

Agenda – Health and Social Care Committee

Meeting Venue:

For further information contact:

Remote

Sarah Beasley

Meeting date: 27 June 2024

Committee Clerk

Meeting time: 09.30

0300 200 6565

SeneddHealth@senedd.wales

Private pre-meeting (09.00–09.30)

1 Motion to appoint a temporary Chair in accordance with Standing Order 17.22

(09.30)

2 Introductions, apologies, substitutions, and declarations of interest

(09.30)

3 Health and Social Care (Wales) Bill: provision of social care services to children – evidence session with not-for-profit providers

(09.30–10.30)

(Pages 1 – 49)

Rhian Carter, Team Manager – Action for Children

Sarah Crawley, Director of Children's Services – Barnardo's Cymru

Sarah Thomas, Chief Executive Officer – The Fostering Network

Mike Anthony, Service Manager – Wales Fostering Service – TACT Cymru

Research brief

Paper 1 – Action for Children

Paper 2 – Barnardo's Cymru

Paper 3 – The Fostering Network

Paper 4 – TACT Cymru



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Break (10.30 –10.40)

4 Health and Social Care (Wales) Bill: provision of social care services to children – evidence session with private and independent providers and representative bodies

(10.40–11.40)

(Pages 50 – 70)

Harvey Gallagher, Chief Executive – Nationwide Association of Fostering Providers

Colin Tucker, Director/Responsible Individual – 1st Affinity Fostering Services
Nationwide Association of Fostering Providers

Sharon Cavaliere, Calon Cymru Director – Nationwide Association of Fostering Providers

Jen Robbins, Head of Policy and Strategy – The Children's Homes Association

Darryl Williams – Director – Woodlands Ltd – The Children's Homes Association

Dr Deborah Judge, Clinical Director and Responsible Individual – Birribi – The Children's Homes Association

Paper 5 – Nationwide Association of Fostering Providers

Paper 6 – The Children's Homes Association

5 Motion under Standing Orders 17.42 (vi) and (ix) to resolve to exclude the public from items 5 and 9 of today's meeting

(11:40)

6 Health and Social Care (Wales) Bill : consideration of evidence

(11.40–11.50)

Lunch (11.50 –12.30)

7 Health and Social Care (Wales) Bill : provision of social care services to children – evidence session with ADSS Cymru

(12.30–13.30)

(Pages 71 – 77)

Sally Jenkins, Strategic Director of Social Services, Newport County Council and Chair of the 4Cs Board – ADSS Cymru

Craig Macleod – Head of Children’s Services, Flintshire County Council and Vice Chair of AWHOCs (All Wales Head of Children’s Services) – ADSS Cymru

Darren Mutter, Head of Children’s Services, Pembrokeshire County Council – ADSS Cymru

Paper 7 – ADSS Cymru

Break (13.30 –13.40)

8 Health and Social Care (Wales) Bill : direct payments for healthcare – evidence session with ADSS Cymru and the WLGA

(13.40–14.40)

(Pages 78 – 84)

Jason Bennett, All Wales Heads of Adults' Services Group, Vale of Glamorgan Council – ADSS Cymru

Councillor Andrew Morgan, WLGA Leader and Leader of Rhondda Cynon Taf County Borough Council

Zoe Williams, Chair – All Wales Direct Payments Forum

Mark Cooper, Vice Chair – All Wales Direct Payments Forum

Paper 8 – WLGA

9 Paper(s) to note

(14:40)

9.1 Letter from the Chair to the Minister for Social Care regarding profit in adult care homes

(Pages 85 – 86)

