

Devolution and the difficulty of divergence: The development of adult social care policy in Wales

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Abstract

This article examines adult social care policy in Wales. It argues that successive Welsh Governments have sought to develop policy which rejects the principles of marketisation and individualisation that have characterised the public sector policy of UK governments for decades, and upholds instead a distinctive set of socialist-inclined values. It assesses whether Welsh social care policy and legislation effectively diverge from the Westminster paradigm, and how Welsh Governments have dealt with the narrative of ‘personalisation’ which dominates social care discussion elsewhere in the UK. It finds that Welsh Governments have to date struggled to craft social care policies that incorporate their stated principles, explores the difficulties inherent in superimposing new principles on inherited policy narratives and mechanisms, and considers the implications for devolved policymaking.

Keywords

adult social care, devolution, direct payments, personalisation, Wales

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Introduction

Adult social care has formed an element of the UK welfare state since the passage of the National Assistance Act 1948. Since its inception, it has inevitably been subject to the prevailing ideologies, political priorities and budgetary considerations of government. In recent decades, this picture has grown in complexity, as social care has become the responsibility of the devolved administrations. This article breaks new ground by exploring adult social care policy in the devolved Welsh context. To date there have been no detailed studies of the content of Welsh social care policy and, as a result, there is limited understanding of the distinct approaches being attempted in Wales, including efforts to peel away from the narrative of ‘personalisation’ which has become integral to social care policy both within and beyond the broader UK context since the early 2000s (Pearson et al., 2020). Since devolution, successive Welsh Governments – all of which have been led by a Welsh Labour Party which proclaims socialist values – have sought to carve out their own way forward in public sector policy, guided by a series of explicit principles intended to support social justice (Drakeford, 2007). Whether they are achieving this in the field of social care has implications which are relevant to other aspects of the Welsh welfare state.

In addition, and perhaps more importantly, the policy principles stated by the Welsh Government pull directly against the values of welfare state residualisation that have dominated the policy discourse of the UK’s central Westminster government since the late 1970s, regardless of changes in administration (Hudson, 2021; Lund, 2008). These values are expressed through the introduction of the principles of the marketplace to the public sector, the privatisation of services, personal responsabilisation and expectations on individuals to maximise their self-reliance and minimise their need for state assistance, and are typically described as neoliberal (Garrow and Hasenfeld, 2014; Hartman, 2005). They have driven the public sector and welfare state reforms of successive UK governments, including in areas which are now devolved (Mooney and Williams, 2006), and increasingly underpin public sector policy across the globe (Hartman, 2005). The Welsh Government is now consciously positioning its own stated principles as an alternative to neoliberal policymaking (Drakeford, 2019, cited in Evans et al., 2021). The relevance of the success, or otherwise, of its policy progress therefore extends beyond Wales and the UK.

Despite a flurry of publications in the earlier stages of UK devolution, there have been limited detailed studies of recent Welsh policymaking or examination of how the Welsh policy project is faring. Among those that exist, there are indications that the Welsh Government’s attempts to adhere to its own values have not been fully successful (Pearce et al., 2020). Some

commentators argue that the Welsh Government has succumbed to – or been actively complicit in – the neoliberal project (Evans et al., 2021). This study explores Welsh Government social care policy in this light. I consider whether successive Welsh Governments have successfully established their own distinctive principles in social care policy, and if not, why this is the case.

Adult social care is important in Wales, which has the oldest population and the highest levels of disability within the UK nations (Atkins et al., 2021). The Welsh Government's approach to social care policy therefore has the capacity to be a significant expression of its values and its understanding of the purpose and character of the welfare state. It is also an area where Wales has created its own primary legislation. The Social Services and Well-being (Wales) Act 2014 ('the 2014 Act') was heralded as a means to 'transform' social care in the Welsh context (WG, 2013). The Act provided a critical opportunity for the Welsh Government to stamp its own policy identity on welfare state legislation – a matter emphasised by the passage of a contemporaneous 'sister' statute in Westminster (the Care Act 2014). It remains one of the most substantial contributions to the Welsh welfare state to date.

I begin by setting out the broad context of policymaking in Wales. I then detail the principles that are stated to guide policy development in the Welsh context, as they have been articulated by key political figures, and the broad features of social care policy that Wales inherited upon devolution. After setting out the research methods, I explore two aspects of social care policy in which the Welsh Government has attempted to devise new ways forward, namely personalisation and privatisation. I conclude with a discussion of the implications of the findings for policy in Wales and beyond.

