

Agenda – Health and Social Care Committee

Meeting Venue:	For further information contact:
Hybrid – Committee Room 5, Ty Hywel and video conference via Zoom	Sarah Beasley Committee Clerk
Meeting date: 13 November 2024	0300 200 6565
Meeting time: 11.30	SeneddHealth@senedd.wales

Public meeting

(11.30–11.35)

1 Introductions, apologies, substitutions, and declarations of interest

(11.30)

2 Paper(s) to note

(11.30)

2.1 Letter from NHS Wales Chief Executive to the Chair regarding the Ministerial gynaecology summit follow-up report

(Page 1)

2.2 Letter from Minister for Children and Social Care to the Chair regarding response to Recommendation 13: final report from the Independent inquiry into Child Sexual Abuse (IICSA)

(Pages 2 – 11)

2.3 Letter from Minister for Children and Social Care to the Chair: response to recommendations for the Health and Social Care (Wales) Bill

(Pages 12 – 23)

2.4 Letter from Minister for Children and Social Care to Legislation, Justice and Constitution Committee: response to recommendations for the Health and Social Care (Wales) Bill

(Pages 24 – 34)



- 2.5 Letter from the Directors of ACE Hub Wales and Traumatic Stress Wales regarding the development and implementation of the National Trauma-informed framework for Wales**

(Pages 35 – 38)

- 3 Motion under Standing Order 17.42 (ix) to resolve to exclude the public from the remainder of today's meeting**

(11.35)

Private meeting

(11.35–12.05)

- 4 Health and Social Care (Wales) Bill: Stage 2**

(11.35–11.45)

(Pages 39 – 42)

Paper 1 – Health and Social Care (Wales) Bill: Stage 2 : Order of consideration

- 5 Inquiry on general practice: consideration of draft terms of reference**

(11.45–12.05)

(Pages 43 – 50)

Paper 2 – Inquiry on general practice: consideration of draft terms of reference

Agenda Item 2.1

Cyfarwyddwr Cyffredinol Grŵp Iechyd, Gofal Cymdeithasol a'r
Blynyddoedd Cynnar/ Prif Weithredwr GIG Cymru
Grŵp Iechyd, Gofal Cymdeithasol a'r Blynyddoedd Cynnar

Director General Health, Social Care & Early Years Group
NHS Wales Chief Executive
Health, Social Care and Early Years Group



Llywodraeth Cymru
Welsh Government

Russell George MS
Chair
Health and Social Care Committee

SeneddHealth@senedd.wales

KO/JP/LW

30 October 2024

Dear Russell

Ministerial gynaecology summit follow-up report

The Cabinet Secretary for Health and Social Services wrote to you on 25 July 2024 in response to your queries regarding the Ministerial Gynaecology Summit.

I am now able to provide you with the web links to the summit report, which outlines the discussions that took place and the agreed actions.

Welsh link: <https://www.llyw.cymru/uwchgynhadledd-gynaecoleg-8-gorffennaf-2024>

English link: <https://www.gov.wales/gynaecology-summit-8-july-2024>

If you have any queries or concerns, please contact performanceandescalation@gov.wales.

Yours sincerely

Judith Paget CBE



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Agenda Item 2.2

Y Gweinidog Plant a Gofal Cymdeithasol
Minister for Children and Social Care



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref MA-PO-0309-24

Russell George MS
Chair
Health and Social Care Committee
Welsh Parliament
SeneddHealth@senedd.wales

04 November 2024

Dear Russell,

Thank you for this opportunity to provide an overview to the Health and Social Care Committee of the activities the Welsh Government has undertaken, and continues to undertake, to raise awareness of mandated organisational duties to report, along with an overview of the context for this work.

Welsh Government response to IICSA Recommendation 13

Welsh Government accepted in principle Recommendation 13 (the introduction of mandated individual duties to report) of the final report from the Independent Inquiry into Child Sexual Abuse (IICSA).

We wholly agree with the principle that where there has been disclosure (from a child or perpetrator); witnessing; or observation of behaviours or other evidence that a child is experiencing or is at risk of sexual abuse, these must be reported without delay, either to the relevant local authority or to the Police, as appropriate.

We recognised there are key differences in the approach taken to reporting in Wales compared to that proposed by the Inquiry. Our practice and legislation relate to both children and adults who may be experiencing or at risk of abuse, neglect or, in the case of children, harm; whilst the Inquiry's recommendation (given its statutory remit) is made in respect of child sexual abuse. Our reporting requirements are organisation-based, whilst the Inquiry proposes a statutory duty on 'mandated reporters', certain individuals, as defined within the recommendation.

We also recognise that the Inquiry recommends a criminal sanction for failing to report where an individual receives a disclosure (from a child or perpetrator) or witnesses child sexual abuse. The Welsh duties do not have criminal sanctions attached but to be able to comply with them, 'relevant partners' will need to have effective corporate policies, procedures and support in place to ensure that those exercising functions on their behalf (i.e. their staff, contractors, volunteers) know their responsibilities, sufficiently understand and are enabled to act in accordance with those duties.

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

Many of those working for or on behalf of 'relevant partners' will be registered with professional bodies, and subject to their respective codes of conduct and fitness to practice reviews. Therefore, many individuals including teachers, health professionals, social care workers, police and probation officers will have both contractual and professional obligations to report concerns, with disciplinary and regulatory consequences available.

We committed to:

- strengthen and improve compliance with our regulatory frameworks across childcare, education, health and social care
- build on the publication of our Code of Safeguarding Practice
- engage widely and explore views on ensuring that others who provide services or offer activities for children and for adults who may be at risk, have proportionate and effective safeguarding arrangements in place
- seek further views about and explore the implications of placing duties to report children and adults at risk, on individuals, as part of the conversation on next steps.

We said we would combine this with further measures to promote access to effective training and tools for practitioners; and to raise and sustain public awareness of abuse, neglect and harm, and the vital steps to take where this is happening or suspected. This will be informed by a better understanding of what prevents people from raising and reporting concerns and will aim to empower individuals with the confidence to seek the support that they need or know how they can respond to others, to help lessen dangers and secure support for children and adults at risk.

Mandatory duty to report on organisations in Wales

The Social Services and Well-being (Wales) Act 2014 came into effect in April 2016. It sets out what must and should be done to safeguard children and adults in Wales.

[Section 128 of this Act](#), specifies the duty placed on 'relevant partners' under section 162 of the Act to report both adults and children, including unborn children, they have reasonable cause to suspect are at risk of abuse or experiencing abuse, neglect and in the case of children, harm.

Relevant partners are:

- a)** The local policing body and the chief officer of police for a police area any part of which falls within the area of the local authority;
- b)** Any other local authority with which the authority agrees that it would be appropriate to co-operate under this section;
- c)** The Secretary of State to the extent that the Secretary of State is discharging functions under sections 2 and 3 of the [Offender Management Act 2007](#) in relation to Wales;
- d)** Any provider of probation services that is required by arrangements under section 3(2) of the [Offender Management Act 2007](#) to act as a relevant partner of the authority;
- e)** A local health board for an area any part of which falls within the area of the authority;
- f)** An NHS Trust providing services in the area of the authority;
- g)** The Welsh Ministers to the extent that they are discharging functions under Part 2 of the [Learning and Skills Act 2000](#);
- h)** Such a person, or a person of such description, as regulations may specify.

Agencies not included as 'relevant partners' above are still expected (set out in Working Together to Safeguard People: Code of Safeguarding Practice) to report any safeguarding concerns in the same way as those with a mandated duty to report. This includes both paid and non-paid staff in third sector organisations (this includes: independent contractors and sub-contractors, independent professionals and private organisations). Volunteers should agree to adhere to a code of conduct with the organisation in which they volunteer.

Welsh Government non-statutory guidance Working Together to Safeguard People: Code of Safeguarding Practice was issued in 2016 (currently being reviewed and revised) to encourage and set out expectations for organisations that do not have a mandatory organisational duty, for example, voluntary and private providers. The guidance sets out how to establish robust safeguarding systems including, provision of safeguarding training, having a safeguarding policy and procedure in place, having a designated safeguarding lead and completing DBS checks for staff. The Code also includes advice about information sharing and the legislation surrounding this.

Whilst there is no mandatory organisational duty to report placed on these voluntary and private providers, there is an expectation that they will act in the same way as local authorities and key partners to protect and safeguard children and adults who are or may be at risk. Local authorities and their key partners build these safeguarding system requirements, alongside the expectation to follow the Wales Safeguarding Procedures, into their commissioning processes, and this encourages good practice in the voluntary and private sector as they are largely dependent on the funding they receive from local authorities and key partners.

I echo the responses to the Committee from both the NSPCC and the Children's Commissioner in that, mandatory reporting duties, whether organisational or individual, are only one part of a robust safeguarding system. Inspection and regulation, safeguarding training that is refreshed regularly, recruitment checks and balances, sound understanding of information sharing, and robust safeguarding policies and procedures are all elements that when combined, form an effective safeguarding system.

Our objective is to improve the identification of and response to all forms of abuse, neglect or harm that children or adults (at risk) may face. Recognising these must align with measures designed to inform; prevent; protect and holistically support those affected.

