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| **Consultation Response Form** | | | | | | |
| Your name: | Melanie Minty | | | | | |
| Organisation  (if applicable): | Care Forum Wales | | | | | |
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| **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 place a tick in the box:** | | | | |  |
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| **A regulation requiring service providers to delineate travel time and care time [Annex A]** | | | | | | |
| **Q.1. Are the requirements workable in practice? If not, how could they be adjusted?** | | | | | | |
| Agree | | Tend to agree | Tend to disagree | Disagree | | |
| All providers should expect to allow for travel time within schedules. However, reconciling this against real time would be highly complex, given the number of variables and unpredictable events like road accidents. Scheduling needs to be more flexible, to allow for rotas to be changed at short notice e.g. to cover staff illness and to cover events that may throw out the care worker’s schedule e.g. if the client requires hospitalisation and the care worker has to wait for the ambulance to arrive.  Moreover, dealing with the bureaucracy created by the proposed requirement could become an industry in itself, requiring not only time (possibly equivalent to a full time post) but possibly an investment in computer systems. All this would have to be reflected in commissioning and it is hard to see what value this would add when providers already calculate and include an average travel time in order to comply with NMW and HMRC requirements.  Job satisfaction is most important to employees and while terms and conditions contribute to that they are not the only factor. The most successful models being those, like the Raglan project, that empower staff to manage their own time and to exercise a degree of autonomy. Yet there is a danger that the requirement to account for travel time may feel like being micro-managed, which could be demoralising. Some providers might introduce GPS systems which also has both a cost implication and is likely to reduce trust between employer and staff.  We would therefore suggest that it would be better to work on the basis of average travel time or better still to leave the responsibility for planning and performance monitoring with the provider. Maintaining a detailed scrutiny of travel time is no replacement for company culture, performance management and effective training. If Welsh Government is still minded to introduce this regulation we would suggest a cost-benefit analysis and impact assessment is undertaken first. | | | | | | |

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| **A regulation requiring service providers to delineate travel time and care time [Annex A]** | | | |
| **Q.2 Will the requirements result in transparency of care and travel time?** | | | |
| Agree | Tend to agree | Tend to disagree | Disagree |
| As indicated above, a schedule is likely to change almost immediately and become a meaningless piece of paper. Nor will the requirement stop rogue care practitioners from call clipping – that can only be achieved through effective supervision and robust management. | | | |

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| **A regulations requiring service providers to delineate travel time and care time [Annex A]** | | | |
| **Q.3 Will the requirements help to prevent care time being eroded by travel time between visits?** | | | |
| Agree | Tend to agree | Tend to disagree | Disagree |
| As indicated above, scheduling of travel time is inevitably unreliable and will not overcome the problem of traffic, road accidents etc. whilst tight scheduling will reduce ability to deliver services flexibly in a way that suits the varying needs of the client.  Having to maintain a real time record will take more time out of the care workers already busy schedule and could prove a perverse incentive to clip calls. All in all we see the requirement hindering outcome based care and harking back to task and time delivery.  It might be better for Welsh Government to work with Local Authorities at more innovative ways of helping the sector, e.g. enabling care workers to park in restricted areas when “on call”. See also response to question 5. | | | |

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| **A regulation requiring service providers to delineate travel time and care time [Annex A]** | | | |
| **Q.4 Commissioning practices are already beginning to change to focus on outcomes for the individual. Should they also emphasise greater collaboration between commissioners and service providers to agree on what adequate travel time looks like?** | | | |
| Agree | Tend to agree | Tend to disagree | Disagree |
| Commissioning should undoubtedly be a collaborative approach where providers are respected as equal partners. Whilst there is a move in the right direction towards commissioning for outcomes, this is very limited and there is no common understanding of how to measure and commission for outcomes. Whereas most providers already include travel time in their contract bids, commissioning continues to be driven by price and contracted on the basis of contact time.  Commissioning needs to focus on a much wider understanding of the true costs of care and the difficulties of maintaining a sustainable business without the provider being guaranteed work - travel time is only one element of this. Ultimately delineating between travel time and care time means a different way of paying/identifying how care workers are paid: it does not mean that they will necessarily be paid more and will therefore simply add to the administrative burden without solving the real problems in funding. | | | |