The devolved Welsh context

Wales is a UK nation with a population of approximately 3,000,000 people. It is characterised by, among other things, high levels of poverty (Pearce et al., 2021), a socio-economic heritage of heavy industry, the existence of a large working class and a strong socialist political tradition (Davies and Williams, 2009). As a result of devolution, the Welsh governance institutions now have competence to create policy and legislation in certain fields, including social care, although the UK government in Westminster retains control of other areas, including (as broad examples) social security or 'welfare' benefits, immigration and employment. The process of devolving policy and legislative powers to Wales has been gradual and somewhat tortuous. It began in 1999, with the establishment of the (then) National Assembly for Wales/Cynulliad Cenedlaethol Cymru – a 60-seat elected Assembly which combined executive and scrutiny functions and lacked power to create primary legislation. In 2001 the Assembly separated its executive and other functions as far as

was then possible, and its cabinet adopted the name ‘Welsh Assembly Government’/‘Llywodraeth Cynulliad Cymru’. The Assembly acquired limited competence over primary legislation in 2006, and the executive was formally separated and later re-named the ‘Welsh Government’/‘Llywodraeth Cymru’. In 2011 the Assembly gained full legislative capacity over devolved policy fields, and in 2020 was itself re-named the ‘Welsh Parliament’ / ‘Senedd Cymru’ (‘the Senedd’). (To avoid confusion, in this article the terms ‘Welsh Government’ and ‘Senedd’ are used regardless of the name in use at the relevant time, other than in citations).

The devolved institutions have held responsibility for policy development in the field of social care since 1999, although their competence to create and control the direction of policy has always been subject to significant constraints, particularly the early restrictions on the ability to create primary legislation. The Westminster government retains control over many aspects of policy which overlap with those devolved to Wales, significantly inhibiting the ability of the Welsh Government to drive policy in its chosen direction. For example, while social care is devolved, social security benefits, which are relevant to social care funding, are not. The Welsh Government has also been consistently hampered by having a small civil service which initially had very limited experience of policy development (Drakeford, 2006; Rawlings, 2003). Wales currently lacks control of the key levers of macroeconomic policy, has only recently gained certain limited control over taxation, and remains almost wholly reliant on the ‘block grant’ funds provided to it by Westminster. This grant is calculated according to the Barnett formula, which takes only limited account of the high levels of need and public expenditure in Wales (Keep, 2021). The formula also reflects the UK government’s spending priorities in relation to England, which has no devolved government of its own. As a result, Wales has been particularly subject to the austerity agenda imposed by successive UK governments since 2010. In other respects, however, the Welsh governance institutions operate within relatively ‘permissive’ devolution arrangements (Jeffery, 2007). They now have largely unfettered powers to develop legislation and policy on devolved matters, and the Welsh Government is subject to no constraints in terms of how it allocates its budget, including the block grant.

Policy principles in Wales and the adult social care inheritance

A significant feature of the political landscape in Wales is the remarkable dominance of the Labour party, which has won every national and devolved election in Wales since 1922. Labour has been the largest single party in

every Senedd since its inception and has formed every devolved government in Wales to date, albeit often working in arrangement with other parties. No other modern country, devolved or otherwise, demonstrates this level of political homogeneity (Evans et al., 2021). Wales's political leaders have not been shy to proclaim socialist principles. In 2002, the then First Minister Rhodri Morgan claimed a distinction between the values of the Labour governments in Wales and (at the time) in Westminster, ascribing this to 'ideological fault-lines in the approaches to social welfare' (Morgan, 2002, unpaginated). Famously setting out the 'clear red water' between Wales and Westminster, Morgan rejected approaches to the welfare state based on the characterisation of citizens as 'consumers' and championed equitable services that were largely free at the point of use, universal and unconditional, and equal outcomes as well as equal opportunities. In 2008, Mark Drakeford, then health and social policy advisor to the Welsh Government and one of the architects of Morgan's 'clear red water' agenda – and First Minister himself at the time of writing – set out values which remain influential in Wales. These were:

- Government as a force for good – the rejection of the principle of 'small government' and the belief that government is the best vehicle for social improvement;
- Universal rather than means-tested services;
- Co-operation rather than competition in the design, delivery and improvement of public services;
- Social justice is characterised by improving the collective voice rather than individual choice and the mechanisms of the market;
- The relationship between the citizen and the state in policy making should be one of joint enterprise rather than quasi-commercial;
- A desire for equality of outcome in addition to equality of opportunity.