We will roundly consider strengthening or placing legal requirements on organisations (not currently subject to mandatory organisational duties to report) to safeguard and protect children and adults at risk; including notifying local authorities or the Police where individuals may be experiencing or at risk of abuse, neglect or harm.

We will invite further views and explore the implications of placing duties to report on individuals, in light of IICSA's Recommendation 13: Mandatory reporting.

We want to ensure that whether in the statutory, independent or voluntary sectors, those who provide services or offer activities for children or adults who may be at risk, and could be in a position to receive disclosures, potentially witness or recognise signs of harm, have proportionate and effective arrangements in place, which reflect the Wales Safeguarding Procedures. That they know how to respond to individuals and report concerns.

We want to know that these arrangements are properly implemented, supported, and monitored, with regular review and evaluation of practice; and with any appropriate external oversight/inspection and proportionate consequences for failures.

We recognise the need to gather and analyse further evidence; to engage and consult as appropriate; and to explore and assess the implications of identified policy options.

Information sharing: guidance

Lack of information sharing, for a range of reasons, arises as an issue in Practice Reviews and other national reports e.g. from the Independent Inquiry into Child Sexual Abuse. A sound understanding of what can be shared, with whom and when this should be done is as important as mandating a duty to report on organisations. Mandatory organisational duties to report would not meet its intended objective if staff do not understand their roles and responsibilities in relation to information sharing and therefore do not report concerns when they should.

Welsh Government has developed and published guidance called Working Together to Safeguard People: Information sharing to safeguard children which is non-statutory guidance for practitioners.

This document sets out Seven Golden Rules for information sharing. These include the laws around data protection and how they relate in a safeguarding situation and explains that the legislation and regulations in place do not stop people reporting concerns about risk of harm to a child or adult. A leaflet was developed to accompany this guidance. The guidance document also explains the organisational duties to report with a link to further information.

Since the publication of the Seven Golden Rules, the Information Commissioner's Office (ICO) has developed its own guidance about information sharing when there are concerns about a child. This is a ten-step guide for practitioners and is accompanied by posters, leaflets and other materials. This information is available from the ICO website and Wales Safeguarding Procedures website in the resources section.

In this guidance, the ICO clearly states that the law does not prevent the sharing of information when there are concerns about a child. In addition, Wales Safeguarding Procedures includes an information sharing guide and explanation of duties to report.

Wales Safeguarding Procedures: duties to report

Wales Safeguarding Procedures were developed and are maintained by a Project Board comprising representation from the local authorities and their key partners and the Regional Safeguarding Boards (RSBs).

The procedures translate the Social Services and Wellbeing (Wales) Act 2014 and the Codes of Practice that sit beneath them relating to safeguarding into procedures for staff from all sectors and all organisations. They are written in an accessible way to ensure that everyone can understand what their duties and responsibilities are, regardless of their role.

The Procedures include a range of 'Top Tips' documents that concentrate on specific areas such as duties to report and information sharing. The Procedures are stored on a website and an app can be downloaded to phones and other devices. There is also a section for All Wales Practice Guides on specific safeguarding topics like child trafficking.

Welsh Government provides funding annually to support the Project Board to maintain the website, maintain/update the Procedures and to develop All Wales Practice Guides for children and adults at risk. The Practice Guides re-state and link to the information that is in the main procedures regarding duties to report concerns.

This is a key resource for practitioners that is referenced in relevant Welsh Government guidance and in organisations' safeguarding policies; organisations' websites also provide the link, and they are signposted and explained in multi-agency training delivered by RSBs and single agency safeguarding training delivered within organisations.

Multi-agency training on mandatory organisational duties to report

Following Social Care Wales running a series of workshops to explain duties to report to local authorities and their relevant partners, supported by Welsh Government funding, Social Care Wales also developed a raft of resources including digital and written resources that can be accessed via their website.

Funding from Welsh Government has enabled Social Care Wales to continue to develop resources since this time for social care and early years staff. This includes guidance and training about duties to report.

They have also developed and are now implementing the National Standards for Safeguarding Training which sets out the groups that will require safeguarding training and what training they require, dependent on their role.

For example, Group A, is everyone who could come into contact with children and adults who may be experiencing significant harm or at risk of experiencing harm from abuse and/or neglect, during the course of their work. This includes volunteers and paid staff.

Their roles range from a hospital porter to a social care worker, and includes teaching assistants, childcare and early years staff, receptionists in surgeries and schools: those whose role is not a designated safeguarding one but who need to know how to identify the signs and indicators of abuse, neglect and other forms of harm, and know who to alert to the concerns they have (duty to report).

An online training module is now available for this group on the Social Care Wales website and includes scenarios for them to test out their knowledge as they work through the package.

The full list of training groups identified is:

1. [Group A](#) (basic awareness)
2. [Group B](#) (intermediary)
3. [Group C](#) (advanced)
4. [Group D](#) (specialist)
5. [Group E](#) (consultancy or sector leader)
6. [Group F](#) (public service leaders)

Training modules for each group are currently being developed in conjunction with Regional Safeguarding Boards.

The local authority and key partners that have mandated organisational duties to report also have safeguarding training specific to their sector that is delivered in-house or commissioned. Additionally, as a safeguarding partnership of the local authority and key partners, Regional Safeguarding Boards (RSBs) deliver a programme of multi-agency training which mirrors the above groups contained within the Standards. In these organisations safeguarding training is mandatory.

Welsh Government funds each of the RSBs £12K each year to subsidise their training programme and in addition fund each RSB £2K each year to develop and deliver activities during Safeguarding Week which takes place in November of each year.

Social Care Wales, using funding provided by Welsh Government, also develop and deliver training on mandatory organisational duties to report including developing bespoke resources for different sectors, for example, social care and childcare.

Regional Safeguarding Boards (RSBs): training and information sharing

The 2014 Act provides the statutory objectives of the Safeguarding Boards, that is, in relation to children:

1. "To protect children within its area who are experiencing, or are at risk of, abuse, neglect or other kinds of harm, and
 2. To prevent children from within its area becoming at risk of abuse, neglect or other kinds of harm" (S.135 (1))
- and in relation to adults:
- a. "To protect adults within its area who –
 - (i). Have needs for care and support (whether or not a local authority is meeting any of those needs), and
 - (ii). Are experiencing, or are at risk of, abuse or neglect, and
 - b. To prevent those adults within its area ... from becoming at risk of abuse or neglect" (S.135 (2)).

The 2014 Act also states that a Safeguarding Board, *"must seek to achieve its objectives by coordinating and ensuring the effectiveness of what is done by each person or body represented on the Board"* (S.135 (3)); to set out its proposals for achieving its objectives at the beginning of each financial year (S.136 (1)); and *"co-operate with the National Board and...supply the National Board with any information it requests"* (S.139 (1)).

Working Together to Safeguard People Volume I – Introduction and Overview states that one of the functions of the Safeguarding Boards is "to review the training needs of those practitioners working in the area of the Board in order to identify training activities and to provide and to ensure training is provided on an interagency and individual organisational basis to assist in the protection and prevention of abuse and neglect of children and adults at risk of harm in the area of the Board" (para.113 (j)).

Additionally, each of the Regional Safeguarding Boards has a website that includes information about Practice Reviews (now transitioning to Single Unified Safeguarding Review), the Board's work, its annual reviews and work plans, and the main pages have information about safeguarding including advice on what to do if you have concerns about children or adults.

National Independent Safeguarding Board (NISB): information sharing and improvement

The Social Services and Wellbeing (Wales) Act 2014 established the National Independent Safeguarding Board with the following functions:

1. To provide support and advice to Safeguarding Boards with a view to ensuring that they are effective

2. To report on the adequacy and effectiveness of arrangements to safeguard children and adults in Wales
3. To make recommendations to the Welsh Ministers as to how those arrangements could be improved (S.132 (2)).

The regulations made under the 2014 Act set out the way in which the National Board must exercise its functions. An important function is the requirement to consult with those who may be affected by arrangements to safeguard children and adults in Wales.

The National Board works on a part-time basis. Its six members are expected to work at least a day a month on National Board matters.

Welsh Government provides annual funding to the Board to deliver on their functions. The Board has a website on which they publish their annual reviews and workplans and research/reviews they have commissioned to inform their work and the work of the wider safeguarding community.

Annually, the Board delivers a conference on a specific area of safeguarding. This year this will take place on 21 November and will focus on learning from Adult Practice Reviews undertaken in Wales and England. Some of this learning will inform any changes we propose to make around mandatory duties to report.

Last year the Board published a Thematic review of Child Practice Reviews undertaken in Wales and this year the Board has focused on adults: Manchester Metropolitan University was commissioned by the Board to complete a rapid review of Adult Practice Reviews completed in Wales. These products are shared with Regional Safeguarding Boards and used to inform their annual workplans. Progress is reported in their annual reviews which are shared with NISB.