- 9.2 Response from the Minister for Social Care to the Chair regarding profit in adult care homes**
(Pages 87 – 89)
- 9.3 Letter from the Chair to Judith Paget CBE, NHS Wales Chief Executive regarding NHS Wales planned care waiting times**
(Pages 90 – 91)
- 9.4 Response from Judith Paget CBE, NHS Wales Chief Executive, to the Chair regarding NHS Wales planned care waiting times**
(Pages 92 – 97)
- 9.5 Letter from the Chair to the Cabinet Secretary for Health and Social Care regarding an update on the implementation of the recommendations within the Committee's report; 'Waiting well? The impact of the waiting times backlog on people in Wales'**
(Page 98)
- 9.6 Response from the Cabinet Secretary for Health and Social Care to the Chair regarding an update on the implementation of the recommendations within the Committee's report; 'Waiting well? The impact of the waiting times backlog on people in Wales'**
(Pages 99 – 105)
- 9.7 Letter from Chair, Legislation, Justice and Constitution Committee to the Minister for Social Care regarding the Health and Social Care (Wales) Bill**
(Pages 106 – 110)
- 9.8 Letter from the Minister for Social Care to the Chair regarding the Statement of Policy Intent for the Health and Social Care (Wales) Bill**
(Pages 111 – 135)
- 9.9 Letter from Chair, Children, Young People and Education Committee to the Chair regarding the Health and Social Care (Wales) Bill**
(Pages 136 – 137)

9.10 Letter from the Chair to the Cabinet Secretary for Health and Social Care regarding an update on the implementation of the recommendations within the Committee's report on hospital discharge and its impact on patient flow through hospitals

(Pages 138 – 139)

9.11 Response from the Cabinet Secretary for Health and Social Care to the Chair regarding an update on the implementation of the recommendations within the Committee's report on hospital discharge and its impact on patient flow through hospitals

(Pages 140 – 154)

10 Health and Social Care (Wales) Bill : consideration of evidence

(14.40–14.50)

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HSC(6) 36-24 Papur 1 | Paper 1 - Action for Children

Senedd Cymru | Welsh Parliament

Y Pwyllgor Iechyd a Gofal Cymdeithasol | Health and Social Care Committee

Bil Iechyd a Gofal Cymdeithasol (Cymru) | Health and Social Care (Wales) Bill

Ymateb gan Action for Children, | Evidence from Action for Children

General principles of the Bill

1. What are your views on the general principles of the Health and Social Care (Wales) Bill?

AFC are in favour of the general principles of the Bill. The removal of the pursuit of profit from the 'looked after system' is the right thing to do on behalf of the children. The current system lends itself to perceiving children as a commodity, they are referred to in contractual language such as 'how many placements do you have' instead of 'how many children do you care for' this is a systemic problem. The language also needs to shift as an important cultural indicator of intent.

2. Is there a need for legislation to deliver the Welsh Government's stated policy intention?

Yes

Please outline your reasons for your answer to question 1

legislation is required otherwise change will be limited

3. What are your views on Part 1, Chapter 1 of the Bill (sections 1-13), which makes provision intended to restrict the extraction of profit by providers of children's care home services, secure accommodation services and fostering services

We are hopeful that this will work

4. What are your views on Part 1, Chapter 2 of the Bill (sections 14-22 and schedule 1), which makes a number of amendments in relation to social care services, social care

workers and local authority social services, intended to ensure that the 2014 and 2016 Acts can operate fully and effectively

We support these changes

5. What are your views on Part 2 of the Bill (sections 23-26 and schedule 2), which relates to health care, and makes amendments to the National Health Service (Wales) Act 2006 in order to enable the introduction of direct payments within NHS Continuing Healthcare

6. What are your views on Part 3 of the Bill (sections 27-30) which contains a number of general provisions, including in relation to regulations, interpretation, consequential and transitional provisions, and coming into force provisions

We are concerned that the transitional arrangements may not be long enough and force a crisis in the already overloaded existing provision.

Implementation and impact of the Bill

7. Are there any potential barriers to the implementation of the Bill's provisions? If so, what are they, and are they adequately taken into account in the Bill and the accompanying Explanatory Memorandum and Regulatory Impact Assessment?

8. Are any unintended consequences likely to arise from the Bill?

The focus for children is primarily in relation to the quality of their experience, removal of profit alone does not ensure quality provision takes its place, neither does the current regulatory framework ensure quality given that outcomes remains poor . There is a risk that less provision is available in the short to medium term as the 3rd sector and LA's attempt to develop services. Fostering in particular is suffering a recruitment crisis and risk that makes this worse should be considered, also how it lands on public perceptions.

9. What are your views on the appropriateness of the powers in the Bill for Welsh Ministers to make subordinate legislation (as set out in Chapter 5 of Part 1 of the Explanatory Memorandum?)

10. What are your views on the Welsh Government's assessment of the financial and other impacts of the Bill as set out in Part 2 of the Explanatory Memorandum?

