Response Form: Regulations and code of practice in relation to Part 2 of the Act, on General Functions, including Well-being, Population Assessment, Prevention, Promotion of Social Enterprises and Provision of Information, Advice and Assistance.

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Responses should be returned by **2 February 2015** to:

Sustainable Social Services Implementation Branch
Social Services Directorate
Welsh Government
Crown Buildings
Cathays Park
Cardiff
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Alternatively the consultation response form is available on our website (http://wales.gov.uk/consultations/?lang=en) and can be returned to us by e-mail to: sswbimplementation@wales.gsi.gov.uk

Chapter 1: Well-being

1. To what extent do you agree that this chapter will support local authorities to promote well-being in undertaking their social services functions?

Agree	☐	**Tend to agree**	☐	Tend to disagree	☐	Disagree	☐

What will further support this?

NSPCC Cymru/Wales feels that Chapter 1 of the Code of Practice on Part 2 clearly sets out the concepts of wellbeing, voice and control and personal contribution as being central to the undertaking of social services functions under the Act.

However, we feel that these concepts are outlined in a very adult focussed way. **We would wish to see a separate section dealing with how to promote the wellbeing of children and young people**, in the same way as the Code of Practice on Part 3 has a separate section on principles underpinning the assessment of children. The section should outline the points

below:

- What does wellbeing mean for children and young people? This should focus on developmental needs, welfare and children's rights. We feel that more work needs to be done on the "securing rights and entitlements" aspect of wellbeing. The National Outcomes Framework is a start in getting some measures connected to participation by service users. However, there needs to be recognition that many service users will need help to secure material entitlements such as benefits, housing, prompt treatment etc…That help includes support to challenge decisions and to secure their rights. Advising them on this should be part of what the service providers do. **In other words, it's not just about children and young people "feeling" listened to and respected, it's whether objectively they are getting what they are legally entitled to.** This is what really needs to be measured. **We also feel that safeguarding and protecting should be a key concept outlined here, which should be central to the determination of wellbeing outcomes at all times.**

- Voice and control: We certainly welcome the focus on a greater involvement of children and young people as service users in decisions which affect them. However, ascertaining which wellbeing outcomes children want and ought to achieve is going to be a difficult task, and it will be important that the "conversation" referred to in paragraph 34 of the Code of Practice is done in a way which is age appropriate and meaningful for children and young people. We feel that there should be a mention of the concept of "**best interests**" in this paragraph. What children want to achieve and what they ought to achieve is not necessarily the same thing, and the role of the "conversation" will be to resolve the tension between those two elements.

- Personal contribution to achieving wellbeing outcomes: again this is to be viewed in a slightly different way for children and young people. **Very often they will be reliant on family or carers to achieve their wellbeing outcomes and the extent to which these persons will be vehicles or barriers to achieving wellbeing outcomes has to be a central consideration by local authorities.**

  In addition, we wish to sound a note of caution in relation to the concept of personal contribution. While we support the idea of creating more of a partnership between service users and service providers, we are also very aware of the backdrop of financial pressures on local authorities. We would not want this to be used as a means of cutting down on the provision of some services.

We also feel that paragraph 50 on due regard to the UNCRC needs to be strengthened. Even though the link to the Welsh Government website section on children's rights is broken, we would imagine that it takes local authorities to the pages on the steps approach to due regard, and the Children's Rights Impact Assessment process. NSPCC Cymru/Wales sits on the UNCRC Monitoring Group and works closely with the Wales Observatory on the Human Rights of Children and Young People. What early experiences with local authorities that are trying to embed the UNCRC into their work tell us is that a **nuanced, incremental and progressive approach is needed**. This includes education and re-education of all staff from front line reception to professional advisers and political leaders. It is not possible to reduce the set of requirements of the UNCRC to a "quick reference" style document. We would suggest that the guidance sign posts duty-bearing authorities to help available outside Welsh Government. This includes the outputs of the UN Committee on the Rights of the Child, the work of the UNCRC Monitoring Group, the Children's Commissioner for Wales, the Wales

Observatory on the Human Rights of Children and Young People, and Children in Wales. All these can help apply those international outputs in ways that have relevance to service providers and local decision-makers.

We would also welcome **clarification in the guidance on how compliance with the due regard duty is going to be measured and reported on by local authorities**. This is particularly important in the light of developments introduced by the Wellbeing of Future Generations Bill, and the proposed Wellbeing plans.

2. To what extent do you agree that this chapter will support local authorities to deliver better well-being outcomes for people who need care and support and carers who need support?