National Campaigns to raise awareness of safeguarding responsibilities

In 2023 the Welsh Government launched a national awareness campaign called 'Make the Call'. This was delivered in the months of November and December 2023. The Make the Call campaign objectives were:

- To raise and sustain public awareness of abuse, neglect and harm, and the vital steps to take where this is happening or suspected.
- To encourage people to report concerns of abuse to Social Services
- To alleviate the concerns about reporting abuse and highlighting the benefits of doing so.

It included adverts on radio, Facebook, Twitter and other social media channels and reached over 200,000 parents via Netmums and exceeded reach predicted for the campaign. A follow up survey with 400 people identified high prompted recall rates for the campaign, with 17% of respondents saying they remembered seeing the campaign adverts. Parents were the most engaged demographic, being more likely to see information on child safeguarding generally as well as the campaign, and also, more likely to act on abusive scenarios.

A review of the campaign 'Make the Call' highlighted that the most likely reasons for the public not reporting concerns to relevant agencies are fear of recriminations and fear of getting it wrong. The outcomes of this review are being used to shape further campaigns. In response to a recommendation in the Child Practice Review of Child T the NSPCC have co-produced an awareness raising campaign with Cwm Taf Morgannwg Regional

Safeguarding Board. Welsh Government provided further funding to ensure the resources can be utilised across Wales.

Welsh Government are currently working with the NSPCC to consider the next national phase of this campaign.

Plans to develop campaigns on specific safeguarding topics that relate to children and relate to adults at risk are being progressed.

Sector specific safeguarding legislation, regulation and guidance relevant to education and children and young people

Welsh Government has strengthened safeguarding requirements for Independent Schools through the [Independent School Standards \(Wales\) Regulations 2024](#) which came into force on 14 February 2024 and have legislated to [regulate special school residential services](#) in a similar manner to care homes for children; this came into effect fully on 31 March 2024.

We have also published a [revised National Minimum Standards for regulated childcare](#) which strengthens the standard in relation to safeguarding; and published [a quality framework for Early Childhood Play, Learning and Care](#) which includes a quality standard around safeguarding babies and young children from harm, abuse and neglect.

We have recently worked with colleagues to strengthen the safeguarding information contained within the Childcare Booklet for parents.

‘Keeping Learners Safe’: The role of local authorities, governing bodies and proprietors of independent schools under the Education Act 2002 (2022), is Welsh Government issued guidance. This guidance is intended for all those working with children and young people in an education setting or related agency who would benefit from understanding the process and expectations for safeguarding in schools, and the wider system.

The guidance also sets out effective practice for wider education settings and related agencies, particularly those inspected by Estyn. It is recommended as relevant for youth services, work-based learning providers, proprietors of EOTAS provision, initial teacher education (ITE) partnership leads, safeguarding children boards, higher education institutions, Careers Wales and funded non-maintained early years settings.

The purpose of this guidance is to help all education settings ensure they have effective safeguarding systems in place. It sets out the responsibilities of local authorities, governing bodies of all maintained schools (references to schools throughout the document also apply to pupil referral units), further education institutions and proprietors of independent schools, to have arrangements for exercising their functions to safeguard and promote the well-being of children in Wales.

The guidance is also relevant for agencies that supply staff to the education sector, contractors who work in education establishments responsible for under-18s, as well as other providers of education and training for those under 18. In addition, the guidance is also relevant for ITE Partnerships who are required to ensure that all student teachers are provided with specified periods of school experience for school-led training.

The document signposts readers to the Codes of Practice (statutory guidance) sitting beneath the Social Services and Wellbeing (Wales) Act 2014 and the Wales Safeguarding Procedures.

The document is due to be reviewed, and my officials are working with officials in the Equity in Education branch of Welsh Government to ensure that the safeguarding guidance given to schools and others is as robust as possible in communicating the roles and responsibilities of professionals and volunteers.

Online safety resources that support parents/carers and children and young people to identify and report safeguarding concerns are available on HWB. The Welsh Government [Keeping safe online](#) area has been designed and developed to support online safety in education across Wales. It provides an extensive suite of up-to-date bilingual resources, Welsh Government guidance and links to further sources of support on a range of online safety issues.

In addition, it also hosts bilingual resources created by or developed in collaboration with key partners, such as SWGfL, NSPCC, Common Sense Media and the National Crime Agency.

Planned work

October to March 2025

We will continue to engage with stakeholders in the childcare and play sectors who provide services and are registered with Care Inspectorate Wales (CIW) and contribute to shape and strengthen safeguarding advice they have in place. My officials are currently working with childcare and play colleagues on their review of the Exceptions Order and their review of the National Minimum Standards for Childcare.

We will also be engaging with stakeholders in the childcare and play sectors who provide services that do not require them to be registered with CIW currently, to identify how we can support them further to create safe environments for children.

We will be engaging with the National Independent Safeguarding Board (NISB), Regional Safeguarding Boards (RSBs), constituent partners of RSBs i.e. Police, Local Authorities, Health, Probation, Youth Justice, the third sector and private providers of services to people, to consider their views on how well mandatory organisational duties to report have worked in Wales and what we could do better or differently, including consideration of the potential for mandating individual duties to report on specific professionals.

We will be engaging with children, young people and adults who receive care and support services to gather their views on placing mandatory duties to report on individuals.

We will also complete the review of the non-statutory guidance, Working Together to Safeguard People: Code of Safeguarding Practice.

April and May 2025

Findings from the consultation and the review of regulations and relevant documents will be analysed and I will be advised on the policy/legislative options for how we move forward which I will consider at that stage.

I remain of the view that in Wales we must:

- Maintain our people approach so that duties to report whether organisational or individual, (or both) cover children **and** adults at risk.
- Maintain our approach that mandatory duties whether organisational or individual (or both) cover **all** types of abuse, neglect and harm not only sexual abuse.

Engagement with stakeholders needs to be central in considering any changes to duties to report abuse, harm and neglect. Sufficient time will be needed to do this properly. For this reason, I do not consider that the Health and Social Care (Wales) Bill currently before the Senedd is the right vehicle for any such changes.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Dawn Bowden', with a stylized, cursive script.

Dawn Bowden AS/MS

Y Gweinidog Gofal Cymdeithasol
Minister for Children and Social Care

Agenda Item 2.3

Dawn Bowden AS/MS
Y Gweinidog Plant a Gofal Cymdeithasol
Minister for Children and Social Care



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref MA-DB-10629-24

Russell George MS
Chair
Health and Social Care Committee
Senedd Cymru
SeneddHealth@senedd.wales

25 October 2024

Dear Russell,

Thank you once again for your consideration of the Health and Social Care (Wales) Bill during Stage 1. I am pleased that the majority of your Committee supports the general principles, and I thank Committee Members for this, and for their recommendations.

I have set out below my response to the recommendations.

I hope that the attached information helps to inform your further scrutiny as the Bill progresses through Stage 2. I look forward to continuing to work with Committee Members on the details of the legislation in the near future.

I am copying this letter to the Chairs of the Finance Committee, the Legislation, Justice and Constitution Committee and the Children, Young People and Education Committee.

Yours sincerely,

Dawn Bowden AS/MS
Y Gweinidog Plant a Gofal Cymdeithasol
Minister for Children and Social Care

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

Health and Social Care (Wales) Bill

Responses to the Health and Social Care Committee's recommendations

Recommendation 1:

A majority of the Committee recommends that the Senedd supports the general principles of the Health and Social Care (Wales) Bill.

I note this recommendation.

The Welsh Government welcomes this support for the general principles of the Bill.

Recommendation 2:

The Welsh Government should continue to work with partners to explore business models currently not provided for in the Bill that would promote the principles of social enterprise whilst still being not-for-profit.

I accept this recommendation.

The Welsh Government will continue to work with partners to consider whether any further not-for-profit business models can be included within the Bill.

However, it will be important to ensure that any further proposed models do not allow profit of any sort to be extracted even where these are types of organisation that the Welsh Government would encourage more broadly, in order to achieve the aim of eliminating private profit from the care of looked after children. It will also be important to ensure that any further proposed models have the welfare of children or such other public good as the Welsh Ministers may prescribe as their primary purpose/objects.

Recommendation 3:

The Welsh Government should amend the Bill to include regulation-making powers to enable the Welsh Ministers to take steps to close any loopholes enabling extraction of private profit from the care of looked after children, should they become apparent in the future. Such regulations should be subject to the affirmative procedure.

I reject this recommendation.

I agree with the Committee's concern that the legislation should not allow organisations to circumvent the restrictions on extracting private profit. However, the Welsh Government believes that the provisions currently in the Bill strike the right balance between providing clarity for providers and ensuring that practices which undermine the intention to eliminate private profit from the care of looked after children can be addressed. As such I do not think that adding further provision of this kind is desirable.

I believe that the principle behind the recommendation is that Welsh Ministers should have some ongoing power to curtail novel behaviours that aim to extract profit in unexpected ways. I would like to reassure the committee and Members on that point

by referring you to the Bill's provisions which provide that unreasonable or disproportionate financial arrangements entered into by those not-for-profit entities which are restricted children's services, would be evidence to which Ministers must have regard when deciding if a provider is a fit and proper person. If the Welsh Ministers are no longer satisfied a person is fit and proper, they may cancel the person's registration.

