this must not be considered a panacea.

Question 4a: - What parts of the commissioning cycle should be reflected in the national framework?

UNISON believes the following should be reflected in the national framework:

- Trade union recognition
- Commitment to adhere to the recommendations of the social care forum
- Pay at least the foundation living wage rate – although paying a fair hourly rate on its own will not resolve the issues within the sector
- Workforce access to skills and training
- A workforce strategy
- Fair terms and conditions of employment, including sick pay and sleep-in pay
- Reporting requirements – including outcomes, pay differentials between care workers and senior members of staff, profits
- Ability to respond to the needs of the user
- Health and Safety – including health and safety reps in every employer

Question 5: Do you agree that all commissioned services provided or arranged through a care and support plan, or support plan for carers, should be based on the national framework?

Agree <input type="checkbox"/>	Tend to agree X <input type="checkbox"/>	Neither agree or disagree <input type="checkbox"/>	Tend to disagree <input type="checkbox"/>	Disagree <input type="checkbox"/>
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Question 5a- Proposals include NHS provision of funded nursing care, but do not include continuing health care; do you agree with this?

Question 5b- Are there other services which should be included in the national framework?

With reference to direct payments, it is often cheaper for local authorities to use personal assistants, but this is fraught with difficulties and personal assistant become a hidden workforce who are not adequately protected to be able to carry out their roles with confidence. Training for personal assistants, for example, can be provided by the parent of a service user rather than through recognised training providers. Personal assistants can often be expected to work with users who have complex health needs yet aren't provided with formal training. This is a complicated issued, but at the very least, we would expect personal assistants to be protected by the same commissioning processes used for other services in the sector.

Similarly, when service users require sleep-in support this should be presented via care plans and should undoubtedly be based on a national framework that provides adequate reward of at least the national minimum for the duration of the sleep-in irrelevant of the tasks undertaken during this period of time.

Question 6: Do you agree that the activities of some existing national groups should be consolidated through a national office?

Agree <input type="checkbox"/>	Tend to agree <input type="checkbox"/> X	Neither agree or disagree <input type="checkbox"/>	Tend to disagree <input type="checkbox"/>	Disagree <input type="checkbox"/>
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Question 6a- If so, which ones?

UNISON agrees with the notion of a national office with responsibility for social care. UNISON advocated for a publicly funded and publicly delivered national care service for Wales and we believe the establishment of a national office is a step toward achieving this overarching vision. UNISON has some concerns, however, over the recommendation around a Chief Social Care and Social Work Officer to: *“champion the voice of the social care and social work profession in the Welsh Government”*. This cannot be a replacement for trade union recognition and access across the social care sector. UNISON represents the voice of thousands of care workers in the sector in Wales, and if trade union recognition were a given across the sector this figure would be higher still. It is impossible for one individual with no workforce mandate to be able to adequately represent the voice of workers in the sector.

There are already functioning social partnership arrangements in place in Wales via the Social Care Forum – ensuring the progression of this forum is a priority for UNISON and is the best vehicle to champion the voice of social care workers. We would welcome the engagement and involvement of a national social care office in that forum, but it must not become a substitute for true tripartite social partnership working.

Furthermore, consideration needs to be paid to how Social Care Wales will work within the proposals – it would be unhelpful to cause conflict between two separate bodies striving to achieve the same outcomes.

Question 7: Do you agree that establishing RPBs as corporate legal entities capable of directly employing staff and holding budgets would strengthen their ability to fulfil their responsibilities?

Agree X	<input type="checkbox"/>	Tend to agree	<input type="checkbox"/>	Neither agree or disagree	<input type="checkbox"/>	Tend to disagree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>
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Question 7a- Are there other functions that should be considered to further strengthen regional integration through RPBs?

UNISON agrees that RPBs being established as corporate legal entities would strengthen their ability to fulfil their responsibilities. However, they must be democratically accountable and must work inline with the social partnership model operating across the public sector and public service procurement in Wales. Unions must be involved in the RPBs – UNISON’s experience to date is that this has been patchy. Strengthening of RPBs must go hand-in-hand with strengthening the worker voice at this level.