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| **A regulation requiring service providers to delineate travel time and care time [Annex A]** | | | |
| **Q.5 Would a requirement on local authorities to factor in relevant local considerations (i.e. parking restrictions, etc.) as part of the commissioning process help providers of domiciliary support services plan visits more effectively?** | | | |
| Agree | Tend to agree | Tend to disagree | Disagree |
| We agree that the local authority could help significantly increase care time through travel concessions, e.g. allowing care staff to use bus lanes, issuing parking permits and enabling care workers to park in restricted areas. Similarly, care workers could be given passes for planned road closures. In more rural areas there needs to be an understanding of the longer distances between visits and the difference to travel time getting stuck behind a tractor can make! | | | |

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| **A regulation regarding Non-Guaranteed Hours Contracts for domiciliary care workers [Annex B]** | | | |
| **Q.6 Will the requirement for employers to provide staff with a choice of non-guaranteed or fixed hours contracts, based on average hours worked over the preceding 3 months (or less than the average, if the employee would prefer this), help domiciliary support services to move towards more stable arrangements for the provision of care and support?** | | | |
| Agree | Tend to agree | Tend to disagree | Disagree |
| We understand the desire to govern the use of zero hour contracts and to ensure that they represent a legitimate choice for workers. However, we would stress that employers will not be able to offer guaranteed hours unless and until this is matched by guaranteed commissioned hours. The comment within the consultation document that there are more zero hour contracts in the independent sector than in the public sector simply reflects that Local Authorities can afford to pay better terms and conditions than they commission from the independent sector. The majority of home care commissioning is currently based around contact time, which means that providers are not paid if, for instance, the client is admitted to hospital – this in effect means providers are being commissioned on a zero hours basis with no guarantee of hours next week. Packages tend to be spot purchased for individuals, often with little notice. This means that the provider cannot guarantee work for staff without running the risk of financial loss and, ultimately, insolvency. Unless commissioners contract for guaranteed hours, this regulation could destabilise the market.  We are pleased to see that Welsh Government is not proposing a blanket ban on zero hour contracts, but is looking for a range of options. However, we need to ensure that any mix of contracts does not disadvantage workers who prefer to remain on zero hours contracts as the provider may be forced to cut their hours in order to meet the contracted hours of another member of staff. In practice many care workers on zero hours contracts do have regular hours, so this could in turn disrupt continuity for their regular clients. There is a tension here between the duties under the Social Services and Wellbeing Act to focus on provision for the individual, who may prefer a particular care worker who has chosen to be on a zero hours contract but may find that care worker who was willing to do the work has been replaced by a worker on a fixed hours contract, who they may have no previous relationship with or even worse a negative one.  In previous consultations we have pointed out that a large number of care workers want the flexibility of zero hour contracts so that they can work around their domestic and/or study commitments. According to *Above and Beyond*, CSSIW’s Review of Domiciliary Care, flexibility was one of the things that care workers said that they liked about the job whilst only one person seems to have disagreed. Indeed, a number of providers tell us they have been unable to recruit on guaranteed contracts.  Terms and conditions are only a small part of what matters to employees, the majority of whom work in the sector because they enjoy the variety, challenge and the ability to make a difference. If we seriously want to improve recruitment and retention, we need to address those factors that improve job satisfaction and that means commissioning for longer visits that allow care workers to spend more quality time with the people they are supporting and move away from time and task obsessions | | | |

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| **A regulation regarding Non-Guaranteed Hours Contracts for domiciliary care workers [Annex B]** |
| **Q7. Would it be appropriate to require employers to offer this contract choice after the first 3 months of employment? If not, what do you think would be an appropriate period?** |
| A period of 3 months would be insufficient time to fully assess the individual’s competency as they will only just have finished induction, training and probation. |

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| **A regulation regarding Non-Guaranteed Hours Contracts for domiciliary care workers [Annex B]** |
| **Q8. Would it be appropriate and workable to require employers to offer ongoing reviews of non-guaranteed hours contractual arrangements, every 3 months?  If not, what might be an appropriate period for review?** |
| This would be unworkable given the number of staff employed in the sector and would add needlessly to the bureaucracy of an already heavily regulated industry. We would question whether formal review periods are necessary as the matter can be discussed at any time after the employee becomes “entitled” to work guaranteed hours. In fact, setting formal review periods could create inflexibility and delay someone moving onto guaranteed hours. Employers need to be allowed to manage their own business and trusted to maintain trusting, adult relationships with their staff. |