Recommendation 4:

The Welsh Government should prepare and publish a detailed offer of the guidance and support that it will make available to private and independent providers wishing to transition to a not-for-profit model. This should be done as a matter of urgency, and should be accompanied by a communication plan.

I accept this recommendation in part.

The Welsh Government will continue to work with stakeholders to consider what guidance and support could be made available to private and independent providers wishing to transition to a not-for-profit model. This will build on funding made available earlier this year through Business Wales to provide bespoke support to a number of providers to start planning for transition.

A communication plan has been developed under the Eliminating Profit Programme Board and we are currently working with members to finalise a series of targeted communications to support different parts of the sector to understand the key Bill provisions, and their expected impacts. We will publish these once members have had an opportunity to input and seek wider sector input where appropriate.

Recommendation 5:

The Welsh Government should make a clear commitment to the level of future funding and support it will make available to local authorities beyond the transition period to support the 'eliminate profit' agenda. As a minimum, this should set out funding for the next five years, which will be a crucial time for local authorities in developing their own provision.

I accept this recommendation in part.

This commitment is a priority for the Welsh Government and we intend to continue prioritising our financial support to local authorities to implement the eliminating profit commitment, whilst recognising the need to manage the overall Welsh Government budget within the outcome of the current and future budget planning rounds. Officials are currently meeting individually with each local authority to discuss planning for implementation in their areas, and their expected level of revenue and capital funding required for future years. Once completed these discussions will inform our consideration of the arrangements for, and amount of, funding in future financial years.

Recommendation 6:

The Minister should write to us, within six months of publication of this report, with details of:

- **the work undertaken by the Eliminating Profit Programme Board in monitoring and evaluating the implementation of the ‘eliminate profit’ policy so far;**
- **the more formal evaluation of the Bill proposed by the Minister, including who will be involved in this review, its terms of reference and how frequently it will report.**

I accept this recommendation.

I will write to the Committee by 11 April 2025 updating on the Eliminating Profit Programme Board’s monitoring of the policy so far, and any initial thoughts on evaluation to date. Within that response I will also set out my thoughts on how formal evaluation will be conducted.

Recommendation 7:

The Minister should consider and respond to the recommendation from the Children, Young People and Education Committee, based on its extensive scrutiny of this policy area, “that the Bill be amended to make it mandatory for foster carers to register with Social Care Wales in order to provide foster placements for looked after children, thereby accelerating progress towards a national register of foster carers”.

I accept this recommendation.

I am happy to consider and respond to the recommendation from the Children, Young People and Education Committee. I have already made clear that I am happy to explore how a national register of foster carers would work and how it could add value.

However, introducing such a change would require consultation with all parts of the sector. Appropriate time will be needed to do this properly. I do not therefore consider that this Bill is the right vehicle for progressing this work.

Recommendation 8:

The Minister should review the evidence from stakeholders setting out their significant concerns about the transition timescales proposed by the Welsh Government, and their potential to exacerbate existing sufficiency problems, in order to assure herself that the policy is deliverable within the timescales proposed, without having a detrimental effect on looked after children and young people.

I accept this recommendation.

The Welsh Government continues to carefully consider the evidence received, alongside information gathered from our own engagement with stakeholders.

Recommendation 9:

The Minister should prepare and publish a report on progress with the transition to a not-for-profit model. This should include an update, by local authority, on the number of placements leaving the market and the number of new placements created, and should reflect on the stability of existing placements. It should also include details of the consultation with children and young people directly affected by the Bill and the numbers taking up the active offer of advocacy. This should be done at six monthly intervals, starting from the date of the Stage 1 debate.

I accept this recommendation.

I will arrange for publication of a six-monthly progress report with intended publication of the first report by 22 April 2025 (6 months after the general principles debate).

Recommendation 10:

The Minister should ensure that any guidance or Code of Practice issued in relation to section 13 confirms that the Bill does not prevent local authorities from placing a child in a supplementary placement prior to Ministerial approval being granted, and that Welsh Government officials are able to act on behalf of Welsh Ministers to approve placements, if necessary. Such guidance should emphasise that the use of supplementary placements should not become the default position, particularly during challenging times.

I accept this recommendation.

The Welsh Government will ensure that the Code of Practice or guidance provides clarity on these issues.

Recommendation 11:

The Minister should prepare and publish an annual report on supplementary placements approved by the Welsh Ministers under the Bill. This report should include anonymised data on matters including, but not limited to, the age-bracket of the child; local authority; the type of placement requested (for profit foster, for profit, residential, out-of-county, out-of-Wales, unregistered); whether the child was already in the placement, cost bracket). An exception must apply to any report produced in line with this recommendation, to the effect that the report must not include any data which, when read in conjunction with any other publicly available information, would enable any individual to be identified. The Minister should include provision for this on the face of the Bill.

I accept this recommendation in part.

While I do not consider this requirement is necessary to be included within the primary legislation, I will update the Senedd periodically on the position regarding Welsh Ministers' approval of supplementary placements.

Recommendation 12:

When correcting paragraph 55 of the Explanatory Notes to remove the term ‘unregistered’ placement, the Minister should make it explicit that placements which are not registered with Care Inspectorate Wales are unlawful and must not be used as ‘supplementary placements’ or under any other circumstances.

I accept this recommendation in part.

Placements that are not registered with Care Inspectorate Wales do not come within the scope of ‘supplementary placements’ and therefore could not be the subject of an application by a local authority for approval under section 81B. While we do not consider the Explanatory Notes to be the appropriate avenue to clarify this we will ensure we make this clear to local authorities when we begin detailed work on guidance to support operation of the supplementary placement process.

Recommendation 13:

The Welsh Government should commit to producing accessible resources aimed at informing children and young people about the Bill and how to make known their views on it.

I accept this recommendation.

As part of our planned communications aimed at different parts of the sector, the Welsh Government has produced a draft document for children and young people explaining the key elements of the Bill and what it means for them. We are currently reviewing this with Eliminating Profit Programme Board members and expect to publish this in the coming months. We will continue to work with those organisations that represent children and young people to ensure their voices can be heard and ongoing communication needs considered.

Recommendation 14:

The Minister should amend the Bill to include provision for an active offer of advocacy for children and young people whose care arrangements may be affected by the Bill.

I accept this recommendation in part.

I accept that children should have an active offer of advocacy for all placement types and locations. Advocacy for all children looked after is already a statutory requirement, therefore the Bill does not need to include this provision.

Section 178 of the Social Services and Well-being (Wales) Act 2014 outlines the local authority’s duty to provide advocacy services to specified persons. This duty extends to children who are looked after, ensuring that these children have access to advocacy services if they need help to:

- Express their views (whether on a specific issue, care plan, or day-to-day decisions).
- Understand their rights (regarding care arrangements or legal proceedings).
- Participate fully in decisions about their care and well-being.
- The local authority is obliged to ensure that children looked after can access advocacy services to support their involvement in decisions about their care.

This is an active offer, meaning that advocacy services must be proactively offered to these children, rather than waiting for them to request it.

Recommendation 15:

The Minister should amend section 10 of the Bill to make it explicit that:

- **placing a child “near to” the local authority’s area means a bordering or adjacent local authority, and**
- **the use of this provision should be exceptional circumstances.**

I reject this recommendation, although I do commit to reviewing the Explanatory Notes for clarity.

I accept that it may be helpful to have some additional text in the Explanatory Notes to help the reader understand how “near to” should be interpreted. I do not think it would be helpful to restrict use of the provision to exceptional circumstances without defining what these might be and we do not think it plausible to do so where there is potential for such a wide range of circumstances specific to the cases of individual children.

Members will also note that the phrase “is near to” is inserted into the general duty for a local authority to secure sufficient accommodation of the relevant sort, not a duty about placing individual children, so it is unclear that an amendment would work in the way envisaged.

Recommendation 16:

The Minister should set out the actions being taken by the Welsh Government in relation to awareness-raising of mandatory reporting, by organisations, of child sexual abuse. She should do this in time to allow Members to consider her response and be able to table amendments to the Bill if they do not believe these actions are sufficient.

I accept this recommendation.

We will provide a written response to the Committee about the awareness raising of existing organisational duties to report, detailing what we have undertaken and continue to undertake in Wales.

We wholly agree with the Independent Inquiry into Child Sexual Abuse, that where there has been disclosure, witnessing or observation of other evidence that a child is experiencing or is at risk of sexual abuse, this must be reported without delay. Our existing duties, and well-established procedures, support this and aim to help protect and to prevent all harms to children, and adults with care and support needs.

In Wales we have been focusing on close collaboration with key partners, with the purpose of strengthening and improving compliance with safeguarding requirements, already in place, across our regulated childcare, education, health and social care settings.

We have also published revised National Minimum Standards for Childcare, enhancing the standard in relation to safeguarding; and published a draft Quality Framework for Early Childhood Play, Learning and Care, which includes a quality standard around safeguarding babies and young children from all forms of harm.

The new National Framework for Commissioning Care and Support will further highlight the responsibilities of local authorities and health boards to ensure that services provided on their behalf safeguard and promote the well-being of children and adults; and will prompt them to promote the Wales Safeguarding Procedures in their commissioning activities.