11. What are your views on the Welsh Government's integrated impact assessments (set out in Part 2 of the Explanatory Memorandum), including the Children's Rights Impact Assessment

Development of the policy and legislative proposals

12. What are your views on the approach taken by the Welsh Government to the development of the policy and legislative proposals reflected in the Bill.

Among any other issues, please consider in particular the approach to engaging and consulting with stakeholders

AFC have been engaged in the process and have welcomed the Welsh govts consultation

Any other issues

13. Are there any other issues that you would like to raise about the Bill, the accompanying Explanatory Memorandum and Regulatory Impact Assessment, or any related matters?

Senedd Cymru | Welsh Parliament

Y Pwyllgor Iechyd a Gofal Cymdeithasol | Health and Social Care Committee

Bil Iechyd a Gofal Cymdeithasol (Cymru) | Health and Social Care (Wales) Bill

Ymateb gan Barnardo's Cymru | Evidence from Barnardo's Cymru

General principles of the Bill

1.What are your views on the general principles of the Health and Social Care (Wales) Bill?

The Health and Social Care (Wales) Bill comes at a critical time for care-experienced children and young people in Wales. Wales has been working towards radically reforming children's social care, to ensure that we improve outcomes and see fewer children coming into care. The number of children in care has risen by 26% since 2014 and there is significant and increasing pressure on the workforce and on the social care system as a whole.

We also know that outcomes for care-experienced young people are not good enough. As many as 1 in 4 care leavers are thought to be homeless when they turn 18. Young people in care are more likely to be exposed to bullying. Limited data that is collected suggests that care-experienced parents are more likely to have their own children removed .

We have been pleased to work with Welsh Government and other partners to work towards radical reform of children's services, although this still has some way to go. Eliminating profit has been a central plank of the reform agenda, and although we hold concerns around sufficiency, stability and ensuring adequate provision for children to be cared for close to home, we support the ambition to eliminate profit from the care of looked after children. We have given more detail below.

Please note we have shared the views of children and young people supported by Barnardo's Cymru as expressed in a focus group, as well as views held organisationally.

Notes

1. Care experienced children – statistical overview 2024

file:///C:/Users/amy.bainton/OneDrive%20-%20Barnardo's/Desktop/24-03-care-experienced-children-2024-final.pdf

2. DECIPHer, Young People 'Looked After' in Wales: findings from the 2017/18 Health Behaviour in School-aged Children Survey and School Health Research Network Student Health and Wellbeing Survey

2. Is there a need for legislation to deliver the Welsh Government's stated policy intention?

Yes

Please outline your reasons for your answer to question 1

Legislative change is required to realise the ambitions of the policy, which would make widespread changes to the landscape of children's social care in Wales. It is important for the regulator (Care Inspectorate Wales) to be engaged in the change of registration for providers, which means that legislation is necessary to ensure that the changes are effectively embedded and have the appropriate mechanisms to enforce changes across the sector in a fair and proportionate way.

3. What are your views on Part 1, Chapter 1 of the Bill (sections 1-13), which makes provision intended to restrict the extraction of profit by providers of children's care home services, secure accommodation services and fostering services

In 2021, the Competition and Markets Authority published a report which found several issues in the care of children looked after in Wales.

In its Wales summary² it noted "LAs must often take whatever placement is available, even when it is not fully appropriate for the needs of the child. This blunts the ability to shape the market to provide for true needs". It also found most Welsh LAs do not attempt to actively shape the market by encouraging providers to invest in new provision. Demand for certain types of specialist provision "is too low to justify contracting a whole service to meet these needs".

The CMA also found that the profitability of children's homes in Wales was higher than the average across all three nations. This equated to providers of care in children's

homes seeing profit margins of over 22% and average prices totalling £3,830 per week between 2010- 16. Fostering prices were at an average of £820 per week, with some profit margins averaging 19.4%.

The CMA also noted that “some of the largest private providers are carrying very high levels of debt, creating a risk that disorderly failure of highly leveraged firms could disrupt the placements of children in care. It is clear to us that this market is not working well and that it will not improve without focused policy reform.”

