



# Section 16

# Forum Handbook



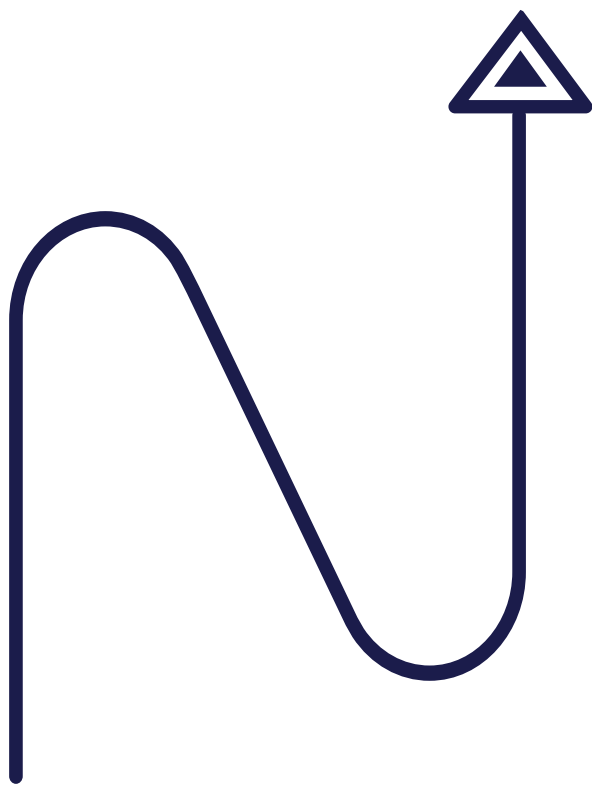
Supplementary Guidance and Terms of Reference

# Contents

01	<b>What is Section 16?</b>	<b>3</b>
	What is a Section 16 organisation? Involvement of citizens What is a Section 16 Forum?	
02	<b>The core purpose of Section 16</b>	<b>8</b>
03	<b>The two policy goals of Section 16 Forums</b>	<b>9</b>
04	<b>What are the key tasks for Section 16 Forums</b>	<b>11</b>
05	<b>Who attends Section 16 Forums</b>	<b>14</b>
06	<b>Key ingredients for a successful Section 16 Forum</b>	<b>15</b>
07	<b>The value of Forums to Section 16 organisations</b>	<b>16</b>
08	<b>The value of Forums to the voluntary and community sector</b>	<b>17</b>
09	<b>The value of Forums for local authorities and local health boards</b>	<b>18</b>
10	<b>The value of a National Community of Practice</b>	<b>20</b>
11	<b>Engaging with citizens</b>	<b>21</b>
12	<b>Monitoring</b>	<b>22</b>
13	<b>Illustration of Section 16 transformative activity</b>	<b>23</b>
14	<b>Terms of Reference</b>	<b>24</b>



## What is Section 16?



01

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Llywodraeth Cymru  
Welsh Government



## What is Section 16?

It is a section under Part 2 of the Social Services and Well-being (Wales) Act 2014.

### **Section 16: Promoting social enterprises, co-operatives, user led services and the third sector**

**A local authority must promote**

a)

The development in its area of social enterprises to provide care and support and preventative services;

b)

The development in its area of co-operative organisations or arrangements to provide care and support and preventative services;

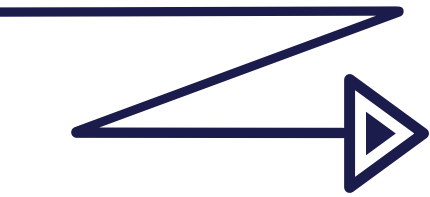
c)

The involvement of persons for whom care and support or preventative services are to be provided in the design and operation of that provision;

d)

The availability in its area of care and support and preventative services from third sector organisations (whether or not the organisations are social enterprises or co-operative organisations).