During the remainder of this Senedd, we intend to engage widely and further explore views on how best to ensure that others who provide services or offer activities for children and adults, who may be experiencing or at risk of abuse, have proportionate and effective safeguarding arrangements in place.

A series of roundtable discussions with stakeholders will begin in November to test out stakeholder views on placing mandatory reporting duties on individuals.

Given the nature of such a serious change it is important that stakeholders are central to that journey.

Recommendation 17:

The Minister should provide an update on progress with the development of the central hub to support the implementation of direct payments for continuing healthcare. This should include details of its current operational status, staffing numbers, operating costs and the number of people receiving advice and support. It should be produced within six-months of the Stage 1 debate, and annually thereafter.

I accept this recommendation.

The Welsh Government will provide these updates on the development of the central hub as it is being established.

Recommendation 18:

The Minister should amend the Bill to make provision for a 'right to information, advice and support' for individuals seeking to take up direct payments for continuing healthcare. Any guidance issued under this provision should include information about transitions between social care and CHC, and should promote continuity of care as far as possible.

I accept this recommendation in part.

We are committed to ensuring that information, advice and support is available to support take-up of direct payments for continuing health care. An information booklet for individuals, families and carers was published in 2022 upon the publication of the current Continuing NHS Healthcare Framework. This will be refreshed to include

information about the availability of direct payments for individuals who are, or may be, entitled to CHC. There is also already a power in the new section 10C (to be inserted into the 2006 Act by section 24(2) of the Bill) which will enable health boards to be required to arrange for information, advice and other support in connection with direct payments. I therefore do not consider that an amendment is needed.

In addition, provision of information, advice and support for individuals is already planned through the introduction of a support Hub for direct payments for CHC. The Hub will raise awareness of the availability of direct payments, as well as providing information, advice and support to those interested in receiving direct payments for CHC.

The transition from social care to CHC direct payments will be a particular focus for the provision of information, advice and other support. Links will be maintained to local authority and third sector support which is provided for social care direct payment recipients, to ensure that there are also familiar and trusted contacts for those transitioning to NHS direct payments for CHC.

Recommendation 19:

The Minister should give further consideration to the concerns of stakeholders that, in rural areas in particular, direct payments can sometimes be the only available option in the absence of other services. She should work with partners to consider how any service limitations in these areas can be managed and how best to support the individuals affected by them.

I accept this recommendation.

The Welsh Government will give further consideration to these concerns and will work with partners to consider how any service limitations in rural areas can be managed and how best local health boards and other partners can support those affected.

Recommendation 20:

The Minister should provide an update periodically setting out her assessment of the progress being made to prepare health boards for their new responsibilities in this area. This should be done on a six-monthly basis, and should start following completion of the Stage 1 debate. As part of this, the Minister should ensure that health boards are actively working with local authorities to learn from their experiences and best practice.

I accept this recommendation.

I will provide these updates on the progress being made by health boards as they prepare to take on these new responsibilities.

Recommendation 21:

The Minister should write to us in six months with an update on progress with the development of the new performance framework and implementation plan for CHC in Wales. This should include guidance on safe delegation of

appropriate tasks and details of the metrics developed specifically for direct payments to enable progress and success to be measured.

I accept this recommendation.

The Welsh Government is working on an action plan that will identify and address known issues with the current National CHC Framework. This action plan includes the redevelopment and roll out of the performance framework.

The Welsh Government is also exploring the requirements of guidance for the safe delegation of tasks.

Recommendation 22:

The Minister should:

- **monitor the spend by health boards over the initial three years of the policy, and report back at the end of this period on the financial position of health boards as regards their ability to continue to fund and deliver direct payments for continuing healthcare, and**
- **continue to monitor and review spending by health boards on this policy going forward.**

I accept this recommendation in part.

The Welsh Government will monitor the spend and financial impact of the delivery of direct payments for health boards over the initial three years of the policy as part of the evaluation.

Beyond that period the Welsh Government's approach will be informed by the outcome of the evaluation.

Recommendation 23:

The Minister should work with relevant Cabinet colleagues and wider partners to promote the role of Personal Assistant (PA), to drive up the numbers of applications and to improve retention of staff longer term. Appropriate training will be an important part of this work.

I accept this recommendation.

Following research commissioned by the Social Care Fair Work Forum, the current Welsh Government-led PA Stakeholder Group was established and earlier this year agreed to take forward actions relating to: Pay; Terms and Conditions; Training and Development; Promoting Trade Unions and promote the support and information available for PAs. The PA Stakeholder Group includes representation from Government, Trade Unions, Social Care Wales and employer representatives for PAs.

In addition, last year an "All Wales PA Working Group" was developed with representatives from each local authority aiming to drive forward better terms and conditions for PA's and bring parity across the local authorities. These two groups

are working closely together to ensure clear links and understanding of what work is taking place to improve the role for PAs.

Some actions already being taken forward include the inclusion of PAs in the development of the Social Care Workforce Pay and Progression Framework, which will ensure PAs are considered in relation to pay and progression as part of the wider workforce moving forward. In addition, the Stakeholder Group has commissioned a survey which is currently being undertaken by Social Care Wales across Local Authorities to establish what training is available for PAs and consistency in approach to training across Wales. We expect the results of this survey shortly and will consider how the Welsh Government can ensure a fair and national approach to training for PAs moving forward.

We recognise the value of our PAs and are committed to improving their terms and conditions to encourage more people to take up the role, but to also retain those dedicated workers already in place.

Recommendation 24:

The Minister should update the Committee, upon completion of the CHC framework review, highlighting any changes and additional eligibility guidance that have been provided as a result of the review.

I accept this recommendation.

The Welsh Government will provide a briefing on what elements of the CHC Framework have changed following a review.

Recommendation 25:

The Minister should ensure that the UN Convention on the Rights of Disabled Persons features prominently in guidance issued on Part 2 of the Bill.

I accept this recommendation.

Paragraph 65 of the Social Services and Well-being (Wales) Act 2014 Part 2 Code of Practice: General Functions sets out that “when exercising social services functions in relation to disabled people who need care and support and disabled carers who need support, local authorities must have due regard to the United Nation Convention on the Rights of Persons with Disabilities.” Any guidance issued on Part 2 of the Bill relating to direct payments in continuing healthcare would similarly highlight the importance of the UN Convention on the Rights of Disabled Persons.

Recommendation 26:

The Minister should:

- **ensure that the post-implementation review of the Bill considers the awareness, amongst social care users, about the new option of direct payments for CHC;**
- **agree to request from LHBs and then make available the datasets from LHBs which are intended to provide a picture of take-up of direct payments for CHC across Wales, and**
- **provide details of the timescales for the post-implementation review.**

I accept this recommendation.

The evaluation of the introduction of CHC direct payments will consider awareness among social care users of the option of direct payments for CHC.

The evaluation will also include acquiring the datasets from LHBs which will be used to understand take-up of CHC direct payments in Wales.

Timescales for the evaluation have not yet been fixed but the Welsh Government will provide an update on this as part of a future update on implementation.

Agenda Item 2.4

Dawn Bowden AS/MS
Y Gweinidog Plant a Gofal Cymdeithasol
Minister for Children and Social Care



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref MA-DB-10629-24

Mike Hedges MS
Chair
Legislation, Justice and Constitution Committee
Senedd Cymru
SeneddLJC@senedd.wales

25 October 2024

Dear Mike,

Thank you once again for your consideration of the Health and Social Care (Wales) Bill during Stage 1. I thank Committee Members for the detailed consideration of the Bill, and for their recommendations.

I have set out below my response to the recommendations.

I hope that the attached information helps to inform your further scrutiny as the Bill progresses through Stage 2. I look forward to continuing to work with Committee Members on the details of the legislation in the near future.

I am copying this letter to the Chairs of the Finance Committee and the Health and Social Care Committee.

Yours sincerely,

Dawn Bowden AS/MS
Y Gweinidog Plant a Gofal Cymdeithasol
Minister for Children and Social Care

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

Health and Social Care (Wales) Bill

Responses to the Legislation, Justice and Constitution Committee's recommendations

Conclusion 1:

As a general matter of principle, a Bill should not be introduced into the Senedd until all relevant impact assessments have been fully completed, such that all relevant information can be included in the Explanatory Memorandum that must accompany a Bill in accordance with Standing Order 26.6.

The Explanatory Memorandum and Regulatory Impact Assessment laid alongside the Bill at introduction included an assessment of impact and the Welsh Government will also seek to provide further information to Members of the Senedd during scrutiny where requested.

Conclusion 2:

As a matter of good practice, an Explanatory Memorandum should provide clear information about the Welsh Government's assessment of the potential impact of a Bill on human rights and accordingly, how it is compatible with the European Convention on Human Rights.

Ministers agree that it is helpful for an Explanatory Memorandum to provide clear information about the Welsh Government's assessment of a Bill's compatibility with Convention rights and all Explanatory Memorandums have included such information. Bill provisions are always subject to thorough assessment of legislative competence including Convention rights.