These principles diverge from those now entrenched in Westminster policy, and set the stage for conflict if Wales is to develop and own a distinctive policy identity. Adult social care presents a unique arena for this struggle. On devolution, Wales inherited policy and mechanisms that had become a testing ground for the Westminster principles of privatisation and marketisation. In the late 1980s, the UK government introduced adult social care policy which converted local authorities from providers of social care support into commissioners and buyers, and framed individuals as 'consumers' of services (Department of Health and Social Security, 1989). As a result, the vast majority of social care provision shifted to the independent sector, including in Wales (Siôn and Trickey, 2020). In the mid-1990s the UK government endorsed the policy of 'direct payments', or the provision of cash to individuals to enable them to purchase their own support (Community Care (Direct Payments) Act 1996) – a mechanism originally devised by the radical disabled

people's movement in the UK as a means for disabled people to gain control over their own lives (Evans, 2003).

Under the Labour administrations between 1997 and 2010, the marketisation of adult social care became more firmly established (Ferguson, 2007; Scourfield, 2007). Direct payments were extended and promoted, and 2005 heralded the development of 'personal budgets' – the allocation of notional sums of money to individuals to be 'spent' on the purchase of support (Prime Minister's Strategy Unit, 2005). In England, personal budgets are now required by law whenever an adult is eligible for state-funded social care support (s25(1)(e) Care Act 2014), and are either converted into a direct payment or used to indicate the level of support that can be otherwise commissioned. By definition, both direct payments and personal budgets transform the individuals using them into *de facto* consumers – a role that conflicts with the stated Welsh preference for a collective voice rather than individual choice and market mechanisms. In the English context, both direct payments and personal budgets have become central to the 'personalisation' agenda (West, 2013). Personalisation is an imprecise term, frequently used to refer to the idea that support should be tailored to the individual. It has been consistently connected in policy discourse to a narrative of individuals having choice and control over their social care support (Tarrant, 2020), but also acts as a vehicle for the fragmentation and marketisation of social care and the transfer of responsibility from the state to the individual (Ferguson, 2007; Mladenov et al., 2015). The content of adult social care policy inherited in Wales on devolution was therefore a challenge to the Welsh policy project.

Methods

This study comprised a detailed analysis of Welsh social care policy and legislative documents. I draw on policy discourse analysis, as outlined in Chaney (2011, following DeLeon, 1998; Edelman, 1988 and Fischer, 2003a). Chaney describes policy discourse analysis as an 'interpretative approach that places an emphasis on the language of policy documents' in order to examine the underpinning ideas (433). In particular, it enables the study of policy claims and rhetoric. Three distinct groups of documents were considered: those which preceded the development of the Social Services and Well-being (Wales) Act 2014, the 2014 Act itself and connected documentation, and policy texts since the implementation of the Act in 2016. In the first of these periods, successive Welsh Governments explored broad principles for social care which they then sought to embed in legislation. In particular, the white paper

‘Sustainable Social Services for Wales’, published in 2011 under a Welsh Labour / Plaid Cymru coalition, is stated to have ‘marked the beginning of [the Welsh Government’s] transformational journey’ (WG, 2021a: 5). Social care policy since the implementation of the 2014 Act has been different in character. It looks to the Act for its principles and explores how these principles are to be embedded in practice (for example, WG, 2019; WG, 2021a).

After multiple detailed readings and identification of key themes in the documents, I focused on two areas of apparent conflict between the Welsh Government’s principles and those underpinning the policy content that Wales had inherited on devolution. These were (a) the marketisation and individualisation of adult social care, particularly as expressed through personalisation and the mechanisms of direct payments and personal budgets, and (b) the approach to the private sector. I explored the sections of the documents relating to these ideas in depth, tracing the development of themes and language.

The key policy documents analysed were:

- Fulfilled Lives, Supportive Communities: A Strategy for Social Services in Wales over the Next Decade (WAG, 2007) (‘FLSC’);
- Sustainable Social Services for Wales: A Framework for Action (WAG, 2011) (‘SSSW’);
- Social Services (Wales) Bill: Consultation Document (WG, 2012) (‘Consultation Document’);
- A Healthier Wales: Our Plan for Health and Social Care (WG, 2018);
- Rebalancing Care and Support (WG, 2021a) (‘Rebalancing’);
- Improving Health and Social Care (Covid-19 Looking Forward): Social Care Recovery Framework (WG, 2021b) (‘Recovery Framework’).