Agree ☐	**Tend to agree** ☐	Tend to disagree ☐	Disagree ☐

What else would help support and deliver this?

In order to deliver better outcomes for people who need care and support and carers who need care and support, local authorities must be clear on what wellbeing is and how they are going to enhance it (see points in our response to question 1).

Further to this, a **clear and robust performance measurement framework** is crucial in ensuring delivery and accountability. We strongly agree that performance indicators and a performance measurement framework which reflect how well the duties of local authorities in relation to wellbeing are being discharged must form the corner stone of the future regulation and inspection regime in Wales. It is therefore really important that the inspectorates are closely involved in the development of performance indicators and a measurement framework for social services.

We wish to make the following comments about the separate Code of Practice on achieving wellbeing, and the service standards outlined within it:

- **Standard 1c: We would want this to be changed to "work with people to undertake an assessment of personal outcomes, in a timely manner and in an age appropriate way."** This would ensure that the comments we have made in our response to question 1 in relation to the need for a separate section on how to promote the wellbeing of children and young people are reflected.

- **Standard 2: We would want to see a bullet point which states that local authorities should provide services to those who need care and support in a way which promotes, protects and improve people's physical, mental health and emotional wellbeing.** This is particularly relevant in relation to **looked after children**. NSPCC Cymru/Wales is currently undertaking a project with a Welsh local authority, which is looking at the emotional wellbeing of children in care. The project aims to identify the nature of looked after children and young people's emotional and mental health needs, how these needs can be met most effectively, and what action can be taken to improve support, including changes to national policy and service redesign at a local level. It is

well known amongst policymakers and practitioners that a high proportion of children in care have mental health problems that require professional support (over 70 per cent of children entering care according to one study[1]). However, while our knowledge of risk factors for poor mental health and our understanding of 'what works' in improving looked after children's wellbeing is increasing, until now there has been little attempt to systematically 'redesign' the care system to ensure that these emotional needs are prioritised in the way that we deliver care.

- **Standard 3: we are very concerned by the wording of bullet points d and e in the context of safeguarding children.** The notion of having control over one's life is to be balanced against the need for statutory intervention when it is necessary to safeguard children and young people. We are also unsure of what is meant by "take controlled risk" in the context of safeguarding children. Any risk in this context is to be viewed in relation to the child's welfare and best interests and with the concept of significant harm at the heart of determining acceptable risk levels.

Finally, we would like to make a point about the **timing of the guidance in relation to the current timescale of budget planning which is happening at local authority level.** The Welsh Government will be aware that following a challenging local government settlement, local authorities are currently looking to achieve considerable savings across a number of services. This for example involves the provision of leisure and play services. Given the emphasis given in Chapter 1 of the Code of Practice on preventing and delaying the need for care and support, and promoting wellbeing in the delivery of universal services, it is important that these principles are embedded in service planning and delivery now before the Act "switch on" date in 2016.

3. To what extent do you agree that this chapter supports local authorities to empower people to have an equal relationship with social services?			
Agree ☐	Tend to agree ☐	**Tend to disagree** ☐	Disagree ☐

Paragraphs 33 and 34 of the Code of Practice, read in conjunction with the COP on Part 3 of the Act, are clear in terms of the need for local authorities to promote working in partnership with people and having an equal relationship with social services.

However, we would argue that this is again a predominantly adult focussed way of seeing the relationship between social services and service users. The involvement of social services with families is obviously perceived very differently to intervention for adults, as the potential for statutory intervention is always there and many families will tend to see involvement as a threat. Some families will be reluctant to engage with social services, if not refuse to engage at all. The relationship between neglectful parents and social services is a good example of this. In her book *Child Neglect: Planning and Intervention*, Jan Howarth mentions the results of a study carried out in the USA with 16 mothers (Sykes, 2011). Sykes identifies four different responses to intervention in the study, ranging from the good mother who describes herself as misunderstood to the resistant mother who does not accept that her behaviour is in itself neglectful. All these attitudes show the unwillingness of families to accept that change is

[1] Sempik, J, Ward, H and Darker, I, (2008) 'Emotional and behavioural difficulties of children and young people at entry to care', *Clinical Child Psychology and Psychiatry* 13, no 2, 221–33.

needed in order to meet an adequate level of parenting. **This study highlights the complexity of engaging with families and the difficulty of using the concept of "equal partner" in the context of family social work.**

More generic research about social work also points out that social workers' relationships with service users inevitably entail power imbalances. (Turner, M. and Balloch, S. 2001.)