## What is a Section 16 organisation?



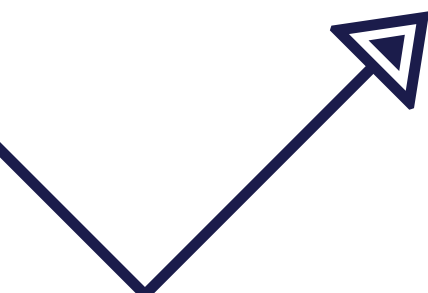
It follows from the wording of the Act, that Section 16 organisations may be:

- **social enterprises**
- **co-operatives**
- **organisations (of any type) working in a co-operative arrangement**
- **services in which the persons using the service are involved in the design and operation of the provision**
- **third sector organisations (whether or not they are social enterprises or co-operatives).**

It should be noted that an organisation does not have to be currently providing care, support or preventative services in order to be a Section 16 organisation. They may be engaged in some other activity but have the potential to diversify into care, support or preventative services.



## Involvement of citizens



Although Section 16 makes many references to organisations, it is important to note that clause 1c states that “the local authority must promote the involvement of persons for whom care and support or preventative services are to be provided in the design and operation of that provision”.

This may partly be achieved through provider organisations who have constitutions and rules which clearly empower and enable the users of services to be involved in its design and operation. This is one of the merits of democratic, member-led Section 16 organisations.

However, it is also necessary for the citizen accessing services, and unpaid carer where appropriate, to be involved in decisions which impact on their provision, but which is in the hands of commissioners, regulators, or policy makers.

Either way, the involvement of citizens and unpaid carers in decisions affecting them is central to Section 16, and it is essential that people’s voices are incorporated into Forum activities in meaningful ways.

## What is a Section 16 Forum?



A Section 16 Forum is a statutory requirement under Part 2 of the Act. To fulfil the Section 16 duty to promote, local authorities must put in place arrangements to support and encourage Section 16 organisations so that they are able and willing to fulfil service delivery opportunities. This includes bringing these providers together for mutual support, shared learning, and promotion of good practice.

How this is done can depend upon what works best in any given locality or region, but local authorities should work together to facilitate a regional Forum (or, where appropriate, more than one Forum) to bring together Section 16 organisations, to promote and grow this segment of the social care market.

The role and requirements of these Forums is set out in Chapter 4 of the Part 2 Code of Practice (General Functions).

# The core purpose of Section 16

The core purpose of Section 16 is the same as what underpins the whole of Part 2 of the Act.

It is to achieve:



**1 The well-being of citizens and communities**



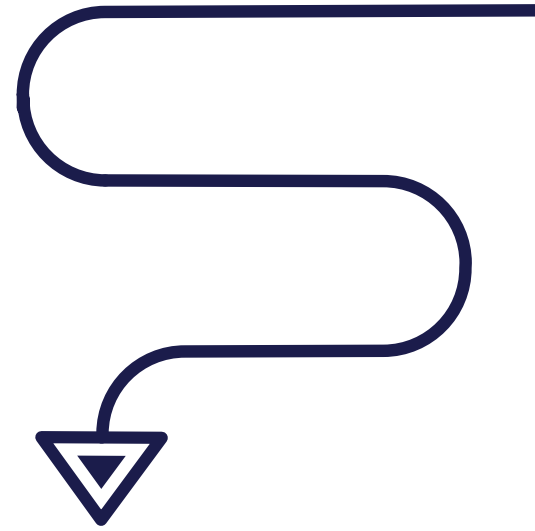
**2 The sustainability of social care and support services.**

This purpose requires the transformation of care systems through the application of a set of principles that are geared towards delivering “what matters” and making the best use of all available assets, including the strengths of citizens, communities, and partnerships.





# The two policy goals of Section 16 Forums



## Goal 1 – Transformation

This goal clearly links to the core purpose of the Act. It is about promoting models of delivery which are based on those core principles (well-being outcomes, voice and control, co-production, collaboration, early intervention and prevention), and which also strive to add social, economic and environmental value.

The transformation goal of Section 16 Forums has two facets. Firstly, if new services are required, the Forum can bring its expertise to the planning and design stage. Secondly, it can provide challenge and inspiration for the transformation of existing services so that they achieve more well-being and add more value.

Promoting models of delivery<sup>1</sup> which are based upon the principles of the Act and add value helps to achieve both well-being outcomes for citizens and sustainable services because the models are focused on:

- doing what matters
- working with citizens and their families
- working closely with other relevant individuals and agencies
- acting now to avoid problems later
- getting the maximum public benefit from every pound spent.