Conclusion 3:

We have concerns that the Bill was introduced too early and before all necessary preparatory work had been completed, including but not limited to, consulting on a draft version of the Bill and the preparation of impact assessments and the Statement of Policy Intent for Subordinate Legislation to be made under the Bill.

In line with Standing Orders, the Explanatory Memorandum and Regulatory Impact Assessment laid alongside the Bill at introduction included an assessment of impact. In order to aid the Senedd's consideration of the Bill, we endeavour to publish full versions of the documentation as soon as possible after the Bill has been introduced. The Government did consult extensively on these proposals in 2022. The reasons for not consulting on a Draft Bill are provided at paragraph 4.10 of the Explanatory Memorandum.

Conclusion 4:

As a general principle, we believe that legislation should clearly define terms that it uses, rather than require the reader to exercise a degree of interpretation when doing so, however simple that interpretation may be perceived to be by the relevant Welsh Minister.

Conclusion 5:

As a matter of principle, if information can be set out on the face of the Bill, that is where it should be placed, for reasons of transparency, certainty and good legislative practice.

We have considered and responded to conclusions 4 and 5 together.

As we have set out in *Writing Laws for Wales: A guide to legislative drafting*, “Legislation must be effective, but it should also be as clear as possible.” We always encourage comments on our approach to drafting legislation and we will reflect on the points raised by the Committee.

Recommendation 1:

The Minister should respond to the conclusions and recommendations we make in this report at least two working days before the Stage 1 general principles debate takes place.

I accept this recommendation in principle.

The Welsh Government endeavours to respond to the Committees as soon as reasonably possible but it is not always practical for Welsh Ministers to do this prior to the Stage 1 debate.

Recommendation 2:

The Minister should update the Senedd on the Welsh Government’s discussions with the UK Government regarding the outstanding Minister of the Crown consent required for paragraph 4 of Schedule 2 to the Bill.

I accept this recommendation.

I am pleased to confirm to the Committee and the Senedd that the Secretary of State for Wales has written to me to provide Minister of the Crown consent for the provisions in paragraph 4 of Schedule 2 to the Bill.

Recommendation 3:

The Minister should state whether she has had discussions with the Counsel General and the Welsh Government Cabinet about the priority which should be attached to the consolidation of the law on the regulation and provision of social care services and health care in Wales.

Recommendation 4:

The Minister should commit to assessing and scoping the consolidation of the law on the regulation and provision of social care services and health care in Wales, and report to the Senedd on this work within 12 months of the Bill being passed.

I have considered and responded to recommendations 3 and 4 together.

I accept recommendation 3, and I reject recommendation 4.

The Government's priorities for the consolidation and codification of Welsh law in this Senedd are set out in our Future of Welsh law programme (revised January 2024). The Counsel General will be laying the next annual report on progress against that programme before the Senedd in due course, but Members will be aware the consolidation and codification of historic environment has been completed, the second Bill in the programme has just been introduced on 21 October, and the Government will be bringing forward the consolidation of planning law in Wales next year.

The Committee's continuing commitment to the accessibility of Welsh law and support for consolidation is helpful. However, the current accessibility of law programme does not include proposals for this Senedd term on the consolidation of social care services or health care law in Wales so I am unable to accept Recommendation 4 at this time. Nonetheless, the findings in the Committee's report will be taken into account as proposals for future consolidation projects are developed and I have shared the Committee's views on this matter with the Counsel General.

Recommendation 5:

The Minister should amend the Explanatory Memorandum (including the Explanatory Notes) by the start of Stage 3 proceedings to ensure it accurately reflects the intention of the Bill to restrict rather than eliminate the making of profit from the care of looked after children.

I reject this recommendation.

The provisions of the Bill are intended to prevent the extraction of profit from the provision of a restricted children's service. Any trading surplus or profit is retained within the organisation providing the service, and can be re-invested. This is clearly explained in the Explanatory Memorandum and we believe it is also understood by stakeholders that this is the way in which we are seeking to eliminate private profit from the care of looked after children.

Recommendation 6:

The Minister should table amendments to the Bill to include a date on which the transitional arrangements to be introduced under Part 1 of the Bill will end, and to enable such a date to be amended by regulations subject to the draft affirmative procedure.

I reject this recommendation.

The Welsh Government has not pursued the option of including an end date for the transition period on the face of the Bill which could be extended by subordinate legislation. That approach would mean that children settled in placements with for-profit providers might be aware of a date approaching by which their placement will automatically be ended, unless the date was extended by subordinate legislation. The end date could potentially be subject to multiple extensions to avoid disruption to children, but this could, in itself, be distressing for children who may be aware of the deadlines approaching and then being extended.

Instead, the power already in the Bill will allow Welsh Ministers to determine the end of the transitional period for restricted children's services in a manner sensitive to the needs of children still in such placements, and will allow placement disruption for children and service providers to be avoided or minimised.

Recommendation 7:

Should the Bill receive Royal Assent, the Minister should ensure that information is provided to all stakeholders about the transitional arrangements that will apply under Part 1 of the Bill in such form that the arrangements can be easily understood.

I accept this recommendation.

As part of our communications plan for the eliminating profit programme, we will provide information to stakeholders about the transitional arrangements.

Recommendation 8:

The Minister should explain clearly how any phased ending of the transitional arrangements under Part 1 of the Bill would work in practice, including how the rights of children will be affected if they have to move placements.

I accept this recommendation.

As part of our communications plan for the eliminating profit programme, we will provide further information on how the transitional arrangements will work in practice including how children may be affected. We accept that it has a degree of complexity and we may need to come back to it from time to time to reassure and to explain to those affected by it. The aim of the flexible transitional period is precisely to avoid the need for children to have to move placements as a result of the status of the provider of the foster carer or the children's home. This opens the way to the ending of the transitional period in a way which avoids any interference with the rights of children caused by ending a placement.

Recommendation 9:

The Minister should explain clearly:

- **why it is appropriate to potentially treat local authorities individually and therefore differently in respect of Part 1 of the Bill, but not in respect of Part 2;**
- **the implications for health and social care in Wales of such an approach.**

I accept this recommendation.

The Welsh Government is happy to provide an explanation for the approach taken to these two policies.

In Part 1, Chapter 1 of the Bill, the Welsh Government is seeking to eliminate private profit from the care of looked after children across Wales, so that in future, residential care, secure accommodation and foster care of looked after children in Wales will be provided by the public sector, or by charitable or not-for-profit organisations.

Some parts of Wales are likely to reach a point where all of their relevant provision is not-for-profit before other parts. It is therefore appropriate that powers in the Bill can enable the Welsh Ministers to end transitional arrangements for those parts of Wales that have eliminated private profit, so that this progress is not reversed.

Part 2 of the Bill contains powers to enable direct payments in health care. While in England direct payments were piloted in certain parts of the country, this is unnecessary in Wales as we can learn from the experience of implementation in England. It is therefore intended that regulations to enable direct payments for continuing healthcare will apply across Wales and that implementation will take place across the whole of Wales over the same period.

Recommendation 10:

The Minister should table an amendment to the Bill so that when calculating the number of days for the purpose of new section 2A(2) of the Regulation and Inspection of Social Care (Wales) Act 2016 (to be inserted by section 2(b) of the Bill), it is clear that the 12-month period must be continuous.

I reject this recommendation.

The Welsh Government is going to give further consideration to the wording of new section 2A(2) of the 2016 Act (to be inserted by section 2(b) of the Bill) which is likely to render this proposed amendment superfluous.

Recommendation 11:

The Minister should clarify why the term ‘looked after children’ is to be introduced to the Social Services and Well-being (Wales) Act 2014 by the Bill when the term is not used in the operative provisions of the original Act.

I accept this recommendation.

The term “looked after children” is used in the cross heading to Part 6 of the 2014 Act and in a number of the section headings so that it is plain to the reader that the phrase “looked after” means the same whether it is placed before the words “child”, or “children”, or after.

Recommendation 12:

If the Minister decides to continue with the use of the term ‘looked after children’, the Minister should table an amendment to the Bill to clarify its meaning including, if necessary, by defining the term within new paragraph 1(3B) of Schedule 1 to the Bill (to be inserted by section 2(c) of the Bill).

I accept this recommendation.

The Welsh Government will table an amendment at Stage 2 to clarify the meaning of the term ‘looked after children’ in the amendment inserted into the Regulation and Inspection of Social Care (Wales) Act 2016.

Recommendation 13:

The Minister should table an amendment to the Bill to include a definition of ‘public good’ in new section 6A of the Regulation and Inspection of Social Care (Wales) Act 2016 (to be inserted by section 3(3) of the Bill).

I reject this recommendation.

The power to prescribe other public goods which could allow an organisation to meet this condition, in order to deliver a restricted children’s service, would only be used to specify an additional acceptable public good, in addition to the welfare of children.

The other condition and requirements would still apply to these providers.

The Welsh Government does not believe that this requirement is exceptionally broad or in need of further definition. As a point of comparison, in the definition of community benefit society in section 2(2) of the Co-operative and Community Benefit Societies Act 2014, the test around an organisation’s purposes is "that the business of the society is being, or is intended to be, conducted for the benefit of the community". The community interest test for a community interest company is equally wide and is defined by reference to what a reasonable person would consider are activities being carried on for the benefit of the community or a section of the community.