Barnardo's Cymru supports Welsh Government's efforts to radically reform children's social care. As we have outlined, care-experienced children and those on the edge of care do not currently experience the outcomes that they deserve, and we support moves by Welsh Government to address this across the board. Eliminating profit is an important plank of the radical reform agenda, and Barnardo's Cymru supports the ambition to remove private profit from placement provision in children's social care. We hope that in the long-term, this could foster a system that delivers innovation in children's care, and puts the child's needs at the centre of the system we that could be designed. We hope to see opportunities to develop new ways of working in children's services, new models of support and for children and young people to feel invested in this. We view this ambition as one that requires a systems-change approach to how we view children's social care, and we should not be limited in our ambitions as to what this can achieve.

In a focus group of six 16-19 care-experienced young people, participants told us that they strongly support eliminating profit from children's social care. They believe that money invested by Welsh Government and local authorities should be focused on their care and wellbeing, and not withdrawn as private profit. Young people felt that while private profit was allowed in children's social care then there would always be someone who had an incentive for children to be in care rather than supported to remain in their families. Children and young people talked about the trust that should be developed between them and the organisations delivering their care, but that this is difficult to feel when the organisation has an incentive around private profit.

Barnardo's believes that there were opportunities offered by the plan to eliminate profit from care to reshape our children's social care sector and offer services that wrapped around children, that were child-centered and did not seek to try to fit a child to a service model, and to offer fostering and residential care that reflected the children and young people that we care for. We have not yet seen progress on the systems change that would be needed to deliver this and hope that there is still an opportunity to develop this new approach.

This would include developing new models of provision with partnership between local authorities and the third sector at its heart, co-produced with children and young people. We would welcome a model where providers can be brought together to contribute their expertise to developing a residential setting. For example, for a housing association to procure and maintain buildings, for social care providers to develop the workforce and manage the setting, and for other expert providers such as mental health providers to be able to support young people with specific issues or concerns, overseen by the local authority.

4. What are your views on Part 1, Chapter 2 of the Bill (sections 14-22 and schedule 1), which makes a number of amendments in relation to social care services, social care workers and local authority social services, intended to ensure that the 2014 and 2016 Acts can operate fully and effectively

5. What are your views on Part 2 of the Bill (sections 23-26 and schedule 2), which relates to health care, and makes amendments to the National Health Service (Wales) Act 2006 in order to enable the introduction of direct payments within NHS Continuing Healthcare

6. What are your views on Part 3 of the Bill (sections 27-30) which contains a number of general provisions, including in relation to regulations, interpretation, consequential and transitional provisions, and coming into force provisions

Implementation and impact of the Bill

7. Are there any potential barriers to the implementation of the Bill's provisions? If so, what are they, and are they adequately taken into account in the Bill and the accompanying Explanatory Memorandum and Regulatory Impact Assessment?

Developing sufficiency and sustainability in provision

One of the main drivers for potential expenditure outlined in the Explanatory Memorandum is around capital spend on buildings from which to provide residential care. We have previously raised concerns around the ability of new, third sector providers to access appropriate buildings from which to provide residential care. We have called on Welsh Government to enable local authorities, housing associations, third sector providers and housing providers to work together on procuring appropriate buildings.

It is important that residential settings can be developed in the areas of Wales where they are needed, and we welcome the Programme for Government commitment to deliver this. 27% of children in care in Wales are cared for outside of their local authority, and 7% are cared for outside of Wales. Caring for children close to home, ensures that they can maintain links with extended family, friends, their community, continue attending their local school and maintain the support that is so vital for young people. This should be a priority for all of us with a role in caring for and supporting children and young people. Ensuring that local authorities can work with providers to develop provision in communities where children are from, as opposed to areas where property is cheaper or easier to procure, is a key part of ensuring that this policy is successfully implemented, and we are concerned that property could become a barrier to ensuring sustainable provision.

Issues within the workforce

Barnardo's Cymru is concerned that social care in Wales is not currently in a stable state from which to make a significant change. Wales is facing a social care crisis across the sector that is already having significant effects on the landscape, with a recruitment and retention crisis that is seriously hampering the sector's ability to respond to major change.

It is a concern that with the sector already being so unstable, further changes could exacerbate this, particularly if providers were to abruptly leave Wales and create further churn and staff shortages. The Explanatory Memorandum notes that it is still unclear what level of churn should be expected from the changes to the sector, although we have already seen some private providers choose to leave Wales.