# 03

<sup>1</sup> These models are sometimes referred to as Social Value models – <https://cwmpas.coop/social-value-in-social-care/>



## The two policy goals of Section 16 Forums



Section 16 organisations lend themselves to this agenda because they are constitutionally designed to address citizen needs and deliver public or member benefit. They are often innovators and exemplars from whom others can learn.

See chapter 12 below for a few examples of transformation in action.

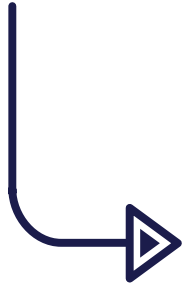
### Goal 2 – Rebalancing

This goal is about reshaping the care market by growing the footprint of Section 16 organisations in both care and support services and preventative services.

The focus of this goal is on measurable changes to the diversity of providers in an area, but there are no target percentages. Each local area will need to make informed judgments about where (in what sector) an increase in Section 16 activity would be most useful.

The two Section 16 Forum goals are different but complementary.

# What are the key tasks for Section 16 Forums



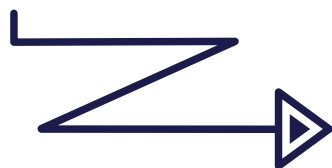
Tasks related to the Transformation goal .....

- **Develop a shared understanding of the transformation agenda:**
  - What it means to follow the principles of the Act
  - What it means to add value
- **Identify areas of service delivery where Section 16 could expand.**
- **Develop plans for increasing the Section 16 footprint.**





## What are the key tasks for Section 16 Forums



### Tasks related to the Rebalancing goal .....

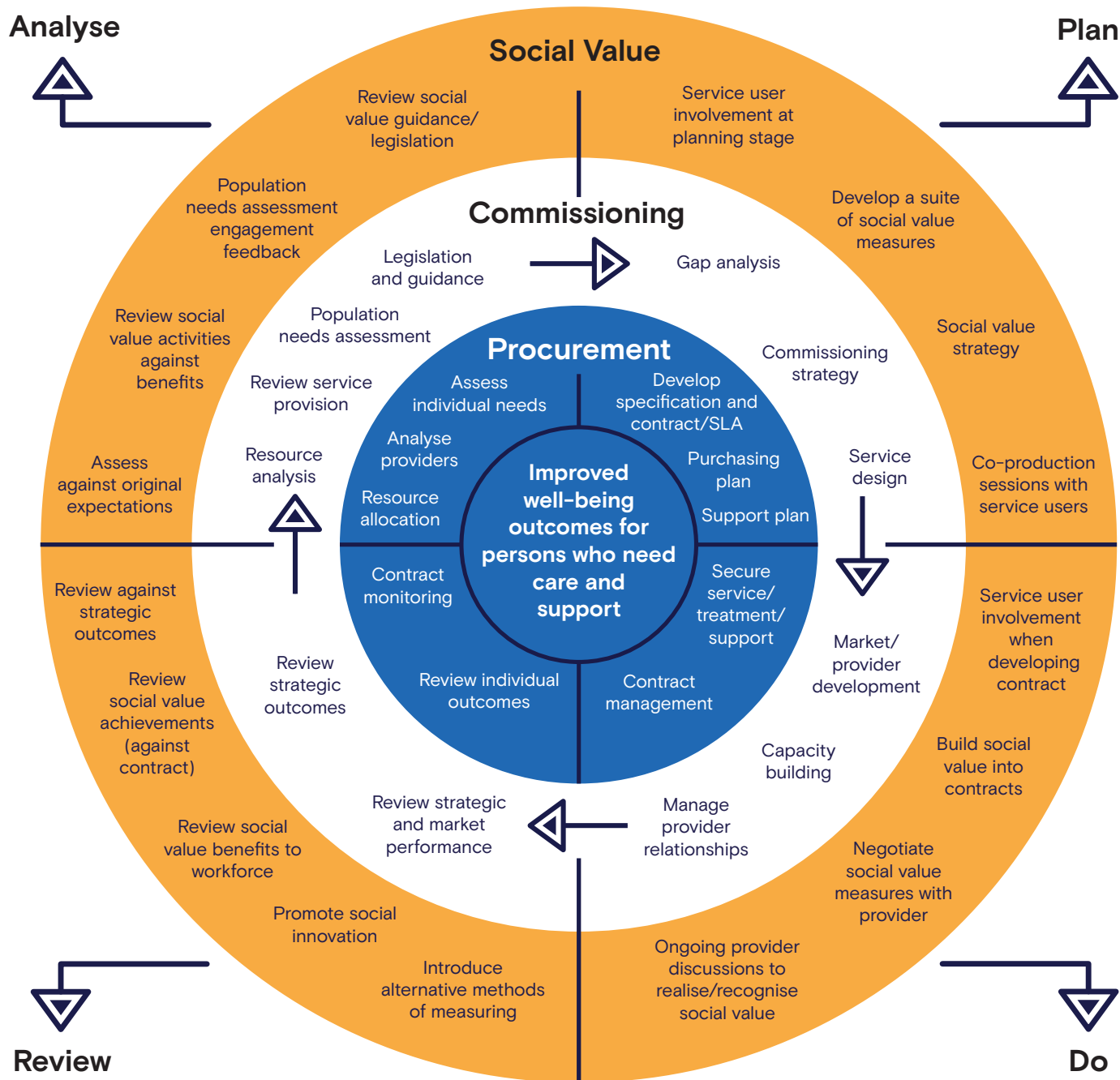
- **Map the Section 16 provider footprint in the Forum's area:**
  - E.g., what types of organisation are providing what types of care, support or preventative services, to whom and in which locations?
  - This could be undertaken as part of a Market Position Statement.
- **Identify areas of service delivery where Section 16 could expand.**
- **Develop plans for increasing the Section 16 footprint.**