Question 8: Do you agree that real-time population, outcome measures and market information should be used more frequently to analyse needs and service provision?

Agree X	<input type="checkbox"/>	Tend to agree	<input type="checkbox"/>	Neither agree or disagree	<input type="checkbox"/>	Tend to disagree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>
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Question 8a- Within the 5 year cycle, how can this best be achieved?

It is difficult to assess how services should look over a five-year cycle or beyond. As COVID19 has demonstrated, forecasting the stability of the care market over the long-term can be very difficult. Social care needs to be able to be dynamic and able to respond quickly to population needs.

The quality of a market information and outcome measures will only be as good as the quality of data. There must be an obligation on providers to allow access to real time and historical accounting data. This data could be assessed by an independent third party to give an overview of financial viability, which in turn can inform market stability.

A market stability report, for example, will be a static document in what can often be a fast-moving landscape in social care. There is obviously a need to assess trends and undertake forecasting where possible through the population needs assessments, but a more regular assessment needs to be undertaken. Market stability assessments should not be limited by the fact that a population needs assessment occurs every five years. Other quality sources of data should be sought and analysed.

Commissioners should work with regulators to assess the sustainability of providers’ financial models before awarding contracts – to deter the use of heavily leveraged

private equity operations and to protect service users from the possibility of providers failing to fulfil their obligations to deliver care.

However, services must also be future-proofed, and consideration must be paid to ensuring there is a supply of available workers who are equipped with the skills and adequate reward to undertake their roles. It is well documented that there are widescale demographic shifts that will increase demand on social care – an aging population being the most obvious demand. It is essential that Welsh Government consider the longer-term future needs of the population both in terms of the requirements for care recipients and for care providers.

Question 9: Do you consider that further change is needed to address the challenges highlighted in the case for change?

Agree <input type="checkbox"/>	Tend to agree <input type="checkbox"/>	Neither agree or disagree <input type="checkbox"/>	Tend to disagree <input type="checkbox"/>	Disagree <input type="checkbox"/>
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Question 9a- what should these be?

The case for change shows a comprehensive understanding of the challenges within the sector.

UNISON would also like to draw attention to a lack of understanding of the roles carers provide in the sector. UNISON has referred to the social care workforce as the hidden workforce and the outsourcing of care provision has served to compound this issue. As services have become more removed from direct public service provision, the greater the lack of understanding about what the sector delivers.

As referred to elsewhere in our response, there is a distinct lack of understanding even between the commissioning body and the service.

The skills and experience required to undertake support work are complex, with key decision making about levels of medication users require, for example, being made by individual carers on a day-to-day basis.

Violence within the sector has become normalised – an issue that has been exacerbated under lockdown and COVID restrictions. Day services have been closed, so staff working in supported living, for example, have been under a sustained increase in work pressure, without additional support.

The perception of care work amongst the public is a carer entering the home of an elderly person and supporting that individual with a cup of tea, a sandwich, and a chat. This is undoubtedly an important element of care but goes nowhere near giving a proper oversight of the role carers undertake.

The reality is that carers are often responsible for medications, for financial elements for service users, for intimate personal care, for supporting emotionally vulnerable and unpredictable service users.

The lack of understanding in the sector also applies throughout children’s services. Commissioning of children’s services is challenging due to the lack of availability of what are very technical and specialist services which require a high level of skills. The perception of children’s care does not consider the often very challenging behaviours of many children accessing the services.

Furthermore, UNISON is extremely disappointed following the decision of the Supreme Court on 19 March 2021 to uphold the Court of Appeal ruling that care workers’ sleep-in shifts do not count as working time and do not therefore need to be paid in line with the National Minimum Wage. UNISON is seeking a number of commitments from the UK government and we seek support from Welsh Government in order to guard against the impact of this ruling.