Whilst private providers exiting the market may lead to staff looking for jobs with new, third sector providers, given the pressure on the social care workforce it is not unlikely that staff may choose to leave the sector completely and look for other opportunities with better pay, less risk and fewer antisocial hours, all of which are sadly the hallmarks of working in children's social care.

The social care workforce is under significant stress for a multitude of reasons including high caseloads, staffing issues, risks relating to safeguarding and much more.³

As of most recent data up to March 2022, the social care workforce is at 84,134 people in Wales, this is 7% lower than in March 2021, despite increasing need within the sector. In 2022, there were 5323 vacancies, which is 9% of the overall workforce. The vacancies experienced by local authorities have increased by 6% compared to 2021.

In 2023 social workers told Welsh Government:

- 76 per cent started working in social care because they wanted to make a difference to people's lives
- 38 per cent are dissatisfied with their current job
- 77 per cent say having too much work or not having enough time to do it causes stress at work
- 34 per cent think the right staff are in place to provide services
- 24 per cent don't feel safe at work
- 40 per cent think there are barriers to accessing training .

We were pleased to see an emphasis on mental health support for practitioners in the Social Care Workforce Delivery Plan 2024-2027, but we would urge Welsh Government to invest in new efforts to ensure that children's social care is viewed as an attractive career opportunity.

8. Are any unintended consequences likely to arise from the Bill?

There is the potential that there could be a short-term increase in the number of children in unregulated, inappropriate placements because of further pressure on the numbers of placements available. This will be exacerbated by the potential removal of private sector provision because they are better able to take decisions across wider geographical areas due to greater access to capital investment. This suggests there needs to be a staged withdrawal to enable not-for-profit providers to access capital investment and build placement provision across much wider geographical areas than currently permitted. We would welcome further guidance from Welsh Government on how the timelines attached to the change apply, and how organisations will be supported to ensure that this is a staged process.

We would also ask that Welsh Government consider additional support for providers. Quality standards should be put in place to ensure that the same high standards are met for children and young people in all settings, and that providers are supported to deliver this. We are encouraged by the start of the work on a National Practice Framework and hope that this will meet this ambition.

We would suggest that Welsh Government undertake further planning to understand the potential landscape in the aftermath of the change and taking into account the need

for plurality. Large and small third sector providers will need to feel supported to potentially enter the market, for example through capital investment and capacity building funds, and they will have different support needs to do so.

We already have a significant lack of fostering families compared to the need in Wales. Barnardo's has issued an urgent appeal for more people to come forward as potential foster parents. The pressing need for new foster carers comes at a time when Barnardo's has seen a decline in the number of people coming forward to be foster carers. With the average age of a Barnardo's foster carer aged 55 and older, the advancing age of many foster carers means an increasing number are now retiring. If more foster carers retire because of changes to the sector or IFAs leaving Wales, then we will be left with an even more urgent need for fostering families than is already the case

Notes

Social Workforce Delivery Plan 2024 – 2027, Social Care Wales

9. What are your views on the appropriateness of the powers in the Bill for Welsh Ministers to make subordinate legislation (as set out in Chapter 5 of Part 1 of the Explanatory Memorandum?)

10. What are your views on the Welsh Government's assessment of the financial and other impacts of the Bill as set out in Part 2 of the Explanatory Memorandum?

The overarching concern around costs is that it is still unclear as to how many private providers would leave Wales, with the highest cost being for local authorities to find appropriate properties for residential care.

We welcomed the 2023 – 2025 Eliminate funding grant which provided local authorities with an opportunity to bid for funding to undertake projects which would develop their sustainability and sufficiency. However, there is not always transparency as to how this funding was utilised and there has also been no further information on whether another round of funding will be forthcoming. Therefore, there are still significant concerns around the immediate impact of eliminating profit and how this will impact on children and young people

11. What are your views on the Welsh Government's integrated impact assessments (set out in Part 2 of the Explanatory Memorandum), including the Children's Rights Impact Assessment

We are pleased to see that a Children's Rights Impact Assessment has been undertaken. We recognise that many children and young people see benefits to eliminating profit from their care, and that this could have a positive impact on a number of rights enshrined in the UNCRC.

