STATUTORY GUIDANCE FOR THE WELL-BEING OF FUTURE GENERATIONS (WALES) ACT 2015

Consultation by Welsh Government

Response from BMA Cymru Wales

16 November 2015

INTRODUCTION

BMA Cymru Wales is pleased to provide a response to the consultation by the Welsh Government on draft statutory guidance for the Well-being of Future Generations (Wales) Act 2015.

The British Medical Association (BMA) is an independent professional association and trade union representing doctors and medical students from all branches of medicine all over the UK and supporting them to deliver the highest standards of patient care. We have a membership of over 153,000, which continues to grow every year. BMA Cymru Wales represents over 7,500 members in Wales from every branch of the medical profession.

RESPONSE

BMA Cymru Wales welcomes the opportunity to comment on the draft guidance. Our perspective in doing so is around the extent to which the guidance and the Act will embed the consideration of promoting positive health benefits and mitigating against adverse health impacts through decision- and policy-making undertaken by Welsh public bodies, and the extent to which they therefore deliver the Welsh Government’s stated intention of adopting a ‘health in all policies’ approach.

As we have made clear in other recent consultation responses, we believe that, in order to be sufficiently effective, a ‘health in all policies’ approach has to be linked to a statutory requirement for Health Impact Assessments (HIAs) to be undertaken in appropriate circumstances. In our recent response1 to the Health and Social Care Committee’s Stage 1 consultation on the Public Health (Wales) Bill, we said that such circumstances should initially include Strategic and Local Development Plans, certain larger scale


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planning applications, the development of new transport infrastructure, Welsh Government legislation, certain statutory plans such as Local Well-being Plans, new NHS developments (e.g. new hospitals) and health service reconfiguration proposals.

Although such proposals are not specifically delivered by the Well-being of Future Generations (Wales) Act 2015 and the proposed guidance which is the subject of this consultation, we nonetheless see the draft guidance as building further on the policy aims of the Act and moving further towards what we would like to see achieved.

Indeed, whilst there are aspects of the guidance that we would wish to see strengthened, there are many statements within it that we view particularly positively. Within the draft Core Guidance (SPSF 1), these include:

- The statement in Diagram 4 that public bodies should understand the main areas where progress should be made in relation to the well-being goals.
- The breadth of areas covered in section 1.3 under the heading of ‘Where change needs to happen’, and the requirement that the well-being objectives should be set as part of the corporate planning process and must not be an ‘add-on’.
- The requirements specified in section 1.4 that priorities being set need to take account of the long term, and that the potential long term effects of decisions need to be understood.
- The suggestion in section 1.5 that thought should be given to integrating any required impact assessments with consideration of how to contribute to the well-being goals.
- The statement in section 1.12 that all public bodies under the Act “are well-placed to take forward action on the social, economic and environmental determinants of individual health and well-being.”

Health in all policies

Our particular concern in regard to the guidance as it has been drafted is that it will not sufficiently deliver a ‘health in all policies’ approach to the extent we would wish to see.

Whilst we note the reference to ‘health in all policies’ in section 1.10, paragraph 64 of the document entitled “Core Guidance (SPSF 1)”, we do not consider this reference is sufficiently strong as it is not accompanied by a clear definition of what precisely is meant by ‘health in all policies’ in this particular instance, and how exactly it should be applied. All that is said is that it is one of various approaches which helps explain further how the descriptions of the seven well-being goals should be applied.

In our view that is much too vague and leaves it too much open to interpretation how the approach should be taken forward. This would, for instance, leave the use of HIA as something that would remain optional and very much open to individual discretion. As such, we do not consider that this part of the guidance is either sufficiently clear or sufficiently robust.

This could be less of a concern if there was a specific document that had been previously adopted by Welsh Government which outlined in appropriate detail how this ‘health in all policies’ approach should be applied, and which also specified that HIA would be required to be undertaken in certain circumstances that are listed within it. However, we are not aware that such a document currently exists.

As we have previously indicated, BMA Cymru Wales believes that the Public Health (Wales) Bill which is currently under consideration should be amended so that a statutory requirement for HIA in defined circumstances is included on the face of the Bill with regulations subsequently being brought forward to specify in exactly which circumstances a mandatory HIA would be required.

We would also strongly recommend that the reference in this guidance to ‘health in all policies’ be strengthened by being replaced with a much more specific statement that the public bodies which come under the scope of the Well-being of Future Generations (Wales) Act 2015 be specifically required to
undertake a ‘health in all policies’ approach. This reference should also make clear that how the approach should be applied is detailed in a further guidance document, and that further guidance document needs to outline the required Welsh approach to the application of ‘health in all policies’ in appropriate detail.

In order to be sufficiently effective in delivering the stated policy aim, we believe that this further guidance document needs to specify the actions that would be required to deliver a ‘health in all policies’ approach, rather than merely advising what could be done as a matter of good practice.

This could include specifying circumstances in which undertaking an HIA would be required. We would, however, prefer to see that achieved as a result of a clear reference to HIA on the face of the Public Health (Wales) Bill, so it has the strength that would be derived from being specified in primary legislation. We nonetheless recognise that this guidance might offer an alternative way in which this policy aim could be realised, provided it would be possible for the further guidance document we have proposed to be sufficiently robust in the manner that we have already outlined.

In relation to the guidance document entitled “SPSF2 – Individual role (Public Bodies)”, we note there is a section headed “Taking an integrated approach to other duties”. This section contains references to Equality Impact Assessments and talks about how equality objectives should be integrated with a public body’s well-being objectives. There are also references in this section regarding how considerations under the United Nations Convention on the Rights of the Child, duties under legislation relating to the Welsh language and duties deriving from the currently under consideration Environment (Wales) Bill should be considered alongside actions being undertaken to fulfil the well-being objectives.

This section serves to highlight how other assessments and tools have already been placed on a statutory footing and how the duties of the Well-being of Future Generations (Wales) Act 2015 can be complemented by the requirements of other existing, and proposed, legislation. We therefore feel this section would be an appropriate place to also include references to requirements for undertaking HIAs, particularly if it is agreed that such a requirement should subsequently be placed on the face of the Public Health (Wales) Bill. Including references to HIA in this section would also ensure parity between health considerations and those of the other policy considerations already listed.

In conclusion
We welcome the proposed statutory guidance as something which builds upon the Well-being of Future Generations (Wales) Act 2015 and moves us further towards the policy objective that BMA Cymru Wales wishes to see realised, whereby health considerations are brought further to the fore in policy- and decision-making by Welsh public bodies.

We believe, however, that the draft guidance needs to be strengthened in a number of areas to ensure that it can properly deliver the Welsh Government’s previously-stated ‘health in all policies’ approach. We believe that this should include requiring HIAs to be undertaken in defined circumstances, something that we feel would be best achieved by incorporating such a requirement into the Public Health (Wales) Bill with suitable references to that legislative requirement also being included in this guidance. In addition, we believe this guidance should be bolstered by being accompanied by a further guidance document which outlines in appropriate detail how exactly a ‘health in all policies’ should be applied in the Welsh context.