In undertaking these tasks, Forums may find it helpful to make use of the following version of the commissioning cycle<sup>2</sup> which indicates activities which underpin the promotion of transformational models of delivery, referred to in the diagram as Social Value models.



<sup>2</sup> Included in the National Commissioning Framework for Care and Support in Wales

# What are the key tasks for Section 16 Forums



# Who attends Section 16 Forums

The key participants are:



- Commissioners
- Section 16 organisations and/or their representatives
- Citizens, unpaid carers and/or their representatives.

Other potential partners may attend as required, for example, from housing or Local Health Boards or primary health care clusters, along with Llais which aims to give people more say in health and social care services.

County Voluntary Councils (CVCs) can play an important role. Their representatives on the Regional Partnership Boards can also help with the two-way flow of information and views.

It is likely that the Forums will need to have both a cycle of formal meetings (where the emphasis is on a mutually helpful exchange of news and ideas between commissioners and providers) and a cycle of less formal workshops at which citizens and unpaid carers can be given more time and support to participate.

However, the way in which Forums are run is a matter for local and regional decision making, with scope for experimenting and adjusting over time.

For information about Llais, visit:  
<https://www.llaiswales.org/about-us>

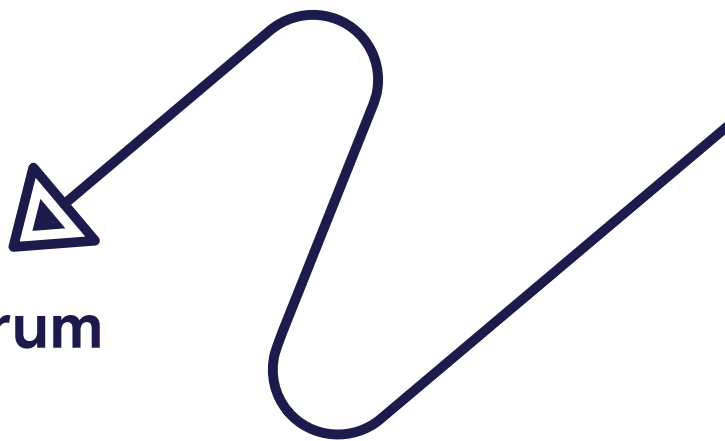
For information about your local County Voluntary Councils, visit Third Sector Support Wales: <https://thirdsectorsupport.wales>

For information about your Regional Partnership Board, visit: <https://www.gov.wales/regional-partnership-boards-rpbs>