Recommendation 14:

The Minister should table an amendment to the Bill to apply a super-affirmative procedure to the making of regulations under new section 6A(3)(b) of the Regulation and Inspection of Social Care (Wales) Act 2016 (to be inserted by section 3(3) of the Bill).

I accept this recommendation in part.

Whilst the Welsh Government does not consider that a super-affirmative procedure is appropriate in these circumstances it is willing to apply the draft affirmative procedure.

Recommendation 15:

The Minister should consider tabling an amendment to the Bill to clarify how objects or purposes are to be determined, and by whom under new section 6A(3) of the Regulation and Inspection of Social Care (Wales) Act 2016 (to be inserted by section 3(3) of the Bill).

I accept this recommendation in part.

I am happy to provide clarity on how and by whom objects and purposes are to be determined. The task of determining whether a provider’s objects or purposes comply with regulation 6A(3) will be for the regulator, that is to say Care Inspectorate Wales carrying out the functions of the Welsh Ministers. All relevant providers will have their objects/purposes set out in their governing documents and Care Inspectorate Wales will have a margin of discretion in deciding whether these primarily relate to the accepted purposes or not. I consider that having made a statement to that effect removes the need for a clarificatory amendment.

Recommendation 16:

The Minister should table amendments to section 3 of the Bill to remove the definition of a ‘company having a share capital’ to be inserted into new section 6B(6)(b) of the Regulation and Inspection of Social Care (Wales) Act 2016 and replace it with an appropriate definition in respect of the phrase ‘without a share capital’.

I accept this recommendation in principle.

The Welsh Government will give consideration to the drafting of the relevant provision with a view to addressing the point raised by the Committee.

Recommendation 17:

The Minister should consider tabling an amendment or amendments to ensure that it is clear what ‘wholly or mainly to children’ means in each place that it is used in the Bill.

I accept this recommendation in principle.

I am happy to commit to giving consideration to how best to avoid confusion or a lack of clarity about the intentions behind the use of “wholly or mainly to children”.

Recommendation 18:

The Minister should table an amendment to the Bill to remove the regulation-making power from paragraph 2(4)(b) of new Schedule 1A (to be inserted by section 4 of the Bill).

I accept this recommendation.

The Welsh Government will table an amendment at Stage 2 to remove the regulation-making power.

Recommendation 19:

The Minister should table amendments to section 6 of the Bill to ensure that the drafting of new sections 9B(2)(e) and 9B(3)(d) is in line with conclusion 4 of our report.

I reject this recommendation.

As I set out in my letter on 9 July, we are content that no difficulty or ambiguity of interpretation is created by the current drafting.

Recommendation 20:

The Minister should table an amendment to section 14 of the Bill to include the timeframe for the publishing of an annual return by a service provider in new section 10(4A) of the Regulation and Inspection of Social Care (Wales) Act 2016.

Recommendation 21:

The Minister should consider tabling an amendment to section 14 of the Bill to enable regulations subject to the draft affirmative procedure to change the timeframe for the publication of an annual return by a service provider (to be set out in new section 10(4A) of the Regulation and Inspection of Social Care (Wales) Act 2016 Act as a consequence of recommendation 20).

I have considered and responded to recommendations 20 and 21 together. I reject both recommendations.

To set a timescale for the publication of annual returns on the face of the Bill would constrain the regulator in its necessary work to agree a process for working with providers post-submission to ready them for publication. This process will inform the timescale set out in regulations. Stipulating a timescale on the face of the Bill is inconsistent with the approach already taken in the 2016 Act in relation to the time limit for submitting an annual return, which is set out in Regulations made under the negative procedure.

Recommendation 22:

The Minister should table an amendment to section 19(1) of the Bill to ensure its wording is consistent with the policy intention set out in section 19(2).

I accept this recommendation.

An amendment will be tabled at Stage 2 to make this amendment.

Recommendation 23:

The Minister should table an amendment to the Bill to require that paragraph 7 of new Schedule A1 to the Social Services and Wellbeing (Wales) Act 2014 (to be inserted by section 20 of the Bill) is free-standing and its policy intent does not require repeating in regulations to be made under paragraph 1 of new Schedule A1.

I reject this recommendation.

For the reasons set out in our response on 9 July, the Welsh Government does not believe that this amendment to the Bill is required. The ability of health boards to offer direct payments for mental health after care services is entirely contingent on the making of the Regulations – health boards will not be able to offer direct payments without the Regulations being in place and the statutory framework must therefore include the restriction discussed.

Recommendation 24:

The Minister should provide detail on all the services that could be subject to direct payments using the provisions to be inserted into the National Health Service (Wales) Act 2006 by section 24. This information should be provided no later than the commencement of Stage 3 proceedings.

I accept this recommendation in principle.

The power will enable direct payments in health care to recipients with a wide range of conditions and diagnoses. It would not be appropriate to provide an exhaustive list of where a direct payment could be made in lieu of services. In addition, it would be taking a 'medical model' approach and would not be in keeping with the social model of disability to be prescriptive in terms of type of condition or disability. However, I would be happy to provide the Committee with indicative information.

Recommendation 25:

The Minister should review the breadth of the provisions in section 24 including whether the Bill may allow the Welsh Ministers, at some point in the future, to make payments to people who have not been assessed as having a primary health need. Having done so, the Minister should make a statement to the Senedd about the outcome of this review no later than the commencement of Stage 3 proceedings.

I reject this recommendation.

The provisions in section 24 have been the subject of careful consideration during the drafting and scrutiny processes and should be retained as drafted to allow for the introduction of direct payments for CHC.

Recommendation 26:

If the Minister's intention remains to exercise the regulation-making power under section 10B(5) of the National Health Service (Wales) Act 2006 (to be inserted by section 24 of the Bill) solely for all Local Health Boards at the same time, the Minister should table an amendment to the Bill to reflect that intention (and remove the ability for it to be exercised in respect of one Local Health Board only).

I reject this recommendation.

The Welsh Government does not believe that this amendment to the Bill is required. The Minister has already set out to the Committee the Government's intention to exercise the power for all health boards at the same time.

Recommendation 27:

The Minister should table an amendment to the Bill such that the meaning of 'a person lacking capacity' as set out in new section 10B(8)(b) of the Social Services and Well-being (Wales) Act 2014 (to be inserted by section 24(2) of the Bill) is described by all relevant provisions of the Mental Capacity Act 2005 that specify its meaning.

I reject this recommendation.

As set out in earlier correspondence with the Committee, defining "mental capacity" by reference to the Mental Capacity Act 2005 generally as opposed to a more specific reference to section 2 is the more common practice in the statute book. It is the same formulation used in section 197(5) of the 2014 Act.

In addition, because the definition in section 2 is subject to additional provision in section 18(3) (referred to in section 2(6)), in our view it is more appropriate to refer to the definition by reference to the whole Act.

Recommendation 28:

The Minister should table an amendment to the Bill such that regulations to be made under section 10C(1) of the National Health Service (Wales) Act 2006 (to be inserted by section 24(2) of the Bill) are subject to the draft affirmative procedure.

I accept this recommendation.

The Welsh Government will table an amendment to apply the draft affirmative procedure to this regulation-making power.

Russell George MS
 Health and Social Committee
 Welsh Parliament
 Cardiff Bay
 Cardiff
 CF99 1SN

By email

4th November 2024

Dear Russell,

We are writing to you as co-leads of the development and the implementation of the National Trauma-Informed Framework for Wales 'Trauma-Informed Wales: A Societal Approach to Understanding, Preventing and Supporting the Impacts of Trauma and Adversity.'

We first wrote to you on the 30th June 2023 following the publication of 'Connecting the Dots', thanking the committee for its important recognition of the contribution that the Trauma-informed Framework would make to tackling mental health inequalities in Wales in the report of its inquiry. We also updated the committee on action we have taken to progress recommendation 11 which was a specific ask of Welsh Government that 'By July 2023 the Welsh Government should publish the key deliverables and qualitative and quantitative measures for the impact of the trauma-informed framework for Wales, and put in place a robust evaluation framework. If the Welsh Government is not able to commit in its response to our report to the work being completed within this timeframe, it should explain why it is not achievable and provide information about the timescales within which the measures and evaluation framework will be completed'.

As we set out in our letter of the 30th June, we are aware that the Welsh Government accepted this recommendation, in principle, on the grounds that it could not accept it in full because it was not a Welsh Government framework and reiterating that the Framework was co-produced with a wide range of organisations, and individuals, with an interest in the promotion, and adoption, of trauma-informed approaches, including those with lived

experience of trauma. The overall goal of the Framework, and of all of those who have contributed to its development, and are now contributing to its implementation, is to make Wales a trauma-informed nation.