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| **A regulation regarding Non-Guaranteed Hours Contracts for domiciliary care workers [Annex B]** | | | |
| **Q.9 Following each offer, should employers be required to record the choice made by employees, to evidence that such offers have been made where appropriate?** | | | |
| Agree  ☐ | Tend to agree  ☐ | Tend to disagree | Disagree  **☐** |
| It would be good practice for the offer and decision to be recorded as part of normal management procedures – however, it is debatable whether this needs to be set out formally or where this would sit with employment law. | | | |

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| **Opening the register for domiciliary care workers in 2018** | | | |
| **Q.10 Do you think that 2 years lead-in time from 2018 for people to join the register voluntarily is sufficient to complete the mandatory registration of domiciliary care workers by 1 April 2020?**  Please note that Social Care Wales will be consulting on the registration fees and qualifications requirements involved. | | | |
| Agree | Tend to agree | Tend to disagree | Disagree |
| Care Forum Wales supports the ambitions for professionalization of the workforce. However, there are a number of significant issues that need to be considered and we would want to see flexibility, not only in the timescales, but in the detail of registration in order to maintain the stability of the existing workforce. We would also suggest that a full impact assessment be carried out.  It is difficult to give a truly informed opinion given that the detail of the required qualification and registration fee are subject to separate consultation and yet to be decided. At present some 60% of the domiciliary care workforce does not hold a level 2 qualification and going forward we have significant concerns over the quality of training and the availability of qualified assessors which has seen a reliance on written evidence rather than the observation that is needed. These issues are likely to take far longer to resolve than 2 years despite the actions being taken by Social Care Wales and Qualifications Wales. We have further concerns over the capacity of managers to assess competency during the induction period under the proposed qualification. Providers are also concerned that the proposal to link initial registration to the induction period does not give sufficient time to embed learning or for them to effectively assess competency in the workplace.  In addition there is a considerable cost associated with training and backfilling that will need to be reflected in commissioning and that will happen at a time when we are likely to see at least an initial increase in staff turnover. The registration fee is likely to be one factor in this - the rates proposed in SCW’s consultation are considerable for someone on or around national minimum wage. Of course if they have to be paid by the provider, for the entire workforce, the fee will have to be recovered through care fees.  The other factor is that all indications are that a significant number of care workers will leave the sector if they are required to obtain the qualification. Much of the workforce is transient and may not intend to stay in the sector permanently. This is usually the part of the workforce that enjoys the flexibility of zero hours contracts because it enables them to work around domestic and study commitments in the short term. The sector is also a major employer of older people who are less likely to want to undertake qualifications as they approach retirement. Above all, we have a large number of people working in the sector who have been let down by the education system and left school with little or no qualifications. For many, the idea of professionalization and having to undertake qualifications is an anathema. This does not make them bad carers. These people work in the sector because, as confirmed by the CSSIW survey, they enjoy helping people and want to make a difference. The vast majority of them provide good, compassionate care – something that a qualification cannot in itself guarantee. We know that many have stopped midway through the qualifications because of the unreasonably formal and largely irrelevant format of the essential skills modules in literacy and numeracy. Unless this requirement is relaxed for the sector and replaced with a more bespoke model, we fear that a great many workers will leave the sector. We would also like to see consideration given to the system now being used in England where care workers are able to record verbal answers rather than write everything down.    Of course many care workers will want to undertake qualifications and may be looking for a more formal career path. Those that do will expect to be appropriately rewarded or we are unlikely to retain them in the sector. As things stand they will either decide they can receive better pay for less pressure working in a cut-price supermarket or will choose train as a nurse or in another caring profession.  Finally, we have anecdotal evidence that there are already delays in registering care workers in the Looked After Children sector and we would want to ensure that the planning time for registration of domiciliary care workers is sufficient for SCW to put robust arrangements in place and to increase capacity to meet the additional demand. | | | |