# 05



# Key ingredients for a successful Section 16 Forum



- **A statutory agency champion.**  
Without this, the Forum will not be taken seriously.
- **The active attendance of commissioners.**  
Without this, providers will de-prioritise Forum attendance.
- **The engagement of Section 16 organisations.**  
Without this, commissioners will de-prioritise Forum attendance.
- **Regular and meaningful dialogue with citizens and carers.**  
Without this, Forums will fail to meet a core requirement of Section 16.
- **A clear and positive relationship with County Voluntary Councils.**  
Without this, the Forum will have fragmented connections with the third sector and its expertise in co-production and community engagement.
- **A clear and positive relationship with the Regional Partnership Board.**  
Without this, the Forum will be marginal to key planning activities, such as those relating to the Regional Integration Fund.
- **The consistent use of the Forum as part of key planning activities.**  
Without this, the Forum will be seen as just a talking shop.
- **The inclusion of Section 16 growth plans within strategic funding programmes (such as, but not only, the Regional Integration Fund).**  
Without this, the Forum will view its work as having no impact.

# 06



## The value of Forums to Section 16 organisations



- Section 16 Forums should offer opportunities for care commissioners and Section 16 organisations to work together as allies with a common desire. They all want to support the core purpose of the Social Services and Well-being Act:  
*Improved well-being outcomes and sustainable social care services.*
- The Forums offer the opportunity for commissioners and providers to have mutually helpful conversations about problems and solutions and to develop more stable and resource-efficient ways of commissioning and providing care.
- They should be places where commissioners and providers jointly aspire to a reduction in the negative impact of excessive competition whilst recognising that procurement must always be fair and transparent.
- They should enable Section 16 organisations to have a greater understanding of the well-being needs of the local population and of the stability of the care market – things which local authorities are required to evaluate and can usefully discuss at Forum meetings. Forum members can then consider how they or their sector might be of greater assistance to the local authority in addressing these needs and issues.





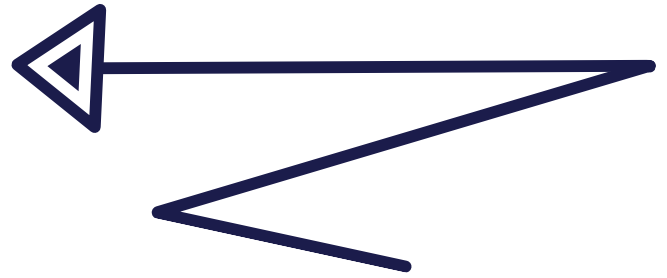
## The value of Forums to the voluntary and community sector



- There are lots of small and local groups and associations providing well-being related activities for people who have the potential to need health or social care services, including unpaid carers.
- Section 16 Forums should offer them access to a network of care commissioners and providers who are supportive of what they do and with whom they may be able to create reciprocally helpful relationships.
- Helping community groups and supporting people to use community assets is one way in which larger provider organisations can add value to their contractual work. Section 16 encourages this to happen.
- Some small associations have the potential to become registered care providers, but it is a big challenge to make the change. Section 16 networks should be a source of advice and support and long-term collaboration.



# The value of Forums for local authorities and Local Health Boards



## Capacity

- The creation of a care market over the past thirty years has significantly changed the role of local authorities so that they are more often commissioners than providers of direct care. This has reduced some of their internal capacity and ability to plan and manage change. Constraints on public sector finances have also contributed to the challenge of limited capacity.
- Consequently, when laws and policies call for transformational change, it must be acknowledged that the in-house capacity to do the work is quite modest and under constant pressure.
- Section 16 Forums create an opportunity for care commissioners and health commissioners to work with a range of organisations that they commission who share the same public ethos and have a common desire: to achieve great well-being outcomes for citizens and a sustainable pattern of local care and support services.
- The leadership capacity of Section 16 organisations is already quite significant in some areas of social care, and Section 16 Forums create a vehicle for bringing that capacity together and combining it with the change capacity of local authorities and Local Health Boards.