We feel that separate guidance about how to engage with families is needed in the Code of Practice. This should highlight the need to balance partnership working with the use of very clear mandated powers when appropriate to safeguard children and young people and ensure that they can achieve their wellbeing outcomes.

Chapter 2: Population Assessment

4. **To what extent do you agree that the proposed structure of the population assessment report is clear and appropriate?**

Agree ☐	**Tend to agree** ☐	Tend to disagree ☐	Disagree ☐

NSPCC Cymru/Wales agrees that the proposed structure of population needs assessments is clearly outlined in the guidance.

However, we wish to make the following comments.

- We welcome the guidance on population needs assessments, as we view this as an opportunity to ensure that issues such as child neglect are better understood by local authorities and LHBs, and that services are commissioned in a way which ensures that it is both addressed and prevented. One strand of the Welsh Neglect Project, which is funded by Welsh Government, is currently looking at population needs assessments and seeking to provide a model framework for local authorities and LHBs.

- Even though the guidance clearly states that Local Authorities and LHBs must form a single partnership arrangement for the purpose of undertaking a population needs assessment, achieving joint work between the health and social care sectors is notoriously difficult. We feel the guidance should be stronger about what constitutes a joint assessment of need. Currently, it is not clear whether the lead coordinating body is to be constituted by representatives of local authorities, the local health board, or both.

- We would want paragraph 66 to clearly reference the need for population needs assessments to feed into and inform Single Integrated Plans and the work of Local Service Boards. We feel that there is a missing link between the provisions of Part 2 on preventative services and the strategic commissioning work of Local Service Boards. **This gap needs to be bridged if prevention is to be effectively embedded in service delivery.**

- We find the wording of paragraph 84 confusing. If we have understood this paragraph

correctly, it seems to limit the assessment of need to those domains which are measured by the National Outcomes Framework. Surely every need in a local area should be represented in the population needs assessment in order to ensure that services to prevent and meet it are adequately planned?

- We welcome the focus on input from practitioners and expertise from outside organisations and are pleased that our research work is referenced in paragraph 87.

- While we welcome the emphasis on service user engagement and the specific mention of children in paragraphs 91 and 92, we are concerned that the use of a panel could become a tick box exercise, with local authorities and LHBs only using the panel as a way of evidencing service user engagement, instead of exploring more in depth ways of engaging with people, including those who are hard to reach. **It is important that the panel has an equal number of representatives for adults and children, and the guidance should make this clear.**

- **We are pleased that the guidance makes clear that individual assessments should inform the wider population needs assessments.**

- **We also warmly welcome the requirements for section 1 of the population needs assessments to include a specific core theme around children.** This is especially helpful in the context of the demise of Children and Young People's partnerships and the varying visibility of children's issues within Single Integrated Plans.

- Finally, we would wish to emphasise how complex the undertaking of population needs assessments will be if it is to be done thoroughly. Otherwise, the assessments will tell service providers what they already know, and many sub needs will be missed, which in turn means that there will be gaps in service provision.

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5. To what extent do you agree that this chapter provides for an effective assessment of the support needs of carers?

Agree	☐	Tend to agree	☐	Tend to disagree	☐	Disagree	☐

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6. What arrangements should be put in place to further support those undertaking population assessments?

Information sharing between all local partners (health, social care, and alternative providers such as the third sector or user-led services) needs to be efficient in order to build an accurate

picture of how needs are currently being met.

Some work also needs to be done on developing risk indicators to capture the scale and nature of different types of need in local areas.

For example, some of this work is currently happening as part of the Welsh Neglect Project. The Welsh Neglect Project is commissioned and funded by Welsh Government and undertaken in partnership by NSPCC Cymru/Wales and Action for Children/Gweithredu dros blant. The project aims to improve the multi-agency responses and services for neglected children and their families, and it works across the spectrum of need. Key findings from the first year's evidence gathering were:

- There is a firm commitment amongst staff in all agencies in Wales to improve our collective response to neglected children and families and many Safeguarding Children Boards are working to improve the identification and response to child neglect through neglect protocols, training and use of neglect assessment tools.
- Front-line workers frequently described their lack of confidence to decide when to take action in cases of neglect and a lack of clarity about what constitutes good enough parenting.
- Front-line workers find it difficult to evidence neglect and this can impact on children and families receiving early support.
- Locally services are often planned, managed and delivered separately which can result in fragmentation and neglected children not receiving the help they need.

The findings demonstrated that professionals needed help with identifying, assessing and intervening when there are concerns about neglect and that the provision of early help through universal services, is crucial. Not enough is known about the scale and nature of neglect in Wales which impacts upon commissioning an effective response. The second year of the project is focusing on the development of resources and some further evidence.

One of the current strands of work focusses on local area needs assessments for child neglect, as evidence showed that the commissioning of services to address neglect is not routinely informed by assessments of need. Red Kite consultancy, commissioned by Action for Children/Gweithredu dros blant is **currently putting together a tool for capturing the scale and nature of child neglect across a local area, which includes work on risk indicators associated with child neglect.**

We very much look forward to working with the Welsh Government and local authorities to ensure that this work is embedded into future population needs assessments.

7. **To what extent do you agree that it is appropriate that population assessment reports are approved within local authorities by the full council on submission by the council's executive or board?**

| **Agree** | ☐ | Tend to agree | ☐ | Tend to disagree | ☐ | Disagree | ☐ |

8. To what extent do you agree that the role of the lead co-ordinating body is sufficiently clear?

Agree	☐	Tend to agree	☐	Tend to disagree	☐	**Disagree**	☐

What further detail should be included?

See the second bullet point of our response to question 4. The guidance is not clear about the composition of the lead co-ordinating body. We are concerned that the concept of lead-coordinating body could undermine the idea of single partnership if it is dominated by either health or social care. If the population needs assessment is to be done jointly, then there must be equal input from both sides into the work of the lead coordinating body.

Chapter 3: Preventative Services

9. To what extent do you agree that the requirements placed on local authorities to provide preventative services are clear?

Agree	☐	Tend to agree	☐	Tend to disagree	☐	Disagree	☐

The requirement to provide preventative services is clear in the guidance. However, we wish to reiterate that funding is an issue. Without additional resources to finance the shift towards prevention and early intervention, there is a risk that high tier services could come under further pressure. There will be a need for both prevention and high tier intervention to run consequently for some time before the benefits of early intervention are felt.

We welcome the definition of preventative services as outlined in paragraphs 127 and 128. However, we would want to see it strengthened by **referencing the need for preventative services to be evidence-based and robustly evaluated** to ensure value for money.

We welcome the separate section on preventative services for children and families. However, it would be **good to see a reference to alternative providers of preventative services, such as the third sector.**

For example, NSPCC Cymru/Wales provides a number of preventative services:

- *Baby Steps*: Baby Steps is an antenatal programme designed to help vulnerable parents cope with the pressures of having a baby. It helps set a pattern of good parenting for life.

Supporting vulnerable parents to prepare for the roles and responsibilities of parenthood is one of the best ways of getting families off to the best possible start. At Baby Steps, practitioners work with community midwives and health visitors to deliver the programme to the most vulnerable parents, including homeless parents, teenage parents, and newly immigrant parents struggling to understand or speak English. New mums and dads are invited to join an eight-week parenting course from the seventh month of pregnancy – six sessions before the birth and two afterwards. The group sessions cover infant development and how parenting can affect relationships, health and wellbeing. Sessions focus on how to care for a baby and where parents can get support.

- *Coping with Crying*: Coping with Crying is a service helping to protect babies by teaching parents about the dangers of shaking their baby and sharing tips on how to manage the stress they may feel when their baby cries. Coping with Crying is a short film teaching new parents about the dangers of shaking their baby, ways to soothe their crying baby and ways to manage their own stress. This is the first hospital-based programme of its kind in the UK. It draws inspiration from pioneering research from the United States which showed that a similar programme reduced non-accidental head injuries to babies by nearly half.

- *Improving Parenting, Improving Practice*: Improving Parenting, Improving Practice (IPIP) is a service helping parents bond with their child and understand and meet their needs. Parents who neglect their children often struggle with problems like mental illness, drug and alcohol addictions or poverty. Early intervention can help parents change their behaviour and stop problems getting worse. Improving Parenting, Improving Practice (IPIP) uses two approaches to encourage parents to reflect on and improve their relationship with their child.

10. To what extent do you agree that this chapter makes clear the requirement for preventative services to meet the needs identified in the population assessment undertaken as a result of section 14 of the Act?

Agree ☐	Tend to agree ☐	Tend to disagree ☐	Disagree ☐

Paragraph 134 of the Code of Practice clearly states that the preventative services provided must be informed by the care and support needs identified by the population assessment.

This means that the population needs assessment must be thorough, as any misses in the assessment will result in preventative services not being provided. This will have a knock on effect on local authorities, as they will then need to meet the need through a care and support plan if no preventative services or other community services are available (see Code of Practice on Part 4).

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Chapter 4: Social Enterprises

11. To what extent do you agree that this chapter will support local authorities in their duty to promote social enterprises, co-operatives, user led services and the third sector?

Agree	☐	Tend to agree	☐	**Tend to disagree**	☐	Disagree	☐

What else is needed to support this duty?

Even though the duty to promote social enterprises, co-operatives, user led services and the third sector is clear both in section 16 and the associated guidance, **we feel that the definition of the duty is not as strong as it could be.** Paragraph 170 talks about "*encouraging an environment which supports the development of these business models*", and paragraph 178 mentions "*a proactive approach as they assess needs and provide or arrange for the provision of services to meet that need*".

Although more detail is provided under the Creating the Right Environment and Tendering and Procurement sections, we feel that the guidance could be much clearer. **It seems that Section 16 is about formalising structures and support for community capacity to deliver services, and the Code should say this.** In our view, this Chapter is about local authorities pulling away from some services and looking how these can be provided in an alternative way. This is what the guidance should make explicit.

This leads to the following comments:

- Building up alternative providers' capacity to provide community based service is expensive, and there is likely to be some element of LA grant funding involved. This will therefore not be a cost neutral exercise.

- Whose responsibility is it ultimately to provide for people in need? We support the idea of building communities' capacity to provide local solutions, but if alternative providers cease to offer services, who will bridge the gap? It is worth noting that the third sector is also under an increasing amount of financial pressure. Alternative providers will probably rely partly on grant funding to provide services, and we know that this tends to run for two or three years, making the future very uncertain and possibly unsustainable for preventative service provision.

- This is likely to lead to a large number of community providers competing for the same pot of money.

12. To what extent do you agree that progress on promoting the duty in Section 16 should be reported as part of the overall requirement to report on the population assessment?

Agree	☐	Tend to agree	☐	Tend to disagree	☐	Disagree	☐

13. To what extent do you agree that this chapter will support an environment where people can be supported to be involved in the design and delivery of services?

Agree	☐	Tend to agree	☐	**Tend to disagree**	☐	Disagree	☐

What else would support this?

We have concerns about **how the guidance will support local authorities to truly work with children and young people** to support them to be involved in the design and delivery of services. It will be difficult to secure participation from certain groups of children and young people, including those who are hard to reach.

We feel further details of groups and forums local authorities can contact to seek the views and secure the engagement of children and young people should be included in the guidance: for example, Voices from Care, Children in Wales, the Children's Commissioner for Wales and youth forums.

Chapter 5: Provision of information, advice and assistance

14. To what extent do you agree that the national standards for information, advice and assistance in this chapter will support local authorities to deliver a high quality Information, Advice and Assistance Service to all people?

Agree	☐	Tend to agree	☐	Tend to disagree	☐	Disagree	☐

We are unsure of why it is felt that the service should be provided on a 24/7 basis. The IAA is not an emergency service and there are other out of hours services which can be contacted for those purposes, such as the Social Services duty team. We are concerned that this may lead to confusion about where to report concerns, and we would not want to introduce a further tier to reporting as this could potentially delay intervention.

15. What more is needed in this chapter to ensure an Information, Advice and Assistance Service that is accessible and responsive to all people?

We feel very strongly that access to independent advocacy should be mentioned in the guidance, and should be offered to people accessing the IAA service. We remain of the opinion that not having the services of an independent advocate at the first point of contact both reduces the possibility of a service being as effective for a person who needs that support as it might be and is possibly discriminatory.

16. **Are there elements of the Information, Advice and Assistance Service that could be better delivered through national collaboration between local authorities?**

Other

The Welsh Government is interested in understanding whether the proposals in this consultation document regarding part 2: general functions will have an impact on groups with protected characteristics. Protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex, and sexual orientation.

17. **Do you think that the proposals in this consultation will have any positive impacts on groups with protected characteristics? If so, which and why/why not?**

18. **Do you think that the proposals in this consultation will have any negative impacts on groups with protected characteristics? If so, which and why/why not?**

19. **Re-balancing the care and support system to deliver the new legal framework will require reprioritisation of resources. What are the key actions that need to be taken to achieve this?**

We have concerns about how realistic and achievable such a considerable change will be in a time of significant cuts to the public purse. It is likely that local authorities will increasingly stick to delivering statutory functions, with large amounts of provision shifted to alternative providers.

20. We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to tell us about them.

Responses to consultations may be made public – on the internet or in a report. If you would prefer your response to be kept confidential, please enter YES in the box.