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| **Supply of social care managers** | | | |
| **Q.11 Do you believe there is a challenge with the supply and availability of social care managers? i.e.** finding enough of the right people for these roles and keeping them in their roles | | | |
| Agree | Tend to agree | Tend to disagree | Disagree |
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| Members tell us that they experience considerable difficulty in recruiting suitable registered managers. | | | |

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| **Supply of social care managers** |
| **Q.12 If so, how do you suggest this is resolved?** |
| There are a number of reasons for recruitment difficulties.  One is that the sector is heavily regulated and the Registered Manager role carries great responsibility. Reducing unnecessary bureaucracy and giving the RM time to focus on service delivery and what matters to people would improve job satisfaction and outcomes for clients. The new arrangements regarding the Responsible Individual and the end of the requirement to register with both CSSIW and SCW may also help to relieve some of the burden of accountability. Conversely, some RMs have told us they feel demoralised by the new arrangements and see them as undermining their role and autonomy, with a potential to lead to reduced pay. This will need to be carefully handled in terms of the message that is being given to managers.  Previously there has been an issue around the difficulty in obtaining the level 5 qualification for deputy managers who lack opportunity to demonstrate competency; similar issues with the availability, quality and cost of training and assessment as previously raised; and the gap between level 3 and level 5. The new step up to management qualification has been welcomed by the sector and needs to be rolled out quickly. We would also like to see transition periods introduced e.g. for those who have the English Managers qualification. Providers report that the current requirement makes them question whether they can appoint the best applicant for the job in some cases.  Good managers need to be adequately rewarded, but many providers have struggled to maintain differentials under the pressure of having to meet National Minimum Wage for entry level staff coupled with inadequate commissioning. The possible increase of the RM registration fee from £30 to £80 by 2022 is unlikely to attract more interest in the role, especially amongst Registered Nurse Managers who have to register with both SCW and NMC.  Retention of good managers is difficult because of the stressful nature of the job, compounded by inadequate commissioning, over regulation and a surplus of meaningless paperwork. We have concerns that there will be similar problems for recruiting and retaining RIs. |

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| **Other Questions** |
| The Welsh Government is interested in understanding whether the proposals in this consultation document 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.  **Q.13 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?**  No  **Q.14 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?**  There may possibly be a negative impact on the older element of the workforce who are less likely to wish to undertake formal qualifications. |
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| We would like to know your views on the effects that these proposals would have on the Welsh language, specifically on   1. opportunities for people to use Welsh and 2. on treating the Welsh language no less favourably than English.   **Q.15 What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?**  **Q.16 Please also explain how you believe the proposed policy could be formulated or changed so as to have:**   1. **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** 2. **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.** |
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| **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.**  Many of the requirements appear to be based on the assumption that providers are driven only by profit and need to be micromanaged. They also reflect a basic misunderstanding of the workforce and an ignorance of how the domiciliary care sector in particular works. When much of the practice by domiciliary care providers is driven by commissioning it seems perverse to place so many requirements on providers but not on commissioners.  As we have indicated previously, Care Forum Wales supports the professionalization agenda and we fully endorse the need for the workforce to have fair terms and conditions. However, we are concerned that the focus on qualifications and registration will discourage as many new recruits as it attracts and that, more importantly in the current crisis, will result in many good, compassionate care workers leaving the sector. Professionalisation is not a panacea for all ills – it does not necessarily increase personal integrity (as we all sadly know from Operation Jasmine) or guarantee compassionate care, which is what people really want. We would like to see a system that provides choice for care workers, recognising that there are those who wish to study and advance in their career and those who simply wish to come to work to do a good job and go home at the end of the day.  The cost of training, backfilling and registering staff has to be paid for somehow. Nor will we retain those staff unless we can increase remuneration to reflect their new status, reduce stress and improve job satisfaction. This can only be achieved through adequate fees, a shift from time and task based commissioning and a new relationship between commissioners, providers and employees based on trust and autonomy rather than micro managing. We would expect to have seen a much greater focus on commissioning practices in the requirements.  All this is as much a cultural change as anything else, and this will take time. We are therefore concerned that the proposed timelines need to be relaxed to ensure that the sector is not further destabilised.  We would also like to see Welsh Government being more proactive in publicly celebrating what is good in the sector and encouraging people to join the workforce. |