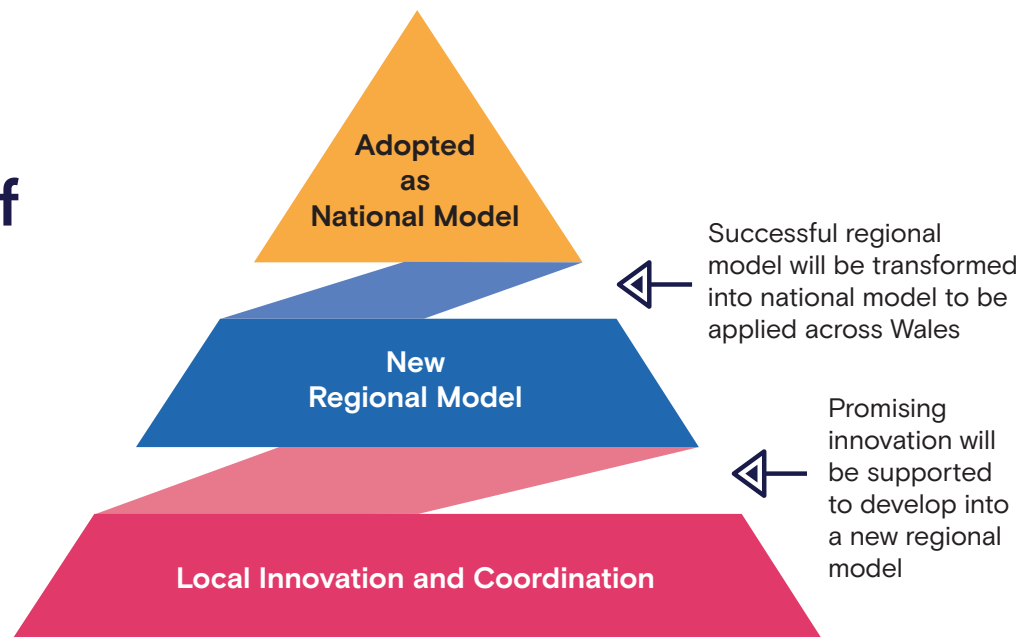




## Co-production

- **Co-production is an approach that:**
  - a) recognises people as assets, and as having a positive contribution to make to the design and operation of services.
  - b) supports and empowers people to get involved with the design and operation of services,
  - c) empowers people to take responsibility for, and contribute to, their own well-being,
  - d) ensures that practitioners work in partnership with people to achieve personal outcomes at an individual and service level, and
  - e) involves people in designing outcomes for services.
- It is explicit within the transformation agenda of the Act that the achievement of both well-being outcomes and sustainability require co-production with citizens and communities.
- This inevitably requires greater engagement with citizen-led and community-grounded organisations. Such organisations are Section 16 organisations. All Section 16 organisations have roots or connections with citizens and communities.
- Section 16 Forums create an opportunity for commissioners and planners to promote transformational values and to learn from (and replicate) exemplars of co-production and community participation.

## The value of a national Community of Practice



- The Section 16 Forums are each intended to generate and share ideas and solutions within their local area and region.
- By coming together as a National Community of Practice, the Forums can also share what is working and not working across Wales and accelerate the achievement of our transformation and rebalancing goals.
- This will mirror the approach set out in Healthier Wales and the restated in the Part 9 Statutory Guidance (see below) with reference to the Regional Integration Fund of which a minimum of 20% is to be invested in third sector and other social value organisations: in other words, invested in Section 16 organisations.
- NB. The reference to 20% is not intended to imply that there is a target of 20% for Section 16 provision. There is no target for market share: just a goal to see it grow from its current position.

# 10





## Engaging with citizens



As stated at the start of this guidance, the involvement of citizens and unpaid carers in decisions affecting them is central to Section 16, and it is essential that people's voices are incorporated into Forum activities in meaningful ways.

**The following are suggested options and not an exhaustive list:**

- Forums can welcome and support the attendance of users and/or carers who are members or co-representatives of their Section 16 provider.
- Forums can explore the potential for an on-going dialogue with a Citizen Panel or similar local or regional entity.
- Forums can invite users and carers to workshop events which are geared towards co-production and citizen involvement.

# 11



## Monitoring



The Part 2 Code of Practice requires local authorities to publish a joint report every three years on the ways they have promoted social enterprises, co-operatives, user-led services and the third sector providers across the area covered by their statutory regional partnership, including the activities of the Forum or Forums within the region.