The legislative documents analysed comprised the 2014 Act, related secondary legislation, and connected documents including explanatory memoranda and the Record of Proceedings in the Senedd. It is important to note that legislation is a different creature from policy. Statutes create actionable entitlements with profound resource implications. They leave less scope for ambiguity and for state generosity, particularly in the context of austerity. There are also critical differences in development processes. Statutes are created by the legislature rather than the executive, which allows for the original government intention to be adjusted. At the time of the passage of the 2014 Act, Welsh Labour held 30 of the 60 Senedd seats, leaving some scope for amendments to be successfully introduced. However, across the Senedd there was a comfortable centre-left majority, with Plaid Cymru holding 11 seats and the Liberal Democrats five, and a resulting broad consensus on many elements of the Act.

The content of Welsh policy and law

The study revealed pronounced shifts in content and rhetoric across the time period covered by the documents. The key findings are set out here. I focus first on broad shifts in rhetoric before exploring the approaches to personalisation and privatisation.

The development of a new rhetoric

Between FLSC and SSSW there was a pronounced change in the use of language. Three changes were of particular interest. Firstly, SSSW contained a greater use of language related to Wales. It introduced the ideas of a distinct ‘Welsh public life’ and ‘Welsh public services values’ (1.1–1.2) and indicated an intention to use the new legislative competence in Wales to reflect and develop these concepts. Secondly, a mantra of ‘choice and control’ that appeared in English adult social care policy documents roughly contemporaneous with these Welsh texts (Department of Health, 2005, 2009, 2012; HM Government, 2008) was replaced with one of ‘voice and control’ – referencing the value-base of the Welsh Government’s own policy principles. In SSSW and the Consultation Document, ‘a strong voice and real control’ was set out as a guiding principle for social care, and in SSSW the idea of ‘consumer’ choice was explicitly rejected – a matter to which I return below. The principle of ‘voice and control’ continues in subsequent policy documents, and ‘voice’ is cited as a key principle of future health and social care policy in ‘A Healthier Wales’ (2018).

Finally, SSSW demonstrated a shift towards a discourse of solidarity. In FLSC the purpose of social services was constructed as support to specific ‘othered’ groups of people, such as ‘the most vulnerable and troubled families’ (3.15). Problems and solutions were individualised, with suggestions that support should enable those who need it to ‘solve their personal problems’ (2.4). In contrast, SSSW contained emphatic statements that support is universally needed and a rejection of the narrative of ownership of one’s own ‘problems’:

[Public services] are not an unfortunate necessity for a small group of people who for some reason are not able to resolve matters for themselves. We all need them.... (2.3).

In more recent documents, the language of individualism and responsibilisation has re-surfaced. In particular, ‘A Healthier Wales’ contains a strongly and frequently articulated narrative that people should ‘take more responsibility for their own health and wellbeing’ (2018: 1).

Personalisation

Given the importance of personalisation and its connected mechanisms within Westminster social care policy, how these were treated in the Welsh documents was a critical indicator of any new approach in Wales. A clear distinction was evident. Other than in a glancing reference (4.34), FLSC did not refer to personalisation. It did, however, contain a pledge to extend direct payments to ‘provide the foundation for the holistic individual approach that is necessary’ (2.12). Personal budgets were also highlighted as a potential way forward, depending on the outcome of pilot projects in England (4.5). In contrast, in SSSW the Welsh Government indicated the importance of ‘citizen control’ over support, but explicitly rejected the term ‘personalisation’ because of its association with marketised approaches (3.16):

We believe that the label “personalisation” has become too closely associated with a market-led model of consumer choice...

Personal budgets were not discussed, and the approach to direct payments was less enthusiastic than in FLSC:

Direct payments are an important tool for greater control for some people. Where people make the choice to have direct payments, we will expect them to have a right to receive them. *We will work with all stakeholders, and in particular with service user interests, to develop a model of self-directed support that is consistent with our principles for social care – including a stronger infrastructure of support for those who choose these routes.* (3.17, original emphasis).

This excerpt combines support for direct payments with an underlying wariness. Rather than being a ‘foundation’ for support, direct payments are stated as being of value to *some*; and individual approaches – considered essential in FLSC – give way to references to a new ‘model for self-directed support’ relevant to *Welsh Government* values. This intention was reiterated in the Consultation Document, which further stated that this new model was:

... *not an approach driven by the market or by consumerism* but by a wish to enable people to achieve their goals and live their lives in the way they choose for themselves (2.7.1) (emphasis added).

The marked references to ‘our principles for social care’, their placement within discussion of direct payments, and the rejection of the citizen-consumer model indicated an attempt to mould direct payments into a format more in tune with the Welsh Government’s own, more collective, values. How direct

payments might be dissociated from the inevitable construction of citizens as consumers remained unclear.

Discussion of direct payments in SSSW and the Consultation Document was also characterised by the rhetoric of individualism, choice and control connected to them in *English* policy. I note above that the rhetoric of choice and control seen in Westminster policy gave way to one of ‘voice and control’ in the later Welsh documents. Where direct payments were under discussion, however, and as the extract cited above demonstrates, the language of *choice* re-emerged and supplanted that of voice, suggesting that the Welsh Government was struggling to stamp its own policy identity on this inherited and highly individualised mechanism.

The 2014 Act maintains the Welsh Government’s somewhat ambiguous stance towards personalisation and direct payments. During the passage of the Act, the responsible Minister (Gwenda Thomas AM) stated:

It is not my policy to adopt the personalisation approach, as has been done in England where they are encouraging people to purchase their own care, through personal budgets. My policy is for local authorities to provide care, either directly through commissioned arrangements, or via direct payments. (National Assembly for Wales, 2013a: 209).

This repudiation of personalisation overlooks the fact that it is inextricably connected to direct payments as well as personal budgets. The stated support for direct payments also belied a continuing undercurrent of unease. The Consultation Document cited evidence of their benefits and suggested that they should be expanded under the (then) forthcoming statute. The Act does indeed increase their scope – in some ways beyond that seen in England. It creates, for example, a right for people to use direct payments to purchase residential care (Clements, 2022). In other respects, however, direct payments were restricted. Despite recommendations by the Senedd’s Health and Social Care Committee (2013: 102), the Welsh Government did not incorporate their use where funding is provided by the NHS. The given reason was that direct payments would conflict with the Welsh Government’s ‘underpinning philosophy and policy for ... health services in Wales’ (NAW, 2013b: paras 349–350).

Direct payments were also initially omitted from a statutory illustrative list of how social care needs may be met (section 34(2)). They were ultimately added to this list as a government concession to lobbying for the inclusion of a provision which would require local authorities to *promote* direct payments (NAW, 2013b: paras 104 and 285–336). There were also conflicting approaches to direct payments in documents relating to the legislative framework. Documents accompanying the Act made multiple strong and unequivocal declarations of their value, and direct payments are the only form of service

provision explored in any detail in the statutory guidance on meeting needs (WG, 2015a). Yet the case studies included in this guidance contain *no* discussion of direct payment use. It was not clear whether these discrepancies arose from unresolved tensions in the Welsh Government's approach to direct payments, inexperience in the civil service, or simply inconsistencies in drafting, but the result is a legislative approach to direct payments that remains conflicted. In terms of personal budgets, however, the 2014 Act is unequivocal. Unlike the Care Act 2014, which *obliges* local authorities to calculate and allocate a personal budget to everyone eligible for local authority-funded social care, there is no reference to personal budgets in the Welsh legislation, and to date they have not been adopted in Wales.

Overall, therefore, the Welsh Government has been only partly successful in developing a clear response to the Westminster personalisation agenda. Despite the stated rejection of personalisation in SSSW, the term exists in Welsh Government policy documents. Indeed, in 'A Healthier Wales', personalised services – in the sense of support tailored to 'individual needs and preferences' – is cited as one of ten 'national design principles' of future health and social care in Wales (2018: 17). In terms of the *mechanisms* of the English personalisation agenda, while successive Welsh Governments have to date rejected personal budgets, they have been less successful in dealing with direct payments, which were established in statute at the outset of devolution. In both policy and legislative documents, the stated commitment to direct payments is neither fully supported nor fully convincing, and, as it currently stands, Welsh Government policy on direct payments is a site of uncertainty and conflict. Despite their stated importance to Welsh social care policy and provision, direct payments are not discussed in either 'A Healthier Wales' or 'Rebalancing' and are referred to only fleetingly in the Recovery Framework. In stark contrast, and in a reversal of its earlier decision, the Welsh Government has recently accepted arguments that direct payments should be extended to NHS-funded social care in order to avoid inconsistencies between different groups of social care users. This structure already exists in England and the Welsh Government is examining the English model of personal health budgets in its considerations (WG, 2022).

The private sector

The early documents indicated a shift in the Welsh Government's approach to the private sector in two key respects. Firstly, where FLSC demonstrated a broad acceptance of the purchase of social care from private companies, SSSW had a more cautious approach. For example:

Most social care is provided by the private sector. Their contribution is central to driving up standards and they must be key partners in achieving our agenda for change (FLSC: 1.12)

We recognise that private and independent providers play a crucial role in social care but ... [s]ocial care must be delivered within a public service ethos and we will expect those who wish to be service providers to embrace this value base. (SSSW: 3.11)

Secondly, SSSW contained an ambition for new forms of organisation to be developed to provide social care:

We expect a much greater range of services to be run by citizens themselves, as service users, carers and as people delivering those services. Social care is ripe for the development of social enterprises. (3.18).

The early welcome extended to private providers as a ‘key resource’ in social care (FLSC: 4.27) was therefore moderated in SSSW. The later document expressed a more reluctant acceptance of their presence and expectations relating to ‘a public service ethos’ were imposed as a condition of their continuing role. Despite this requirement, the nature of this ethos was not identified in SSSW, and essentially remained a rhetorical device, presumably referencing the Welsh Government’s concept of distinct ‘Welsh public services values’ discussed above. The interest in the development of provision by new forms of organisations driven by principles other than profit was more concrete, and indicated a desire to turn away from the entrenched commercialism that characterised the Welsh social care inheritance on devolution.

The focus on social enterprises finds expression in the 2014 Act. Section 16 requires local authorities to promote the development of ‘social enterprises, co-operatives, user led services and the third sector’ in social care provision. The central purpose of this provision was the development of not-for-private-profit organisations (WG, 2015b). It stands in marked contrast to section 5 of the Care Act 2014, passed by the UK parliament in relation to England, which requires local authorities to promote ‘the efficient and effective operation of a market in services’. A Conservative amendment which would have replicated this Care Act provision in the Welsh legislation was opposed by the Welsh Government (and not enacted), specifically because it would have undermined the purpose of section 16 (NAW, 2013a: paras 202–214). Background documentation indicates that section 16 was driven by ideology – the Welsh Government acknowledged at the time of the development of the Social Services and Well-being (Wales) Act 2014 that the mutual and cooperative social care sector was ‘modest’ and essentially untested (WG, 2015c: para 29).

In the event, section 16 has proven difficult to implement, largely because of the pre-existing dominance of the private sector in adult social care provision. A study of the development of social enterprises in Welsh social care (Cowie and Rees Jones, 2017) found that there were multiple practical barriers

to their effective development and operation, including – but not limited to – the ability of for-profit organisations (particularly large companies) to undercut social enterprises in the tendering process and on price, a reluctance within local authorities to manage large numbers of small contracts, and the existence of conflicting aims within individual local authorities. Many difficulties were exacerbated by resource constraints. Cited as the most important barrier, however, was a lack of information, support and funds available to organisations in early stages of development, which was seen as demonstrating a ‘perceived disconnect’ between the stated policy aims of the Welsh Government and local and national support for implementation (2017: 57).

More recently, there have been signs that section 16 is itself being reinterpreted by the Welsh Government. ‘Rebalancing’ relates section 16 to a broader discussion of a need for providers, including those operating for profit, to offer some form of ‘social value’, loosely defined as ‘benefit to the community ... over and above the direct purchasing of goods, services and outcomes’ (2021a: 29). The document avoids the negative connotations associated in SSSW with private providers, and a ‘market’ in social care and ‘an environment of partnership with the independent sector’ is cited as a benefit of a proposed policy of standardised contracting (2021a: 19). One stated ambition is to move ‘towards managing the [social care] market’ (2021a: 8 and 29) – a goal that strays towards the territory covered by section 5 of the Care Act 2014. Although ‘Rebalancing’ restates an interest in moving away from private profit-making models in the sector, it makes no proposals for how social enterprises can be specifically supported. The Recovery Framework is more explicit in its approval of the private sector. It suggests that a ‘varied ecosystem’ of providers, explicitly including those operating for private profit, has benefits, including ‘flexibility of provision and the ability to meet varied wants and needs of citizens’ (2021b: 30), although it hints at ‘re-examin[ing] the future shape of the sector’ (2021b: 33). Both documents suggest a weakening in the commitment to a not-for-profit approach, essentially as a result of the inherited structural realities that the Welsh Government faces in social care.

Discussion

This study demonstrates an interest by successive Welsh Governments in creating social care policy that follows a distinctive agenda, and a number of difficulties they have faced in doing so. In all the areas examined, attempts to develop new and distinctive Welsh policy were compromised, and in cases partially rescinded. To an extent, variations in policy are a natural result of changing governments and political personalities. Despite the one-party dominance of Labour in Wales, the Labour/Plaid Cymru coalition which produced SSSW shifted the then Welsh Government to the left, and it has been

suggested that more recent administrations have been less radical in their nature (Evans et al., 2021). There is also no doubt that early Welsh Government attempts to devise social care policy were hindered by lack of both experience and legal competence. However, this analysis reveals the extent to which successive Welsh Governments have been constrained by an inherited Westminster-driven social care policy predicated on principles that are essentially at odds with those of the devolved government. This problem is fundamental, and has compromised every aspect of the Welsh Government's ability to act on and express its stated policy principles in the social care arena.

Welsh Governments have demonstrated different ways of dealing with the discordant policy ideas examined in this study. Those that could be discarded, such as personal budgets, were. Where rejection has been more difficult, Welsh Governments have attempted to accommodate inherited approaches and adapt them to 'Welsh' values. Direct payments, for example, were statutorily incorporated at the outset of devolution. Their resulting existence in Welsh Government policy implied their acceptance, and attempts to infuse them with more distinctively 'Welsh' principles has resulted in policy that remains uncertain, inconsistent and conflicted. Another approach was to attempt to forge new ways forward, as with the interest in developing social enterprises to overcome the inherited reliance on private providers. Initially sharp, distinct and confident in its aim, and set out in both policy and law, this policy later ran into problems of both implementation and interpretation. In recent governmental discussion it has been adapted, partially obscured and overwritten, apparently in an attempt to render it more manageable in a social care world that remains overwhelmingly dominated by the for-profit sector. In this case the adaptation was driven by a collision between principle and reality.

Policy is never made in a vacuum. It is always impacted by what has gone before, whether it is created to develop, amend, adapt or repudiate existing ideas. As Ball (1993: 11) states, policy is 'both contested and changing, always in a state of "becoming"'. There will inevitably also be ambiguity and untidiness; policymaking is an exercise in weaving together diverse and conflicting views into something that has the appearance rather than the state of coherence (Fischer, 2003b; Newman and Clarke, 2009). But a particular difficulty in Wales, as a newly-devolved nation with initially limited powers and experience, was that the governance institutions were able only to superimpose values on pre-existing social care structures built to service wholly different principles. As a result, Welsh social care policy *cannot* yet be coherent. Its ambiguities are not created solely from a positive attempt to smooth over contestation – although that may occur – but by the mismatch between what the Welsh Government wishes to do and what its inherited legal and practical structures are designed to do.

We see, therefore, that Wales may have a level of policy agency but also remains unavoidably compliant with the neoliberal principles that are firmly

entrenched in the broader UK state. Despite the apparent ceding of control over the devolved policy areas to the Welsh governance institutions, significant power remains in Westminster that extends well beyond the UK government's retained and fiscal competencies outlined above. Critically, this control is not entirely obvious. It remains covert, lurking in legacies, hampering the Welsh Government's ability to remove itself from the principles it wishes to rebut and create feasible, functioning public sector alternatives. As a result, the attempt to deviate from the ideological narratives currently on offer in Westminster may actually result in their consolidation. When the stated principles of the devolved Wales are undermined, the impact is not solely on the Welsh people in practical terms. It also implies failings in the principles themselves. Equally, the integrity of the Welsh institutions is damaged. Welfare state development has a fundamental role in the construction of a national identity (Clarke, 2005; Mooney and Williams, 2006). In Wales, divergence from Westminster policies was not merely a matter of ideology – although that was central. It was also an exercise in self-construction and a demonstration of relevance to a citizenship that was initially indifferent to devolution (Wyn Jones and Scully, 2012). When this act of self-development is undermined, the identity of the Welsh governance institutions is compromised, their authority depleted, and the balance of power less weighted towards the devolved state than it might appear.

Many of the policy difficulties that exist in Wales arise as a result of its unique incremental experience of devolution. The problems it has faced in developing its own policy identity are, however, likely to exist in varying degrees for other devolved governments and legislatures, which may also be required to work within an ill-fitting policy legacy. Further work needs to be undertaken to understand whether and how the Welsh governance institutions can overcome the difficulties they face in crafting policy in a hostile terrain, and in extricating themselves from the grip of neoliberal ideologies. In particular we need better comparisons as to how Wales is faring in its social care policy experiment compared to the other devolved UK nations. Scotland also has historical 'alliances to public sector provision' (Pearson et al., 2020: 287), but has incorporated individualised mechanisms of support, including personal budgets, into social care through the Self-Directed Support (Scotland) Act 2013. In 2002, Rhodri Morgan declared that devolution in the UK would create a form of 'living laboratory' in which different policy ideas could be explored, with each devolved nation drawing lessons from successes and failures in the others. This applies to the policy-making process as much as to policy content. Each of the devolved UK nations has its own difficulties to contend with, and understanding and comparing what is – or is not – working, in terms of policy and legislative processes as well as content, will create insights into the nature of these and their impact on devolved policy- and law-making.

In Wales, as in other parts of the UK, social care is currently in crisis. It faces complex and multiple challenges and is potentially at 'breaking

point' (Clifton, 2021). The context of austerity has inevitably had a deeply adverse impact on the public sector in Wales, where social care spending has not kept pace with demand (Atkins et al., 2021). Provision remains fragmented, the workforce is poorly paid (Siôn and Trickey, 2020), and there are profound problems in the recruitment and retention of staff – a matter that has been exacerbated by Brexit (James, 2022). Each of these problems has been amplified by the Covid-19 pandemic, which placed extraordinary pressures on an already overstretched social care system and workforce, as well as informal carers and those using support (Welsh Parliament Health, Social Care and Sport Committee, 2021). Consequently, there is broad agreement that there remains a pressing need for social care reform, despite the relatively recent changes wrought in Welsh policy and legislation.

With the passage of the 2014 Act, social care in Wales has been placed on its own statutory footing. Social care policy in Wales is now starting to 'bed in' and has risen to the top of the policy agenda. In 2021 a newly-elected Labour Welsh Government stated its intention to 'launch a National Social Care Framework' and explore the options for providing care 'free for all at the point of need' (WG, 2021c: 10 and 4), despite the fiscal challenges identified in 'Rebalancing' which appeared to prohibit such a move (2021a: 16). It has since entered into a 'cooperation agreement' with Plaid Cymru and announced a 'shared ambition to create a National Care Service, free at the point of need, continuing as a public service' (WG, 2021d: 3). At the time of writing, discussions on this new national service were in the formative stages. The terms of reference for the initial expert working group reporting to the Welsh Government make no reference to personalisation. They do, however, indicate a strong focus on increasing the percentage of publicly delivered care provision, particularly through 'local government ownership and cooperative enterprises' (WG Expert Group, 2022: 46). There is evidence, therefore, that the new partnership between Welsh Labour and Plaid Cymru is once again easing the Welsh Government to the left and potentially re-energising aspects of Welsh Labour's principles that pull against neoliberal ideology. It is clear that we are seeing the beginning of a new stage of social care policy development which will provide a further valuable case study of policymaking as Wales moves into a new phase. What is also clear is that the current Welsh Government will need to find a more effective way forward if it is to overcome the friction that exists between its stated principles and its inherited and circumstantial challenges.

Conclusion

The preceding discussion indicates certain ideological and structural issues faced by the Welsh Government in its policy development, and the impact these have on the ability of the Welsh governance institutions to craft

policy that expresses its own stated policy principles. In particular, it demonstrates the profound challenges experienced in Wales in deviating from the neoliberal policy hegemony that currently exists in the UK and other national contexts. The findings and conclusions indicate that to date the Welsh Government has not successfully devised an effective way to marry its ambitions and its circumstances. These difficulties are unlikely to be overcome in the short-term future. It is up to the Welsh governance institutions, as maturing bodies, to find new ways forward and to be transparent about the conceptual challenges they face. The Welsh devolution settlement is now firmer and the Senedd and Welsh Government have stronger powers and greater experience in both policy- and law-making than they had at the outset of devolution. Future social care reform offers an opportunity for an appreciably more established Wales to consider its direction with greater confidence, and to explore how it can successfully cultivate a distinctive policy identity in decidedly unfavourable terrain.

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