We committed to providing a further update to the committee on our progress in implementing the Framework, and in particular the monitoring and evaluation of it. We are pleased to report that we have regular meetings with Welsh government officials and with Ministers, including a meeting on the 5th November with Lynne Neagle MS, Cabinet Secretary for Education, Dawn Bowden, MS, Minister for Children and Social Care, and Sara Murphy, MS, Minister for Mental Health and Wellbeing, to update them on our progress. We are pleased to see such a strong commitment to our work continuing across government.

By way of further update, you will recall that following the Launch of the Framework on July 14th 2022, we began to develop an implementation approach that retains the key principles of co-production and co-delivery. We have an Implementation Steering Group, with a broad representation of sectors and people with lived experience, that meets bi-monthly. That group has established working groups to take forward the agreed areas of particular focus. Further information on all of this can be found on the Trauma-informed Framework website: [Working Groups - Trauma-Informed Wales](#). The website also supports the public communication and engagement around the work.

Monitoring and evaluation of the Trauma-informed Framework is a specific working group, co led by Dr Joanne Hopkins and Annette Leponis from Traumatic Stress Wales. [Monitoring and Evaluation - Trauma-Informed Wales](#). This working group will build into the developing work around our roadmap to implementing the Trauma-informed Framework. We will continue to co-create an inclusive mechanism, that adheres to the values and ethos of the Framework itself, to ensure that we are able to evidence the positive change we are implementing and the difference it is making to people, organisations, systems and society across Wales. We commit to involving and including people who experience services as well as those delivering them, through reflective practice and underpinned by the 5 principles of the Framework. The evaluation framework uses a realist approach to evaluate whole-systems or community-based interventions, where circumstances may vary between different settings and implementation of the same intervention may lead to very different

outcomes. The working group is building on the evaluation framework developed for the Trauma and Adverse Childhood Experiences-informed Organisational Toolkit as a basis for the broader Trauma-informed Framework approach: The evaluation framework can be found here: [ACE-Hub-Wales-Evaluation-framework-Public-Version-1.pdf](#)

As part of this work, we have co-developed tools and resources that help us to understand what 'good looks like' which builds on how the Trauma-informed Framework document itself sets this out within each of the four practice levels, and shows the impact and outcomes for each at an individual, organisation and system wide level. We have co-created a narrative and short animations to make this information as accessible as possible.: [The Practice Levels - Trauma-Informed Wales](#) . We have developed a roadmap tool to support ongoing conversations with people and organisations across Wales as part of our commitment to an iterative theory of change that will identify the activities and outputs needed to achieve outcomes in the short, medium and longer term. The key for this work is that it is a reflective piece, that will take time to develop and evolve as we continue to learn and co-develop our approach with that ethos.

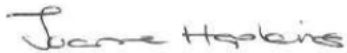
The recent publication 'A Heart Help' [A Heart of Help - Trauma-Informed Wales](#), commissioned by Traumatic Stress Wales and co-developed in collaboration with Platform, the third sector mental health charity, the Welsh Refugee Council and Gwent Drug and Alcohol Service, demonstrates our commitment to capturing how the implementation of the Framework has made people feel. This complements the need to identify data that can already be used to support measures around delivery of training, for example, or outcomes such as reduced sickness absence in the workforce and increased uptake of services. Our shared ambition for the work is to become a social movement, with a shared public narrative around this work, developed by the communications and engagement working group.

We also want to ensure we give people the skills, and tools, to take the work forward. You may also be interested to note that as part of the training and skill into practice working groups we are further developing resources to support people and organisations; including the TrACE Toolkit, details of which can be found at: [TrACE - ACE Hub Wales](#); E-learning to provide a baseline of understanding for anyone looking to implement the Framework and

tools and resources, and an online interactive digital toolkit, TIPSS-4CYP (Trauma-Informed Practice, Skills and Strategies for those working with Children and Young People). This toolkit offers six-modules, the first three modules cover the trauma skilled practice level, the full six modules will cover the trauma enhanced practice level. Staff across sectors will be offered training and reflective practice to use TIPPS-4CYP and develop their ability to practice in a trauma-skilled and trauma-enhanced way. As of 01/10/24, 85 people have been trained using TIPSS training and module sets, all of which have completed evaluation. We would be happy to provide further details of this work in due course.

We continue to be very happy to provide an update on the evaluation framework and implementation work overall, if that would be helpful, at your convenience.

Yours sincerely,



Dr Joanne Hopkins
Director of ACE Hub Wales



Professor Jon Bisson,
Director of Traumatic Stress Wales

Health and Social Care (Wales)

Bill: Stage 2

13 October 2024

Purpose

1. To invite Members to consider issues relating to Stage 2 of the legislative process for the Health and Social Care (Wales) Bill.

Background

2. The Senedd agreed the general principles of the Bill on Tuesday 22 October 2024. In line with SO26.16 Stage 2 began on Wednesday 12 October 2024.
3. The role of the Committee at Stage 2 is to consider and dispose of amendments tabled to the Bill. In line with the deadline set by the Business Committee, the Committee must complete Stage 2 proceedings no later than Friday 13 December 2024.
4. The Committee will meet on Thursday 28 November 2024 for the purposes of Stage 2 proceedings. On this basis, the **deadline for tabling amendments will be 18:00 on Thursday 21 November 2024.**
5. The procedure for Stage 2 consideration of amendments is outlined in the annex.

Order of consideration

6. The 'order of consideration' is the order in which the sections (and schedules) of the Bill are arranged for the purpose of disposing of amendments.
7. Standing Orders provide for a default order of consideration. This is the order in which the sections and schedules appear in the Bill, unless the committee considering Stage 2 proceedings



has decided otherwise. It is open to the Committee to vary the order of consideration if it wishes to do so.

8. It is standard practice for committees to vary the order of consideration so that:

- any schedules are considered immediately after the sections which introduce them; and
- any overview sections are considered after the sections they relate to.

9. On this basis, the Committee is invited to agree to vary the order of consideration as follows:

- Sections 2-13
- Section 1 (overview of sections 2-13)
- Section 14-22
- Schedule 1 (introduced by section 22)
- Sections 24-25
- Schedule 2 (introduced by section 25)
- Section 26
- Section 23 (overview of sections 24-26)
- Sections 27-30
- Long title.

Action

10. Members are invited to:

- note the deadline for tabling amendments (paragraph 4);
- consider and agree the proposed order of consideration (paragraph 7);
- note the overview of Stage 2 procedures set out in the annex. The clerking team are happy to meet Members (and/or Members' staff) to provide further information or advice about Stage 2 procedures upon request).

Annex: Stage 2 procedures

Publication of amendments

1. Amendments are published daily in:
 - the Notice of Amendments (all amendments tabled on a particular day), and
 - the Marshalled List (all amendments tabled for a particular stage of a Bill, in the order of consideration).
2. All Notices of Amendments and the Marshalled List in respect of the Bill will be published on the [Bill page](#).

Grouping of amendments for debate

3. Amendments may be grouped for debate, although they will be disposed of in the order in which they appear on the Marshalled List. Groupings are determined by the Chair, following advice from the committee clerk. There will be one debate on each group of amendments. The Groupings List will be circulated to the Committee and published on the Bill page at least two days before proceedings.

Proceedings on amendments

4. The debate on each group of amendments will take the following form:
 - Chair calls proposer of lead amendment (first in the group) to move their amendment and speak to it and the other amendments in the group.
 - Chair invites proposers of other amendments in the group to speak to their amendment(s) and the others in the group – N.B these amendments are not moved at this stage, but will be called by the Chair when they are reached on the Marshalled List.
 - Chair invites other members of the Committee to speak to the amendments in the group.
 - Chair invites the Member in Charge of the legislation (the Minister for Children and Social Care) to speak (unless the Minister is the proposer of a lead amendment, in which case she will have been called first).
 - Chair invites the proposer of the lead amendment to respond to the debate.

- 5.** The Chair will then “put the question” that the lead amendment be agreed. If no Member objects, the amendment is agreed to. If any Member objects, the Chair will call a vote.
- 6.** Where the Member with the lead amendment does not wish to press their amendment to a vote, they can seek the Committee’s agreement to withdraw their amendment.
- 7.** Once a group of amendments has been debated and the lead amendment has been agreed or not agreed, then depending on where in the Marshalled List has been reached, the Chair will either:
- If the next amendment on the Marshalled List has not yet been debated, move to a debate on the next group of amendments (in which case the proposer of the relevant lead amendment will be asked to move it); or
 - If the next amendment on the Marshalled List was included in a group that has already been debated, ask the proposer of the next amendment on the Marshalled List whether they wish to move their amendment to a vote (NB, even if the Member who proposed the amendment does not wish to move their amendment to the vote, any other member of the Committee may do so).
- 8.** Where there is no amendment tabled to a section or schedule of the Bill, there will be no debate on that section or schedule and it will be deemed agreed at the point it is reached in the order of consideration.

Voting

- 9.** Voting in committee is normally by show of hands, however should Stage 2 proceedings for this Bill take place in a hybrid or virtual committee meeting, voting will be taken by a roll call. The results of all votes on amendments, and the names of those voting, are recorded in the minutes of the meeting.
- 10.** If there is an equality of votes the Chair must exercise his casting vote in the negative in accordance with Standing Order 6.20(ii)).

Agenda Item 5

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