The Code also states that local authorities should provide and publish an annual update on this activity. This can form part of the Regional Partnership Board's annual report.

Arrangements should also be made for regular reports to the partnership bodies and the Regional Partnership Board on Section 16 Forum activity. Six monthly reports are recommended.

There is a risk that these reports will only describe the existence and administrative functioning of the Forums, leaving the reader (whether citizen or other stakeholder) with no indication of whether anything is being learned or achieved. Some Section 16 Forum activity will lend itself to narratives, describing issues raised, and obstacles experienced and hopefully changes for the better.

Examples of such narratives are briefly provided below (chapter 13). Where appropriate, it would be useful for the report to provide some data, for example on the number of people experiencing a positive specific change, or the percentage of expenditure which is achieving better value. Similarly, reporting on 'rebalancing' should start with baseline data on the amount and type of current Section 16 provision, and then track its growth over time.



## Section 16 Transformative activity





## Terms of Reference



14





### Terms of Reference for Section 16 Forums

#### 1. Statutory Background and Policy Context

Section 16 of Part 2 of the Social Services and Well-Being (Wales) Act 2014 places a duty on local authorities to promote social enterprises, co-operatives, user-led services and other third sector organisations for the provision of care and support and preventative services. Under the Part 2 Code of Practice (General Functions), local authorities are required to facilitate a regional Forum (or, where appropriate, more than one Forum) to bring together Section 16 organisations with health, social care and housing commissioners, to promote and grow this segment of the social care market.

The Part 9 Statutory Guidance on Partnership Arrangements states that the Regional Partnership Boards should establish links with the Section 16 Forums and ensure that they can contribute to their work.

#### 2. Purpose

The purpose of Section 16 Forums is twofold:

- i. Transforming care to achieve greater well-being and sustainability.
- ii. Rebalancing the care market to achieve greater diversity of sectors.

These two aims are linked and mutually supportive.

The Transformation aim of Section 16 Forums is about promoting service delivery which is:

- i. based on the principles of the Act
  - Well-being Outcomes
  - Co-production / Voice and Control
  - Collaboration
  - Early Intervention / Prevention
- ii. and offers added value
  - Social and Cultural Value
  - Economic Value
  - Environmental Value.

The underlying rationale for the Section 16 duty is that the types of organisations it specifies “lend themselves” to delivering on the principles of the Act and to adding value.

The Rebalancing aim is about shaping the market away from a current over-dependency on private provision. The policy of eliminating private profit from children’s services is relevant to this agenda, but there is no intention to eliminate private profit from adult services, only to reduce dependency on it by increasing the footprints of other sectors. The focus of Section 16 Forums is on increasing the footprint of Section 16 organisations. What parts of the care sector should (and can) be rebalanced will vary across Wales and sensible judgements will be needed, informed by relevant data. The Forums should be used to help in this regard.

### **3. Forum Activities**

- 3.1. (Name of local authority/ies) will use the Forum to provide support and encouragement to social enterprises, co-operatives, user led services and the third sector, so that they are able and willing to fulfil service delivery opportunities.
- 3.2. Commissioners and Section 16 organisations will use the Forum to facilitate dialogue about the challenges, risks and opportunities for the sector within local communities and across the region.
- 3.3. (Name of local authority/ies and health board) will engage with the Forum when drawing up their population needs assessments and market stability reports. This will include engagement with the Forum when:
  - gathering data about the amount and type of care, support and preventative services being provided by Section 16 organisations in county areas and across the region, and
  - identifying obstacles, opportunities and priorities for expanding Section 16 provision.