Governments must act quickly to ensure that care providers do not start cutting pay rates for workers doing sleep-in shifts on the back of this decision. One way of doing this would be for the UK government to signal that it intends to legislate to correct this anomaly by confirming in law that sleep-in shifts will in future be considered working time for the purposes of calculating compliance with the National Minimum Wage.

For Welsh Government, this element must be factored into National Framework Agreements going forward. The case highlights the need for wider reform of the social care sector – as this consultation has outlined, meaningful change can no longer be postponed. UNISON is concerned the ruling will actively damage the progress many providers made following UNISON’s initial employment tribunal victory. As part of the process to rebalance care, Welsh Government must protect the workforce against this judgement.

Registration of care workers came with the promise that the sector would be professionalised and supported, instead it has been used a punitive tool to manage workers and comes at the expense of the registrant.

UNISON believes a public awareness campaign should be undertaken to deepen the understanding of the care sector and the roles of care workers. We believe this would help in repositioning care work to allow it to be fully understood and therefore fully appreciated and rewarded.

In addition, there is a distinct need for proper unionisation within the sector and there must be health and safety reps in every employer.

Question 10: What do you consider are the costs, and cost savings, of the proposals to introduce a national office and establish RPBs as corporate entities?

Agree <input type="checkbox"/>	Tend to agree <input type="checkbox"/>	Neither agree or disagree <input type="checkbox"/>	Tend to disagree <input type="checkbox"/>	Disagree <input type="checkbox"/>
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Question 10a- Are there any particular or additional costs associated with the proposals you wish to raise?

The establishment of a national office and RPBs as corporate entities will have initial financial outlays, including costs of recruitment and employment. UNISON would like to draw particular attention to the need to employ staff within the RPB on equitable terms and conditions. There is a very real danger, particularly if staff are TUPE'd into the RPB, of a two-tier workforce. This risk has been realised in other areas where health and social care integration has been progressed and staff working alongside one another performing the same role receive very different pay and terms and conditions of employment. UNISON recommends using an existing pay and grading structure – agenda for change.

Long-term savings will be realised through the establishment of RPBs and the introduction of a national office – these savings will come through economies of scale, less wastage, a lower staff turnover within the sector, user needs being met so being less reliant on reactionary healthcare, as well as the broader economic benefits resulting from paying the workforce fairly and the financial boost that brings to economies and communities across Wales.

The current problems within the sector have largely been down to the need to make short-term savings. The drive behind outsourcing social care was to manage squeezed budgets. These changes will involve a massive cultural shift as well as the need for additional ring-fenced funding to be made available for the sector.

In addition, this must be measured against the current costs involved with how the sector operates and can't be measured using the bottom line only. There is a significant social cost being paid by service users and the workforce because of the current set up.

There are notoriously high staff turnover rates within the sector because of market competition, leading to recruitment costs. There is a human cost of a talented workforce who aren't treated with dignity and aren't receiving just reward – this in turn costs local economies as the ability of workers to spend in the community is diminished. Alternatively, it costs the sector committed and skilled workers who leave for other jobs. Frontline social care is predominantly staffed by a female workforce – this also costs our society gender equality and continues to disenfranchise female workers.

It also costs the service users, who have identified that one of the key elements of a high quality of service is continuity of care, particularly the individual care worker. Service users often require intimate care and being able to build a trusting relationship with a consistent carer is a major factor affecting the dignity of users.

It is critical that the existing culture of short-term gain is challenged throughout this process.

Welsh language

Question 11: We would like to know your views on the effects that a national framework for commissioning social care with regionally organised services, delivered locally would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favorably than English.

What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

Question 12: Please also explain how you believe the proposed policy to develop a national framework for commissioning social care with regionally organised services, delivered locally could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

This box is provided for any other comment(s) you wish to make about the proposal to develop new legislation. Please enter here:

UNISON is concerned about how UK legislation on procurement will interact with legislation at Wales-level. UNISON is concerned that UK legislation on procurement could effectively override the intentions of this bill, and we believe this needs further consideration.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here: