

Briefing on Welsh legal and policy environment

A briefing for Chairs



Introduction

A key role for trustees and Chairs is to understand the context in which your charity operates. If the charity you chair operates in Wales (either solely or as part of multi nation activity) you need to be aware of nation-specific considerations to ensure effective operations in Wales. This results from the establishment of the Welsh Parliament/ Senedd Cymru (originally created as the National Assembly for Wales in 1999) and Welsh Government which has powers over many areas, including agriculture, forestry and fishing, education, environment, health and social care, housing, local government, highways and transport, the Welsh language, some income tax, stamp duty and landfill tax.

A referendum in 2011 saw primary law-making powers granted to Wales, meaning in effect that the Senedd can pass legislation without needing the permission of UK Government. This has resulted in the passing of key legislation which uniquely affects Wales. The creation of Welsh specific legislation has been accelerated by the fact that for the majority of its lifetime political control of the Welsh government has differed from political control in Westminster. This briefing highlights some key legislation that it is important to be familiar with.

Key Welsh legislation and schemes

The Wellbeing of Future Generations (Wales) Act 2015

This Act commits the Welsh Government, and 48 of the public bodies it controls to think about the long-term impact of their decisions, to work better with people, communities and each other, and to prevent persistent problems such as poverty, health inequalities and climate change. In practice it affects a much wider group of organisations including non profits.

The Act is unique to Wales attracting interest from countries across the world as it offers a huge opportunity to make a long-lasting, positive change to current and future generations.

The Act also saw the creation of a Future Generations Commissioner for Wales (with a supporting office) who is the guardian of future generations. This means helping public bodies and those who make policy in Wales to think about the long-term impact their decisions have. More details are here - <https://www.futuregenerations.wales/>

The Act identifies 7 well-being goals for Wales, and requires all public bodies to set, and review, well-being objectives to help achieve the goals.

The seven wellbeing goals are -

1. **A prosperous Wales** – An innovative, productive, and low carbon society which recognises the limits of the global environment and therefore uses resources efficiently and proportionately (including acting on climate change); and which develops a skilled and well-educated population in an economy which generates wealth and provides employment opportunities, allowing people to take advantage of the wealth generated through securing decent work.
2. **A resilient Wales** – A nation which maintains and enhances a biodiverse natural environment with healthy functioning ecosystems that support social, economic, and ecological resilience and the capacity to adapt to change (for example climate change).
3. **A healthier Wales** – A society in which people’s physical and mental well-being is maximised and in which choices and behaviours that benefit future health are understood.
4. **A more equal Wales** – A society that enables people to fulfil their potential no matter what their background or circumstances (including their socio-economic background and circumstances).
5. **A Wales of cohesive communities** – Attractive, viable, safe, and well-connected communities.
6. **A Wales of vibrant culture and thriving Welsh language** – A society that promotes and protects culture, heritage, and the Welsh language, and which encourages people to participate in the arts, and sports and recreation.
7. **A globally responsible Wales** – A nation which, when doing anything to improve the economic, social, environmental, and cultural well-being of Wales, takes account of whether doing such a thing may make a positive contribution to global well-being.

The Well-being of Future Generations (Wales) Act also commits public bodies to adopt the five ways of working:

1. **Long term** – the importance of balancing short-term needs with the need to safeguard the ability to also meet long-term needs.
2. **Integration** – considering how the public body’s well-being objectives may impact upon each of the well-being goals, on their objectives, or on the objectives of other public bodies.
3. **Involvement** – the importance of involving people with an interest in achieving the well-being goals and ensuring that those people reflect the diversity of the area which the public body serves.
4. **Collaboration** – acting in collaboration with any other person (or different parts of the public body itself) that could help the public body to meet its well-being objectives.
5. **Prevention** – how acting to prevent problems occurring or getting worse may help public bodies meet their objectives.

The Act is wide reaching influencing commissioned services, population needs assessments, delivery plans of public bodies and voluntary funding via the National Lottery and trusts and

foundations. This means, that whilst not public bodies, not for profit organisations are affected by the Act. The principles of the Act are taught in schools, particularly in the new Curriculum for Wales (from autumn 2022) which means Welsh citizens are very conscious of the Act.

The new Curriculum also means that from 2022 school age pupils from across Wales will not follow the old National Curriculum for Wales. Learning moves away from prescribed content with each school designing their own curriculum to meet four purposes:

1. ambitious, capable learners, ready to learn throughout their lives
2. enterprising, creative contributors, ready to play a full part in life and work
3. ethical, informed citizens of Wales and the world
4. healthy, confident individuals, ready to lead fulfilling lives as valued members of society

This is to be delivered across six areas of learning and experience –

1. Expressive Arts
2. Health and Well-being
3. Humanities
4. Languages, Literacy and Communication
5. Mathematics and Numeracy
6. Science and Technology

Further details are here - <https://research.senedd.wales/research-articles/going-live-rolling-out-the-new-curriculum-from-this-september/> and this clearly has impact for any organisation working with young people.

The Welsh Language (Wales) Measure 2011

The Welsh Language (Wales) Measure 2011 makes Welsh an official language in Wales. This means it must be treated no less favourably than English.

The Welsh Language Standards were published by the Welsh Language Commissioner. They are a set of legally binding requirements applicable to Welsh Government (and as such the public bodies it controls) since 30 March 2016.

This supports the Welsh Government's priority outlined in Cymraeg 2050 to increase the number of people speaking and using Welsh to one million by 2050.

Whilst not for profit organisations are not public bodies, many receive funding or referrals from public bodies. This coupled with a growing expectation that people can use the language of their choice, means that all not for profit organisations need to consider how they use the Welsh language in internal and external communications

The Social Partnership and Procurement (Wales) Act 2023

At the time of writing (September 2023) Welsh Government is using the term social value sector (which includes charities, social enterprises, associations and unregistered groups), more frequently. This aligns with the Social Partnership and Procurement (Wales) Act which is presently being implemented having become law in May 2023. This places a duty on public bodies to consider socially responsible public procurement (such as that already seen

via the Health and Social Care Regional Integration Fund which requires 20% of spend to be with the social value sector). At a local authority level there is a requirement for a Social Partnership Council which will engage with the Third / Social Value Sector.

Aligned with this Wales Audit in early 2023 highlighted that local authorities in Wales were missing an opportunity to work with the social value sector, with recommended action as to how Welsh local authorities supported the sector, in particular through promoting social entrepreneurship linked to supporting public sector outcomes.

Third Sector Scheme

This is a piece of statutory legislation designed to deliver a partnership between the Welsh Government and the **Voluntary, Community & Social Enterprise (VCSE)** Sector which will lead to:

- Stronger, more resilient communities
- Better policy
- Better public services

Through the Scheme, the Welsh Government recognises the need for public services, Local Authorities, Health Boards, government and the VCSE Sector to work together in partnership. They reiterate that effective partnerships must be based on an appreciation of each party's distinctive contribution. There is also recognition that the Third Sector (including VCSEs) is integral to policy development and helping shape services to meet the needs of the Welsh population.

The Third Sector Scheme commits the Welsh Government to:

- Maintain arrangements for meaningful engagement and consultation with the Third Sector (the Third Sector Partnership Council is the main vehicle for this)
- Maintain arrangements for supporting communities and volunteers
- Maintain arrangements for supporting structures that allow the Third Sector to flourish and
- Seek to adhere to the Code of Practice for Funding the Third Sector

The Scheme sets out the formal arrangements for engagement across five areas:

- Dialogue and Cooperation
- Third Sector Partnership Council (TSPC)
- Ministerial Meetings
- Consultations
- Third Sector involvement in Policy Development

The Third Sector Partnership Council has a key role to play in terms of collaboration between public bodies, Welsh, and local governments and the VCSE Sector. It considers issues relating to the Welsh Government's strategic objectives and facilitates consultation with relevant VCSE Sector organisations and public sector bodies on the Scheme's implementation, operation, and review.

Under the Scheme, Ministers commit to engaging with the VCSE Sector through a variety of means including visits, issue-based conversations, conferences, and via correspondence. The Scheme also recognises the importance of consulting with the VCSE Sector in relation to policy development and consultations, ensuring that the sector can inform and shape services.

The Third Sector Scheme and Partnership Council offer a valuable opportunity to engage with Welsh Government and public bodies in relation to emergency volunteering. The Strategic Framework aligns closely with the principles laid out in the Scheme, and contribute to 'Stronger, more resilient communities', 'Better policy' and 'Better public services', exemplifying partnership working across sectors.

This further links not for profit organisations into delivering towards Wales Wellbeing goals

Full details of the scheme are here -

<https://www.gov.wales/sites/default/files/publications/2019-01/third-sector-scheme-2014.pdf>

Social Services and Well-being (Wales) Act 2014

[The Social Services and Well-being \(Wales\) Act](#) came into force on 6 April 2016.

The Act provides the legal framework for improving the well-being of people who need care and support, and carers who need support, and for transforming social services in Wales.

Principles

The fundamental principles of the Act are:

- *Voice and control* – putting the individual and their needs, at the centre of their care, and giving them a voice in, and control over reaching the outcomes that help them achieve well-being.
- *Prevention and early intervention* – increasing preventative services within the community to minimise the escalation of critical need.
- *Well-being* – supporting people to achieve their own well-being and measuring the success of care and support.
- *Co-production* – encouraging individuals to become more involved in the design and delivery of services.

The Act imposes duties on local authorities, health boards and Welsh Ministers that require them to work to promote the well-being of those who need care and support, or carers who need support.

Part 7 safeguarding

Safeguarding is an over-arching theme of the Act. The details can be found under Part 7.

The Act reinforces existing safeguarding arrangements for children through the introduction of a new duty for statutory partners including commissioned or funded service providers to report to the local authority any 'child at risk'.

An 'adult at risk' is also defined within the Act. A local authority is required to investigate where they suspect that an adult with care and support needs is at risk of abuse or neglect. Adult protection and support orders are introduced to authorise entry to premises for the

purpose of enabling an authorised officer to assess whether an adult is at risk of abuse or neglect and, if so, what, if any, action should be taken.

[The Wales Safeguarding Procedures](#) for children and adults at risk of abuse and neglect. These are the national Wales Safeguarding Procedures. They detail the essential roles and responsibilities for practitioners to ensure that they safeguard children and adults who are at risk of abuse and neglect.

Delivering Place/Person-Focused Services

Legislation and associated guidance and policies increasingly advocate for person-centred/community-focused service delivery. This requirement is wide ranging, from the Well-being of Future Generations (Wales) Act, to the Social Services and Well-being (Wales) Act, and the delivery plans of public bodies and community / town councils.

This strengthens the importance of making sure that Chairs lead Boards which truly consider the needs of the people and communities they serve, through appropriate representation in decision making and planning.

September 2023

With thanks to Richard Newton for preparing this briefing and others who commented including Wales Council for Voluntary Action.