- 3.4. Commissioners will share information with providers about relevant funding streams and enable the Forum to engage in the drawing up of proposals for expenditure relating to the purpose of the Forum.
- 3.5. Members will use the Forum to come together for mutual support, shared learning and promotion of good practice. They will encourage each other to commission and deliver services that support the principles and transformational agenda of the Act.
- 3.6. Every three years (name of local authority/ies) will publish a joint report on the ways they have promoted social enterprises, co-operatives, user-led services and the third sector providers across the area covered by their statutory regional partnership, including the activities of the Forum or Forums within the region. An annual update report will also be provided for inclusion in the Regional Partnership Board's annual report.
- 3.7. To ensure the Forum is continually active and adding value, a six-monthly report on Forum activity will be provided to the authorities in the region and Regional Partnership Board.
- 3.8. The Forum will participate in a national online Community of Practice for Section 16 Forums, enabling members to share learning across Wales and influence national policy in support of the Forum objectives. The frequency and administration of the national CoP meetings will be agreed between the leadership of all Forums.

#### **4. Area Covered by the Forum**

- 4.1. There may be one regional Forum or, if appropriate, more than one Forum. This will depend upon what works best in the region and will be decided by the local authorities who are responsible for setting up the Forum(s).

### **5. Leadership and Administration**

- 5.1. Local authorities are required to provide leadership for these Forums, ensure that they have clear terms of reference, and provide secretariat support for meetings. Leadership roles may also be provided by representatives of Section 16 organisations but this will not remove the need for local authority leadership.
- 5.2. The secretariat of the Forum will be undertaken by (name of an agreed statutory partner) who will fund the venue and refreshments in the absence of a dedicated budget.
- 5.3. Meetings will be held at least quarterly and will seek to align with the cycle of statutory regional planning activities so members can input draft plans and respond to finalised plans.
- 5.4. To ensure that the Forum meetings provide sufficient time and space for effective engagement with required activities, it is recommended they are organized as face-to-face workshops in convenient locations with sessions before and after a networking lunch break.

### **6. Membership and Attendance**

- 6.1. The core members of the Forum are local and regional commissioners and Section 16 provider representatives. Commissioners will ideally include health as well as social care, to reflect the role of both sectors in commissioning services from Section 16 organisations.
- 6.2. Given that one of the reasons that Section 16 organisations are to be promoted is because they lend themselves to co-production and enabling users and carers to have voice and control, the Forum will ensure that the user and carer voice is incorporated into Forum activities by such means as are manageable and meaningful.
- 6.6. The Forum will seek to have a mutually beneficial relationship with the Third Sector representatives on the Regional Partnership Boards and will invite them to be members.

**7. Governance and Accountability**

- 7.1. The Forum is accountable to the local authorities in the region. Subject to the Regional Partnership Board's consent, the mechanism for reporting and accountability will be channelled through the Board.
- 7.2. Members will be responsible for declaring to the Chair any conflicts of interest at the beginning of each meeting.
- 7.3. Any decision will be made by consensus or by a majority vote. If necessary, the Chairperson will have the casting vote.
- 7.4. The Forum will review these Terms of Reference on an annual basis, making such changes as are necessary for its effective operation with the agreement of the local authorities in the region (or if so agreed as a partnership mechanism, the Regional Partnership Board).

NB. The Part 9 Statutory Guidance on Partnership Arrangements states that Regional Partnership Boards should establish links with Section 16 Forums and ensure they can contribute to the Board's work.

## Terms of Reference – Appendix 1

### Relationship to Regional Partnership Boards

Under the Part 9 Statutory Guidance, Regional Partnership Boards should establish links with the Section 16 Forums and ensure that the Forums can contribute to the Board's work.

The form and frequency of contact between a Forum and a Board is not specified, but the Forum will seek to develop its work programmes in alignment with the cycle of regional reports and plans, in order to facilitate its views and activities being reported to the RPBs and receiving due regard by them. The Forum will thereby contribute to the development of:

- Population Needs Assessments
- Market Stability Reports
- Joint Area Plans
- Strategic Funding Programmes.

## Terms of Reference – Appendix 2

### Forum Ethos – Section 16 values

The Forum will uphold and promote the principles of the Act:

- Well-being Outcomes
- Co-production / Voice and Control
- Partnership and Collaboration
- Prevention and Early Intervention.

The Forum will also promote activities which add value to public services:

- Socially (such as a service that supports people to connect with their community)
- Economically (such as a service that pays decent wages and recycles public funds)
- Environmentally (such as a service that reduces its carbon emissions).

Members of the Forum, both commissioners and providers, will strive to put aside organizational self-interest and seek to work with each other for reciprocal benefit and the greater good.

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