However, the risks around stability and sufficiency, which we are not yet sure have been effectively mitigated, risk undermining this, at least in the short-term. We have discussed these risks at length in other sections.

Development of the policy and legislative proposals

12. What are your views on the approach taken by the Welsh Government to the development of the policy and legislative proposals reflected in the Bill.

Among any other issues, please consider in particular the approach to engaging and consulting with stakeholders

We have been pleased to work with Welsh Government through the Eliminating Profit Board established to work with stakeholders in the sector.

That said, the policy proposal has not yet been fully developed in the wider context of safely reducing the number of children in care in Wales, as was the original intention as part of the Cooperation Agreement. Care-experienced young people told us that more should be done to prevent children from needing to go into care in the first place. We know this is a clear intention of Welsh Government's Transforming Children's Social Care agenda and hope to continue to support these efforts.

We would welcome more emphasis within the Eliminating Profit Board on developing new models of provision. We have been pleased to see funding offered to local authorities in pursuit of eliminating profit and ensuring stability in the sector, but this funding is short-term and limited. We would like to see more leadership and direction from Welsh Government in terms of developing new models and ways of working as part of a systems-change approach to remodelling the sector as we seek to remove profit, rather than relying on local authorities to seek their own solutions, potentially working in siloes from one another.

We have been pleased that Welsh Government have also sought to hear the voices of children and young people in delivering this policy. Children and young people feel strongly about eliminating profit from care, but also the wider context around reforming the care system and that achieving this policy change should contribute towards a care system that supports more families to safely stay together.

Children and young people supported by Barnardo's Cymru told us that they felt let down by a system that did not do enough to prevent them from needing to go into care in the first place. They want to see more children supported to safely remain with their families, and hoped that by eliminating profit from care, the system would be reframed in order to focus on prevention.

Any other issues

13. Are there any other issues that you would like to raise about the Bill, the accompanying Explanatory Memorandum and Regulatory Impact Assessment, or any related matters?

(final part of Q6)

This would include developing new models of provision with partnership between local authorities and the third sector at its heart, co-produced with children and young people. We would welcome a model where providers can be brought together to contribute their expertise to developing a residential setting. For example, for a housing association to procure and maintain buildings, for social care providers to develop the workforce and manage the setting, and for other expert providers such as mental health providers to be able to support young people with specific issues or concerns, overseen by the local authority.

General principles of the Bill (1/4)

The Explanatory Memorandum for the Health and Social Care (Wales) Bill states that the Bill is intended to eliminate private profit from the care of children looked after, and to enable the introduction of direct payments for Continuing NHS Healthcare. It will also make amendments to ensure that the Regulation and Inspection of Social Care (Wales) Act 2016 and Social Services and Well-being (Wales) Act 2014 are able to operate fully and effectively.

1. What are your views on the general principles of the Health and Social Care (Wales) Bill?

The Fostering Network is supportive of the key principles and aims of the Bill and the rebalancing towards not for profit. We have based our submission on conversations with our members over the past two years on the benefits, risks and ways to mitigate these risks. Our members in Wales include all 22 Local Authorities, and 12 independent providers, five of which are not for profit providers. The majority of our members welcome the Welsh Government aspiration to remove profit in principle but have concerns about the timescales, impact and workability of the process.

A recent report from the Wales Centre for Public Policy which explored the opinion of experts on eliminating profit from children's social care found "consensus that there are major and longstanding issues around the quality and sufficiency of placements for children looked after, with consequent impacts on outcomes."¹ It reported that placement decisions are often based on availability rather than need. It also noted that there are increasingly more out-of-area placements which are not in the child's best interests. These challenges are further impacted by factors relating to the social care workforce where there is greater reliance on unregulated agency staff, and where private companies are entering the market for profit rather than prioritising children's outcomes. The Fostering Network echoes these concerns about the issues in children's social care, specifically within foster care, so we hope that there will be a focus alongside this Bill on improving the quality of care and sufficiency of placements to ensure the best outcomes for children.

We have some concerns around the details of the transitional processes and timeline, particularly given that the numbers of children in care in Wales are almost the highest ever, at 7,210 in 2022/23.² We believe it is important that these details are made clear with enough time for appropriate action so that there can be the least disruption to children.

Footnotes:

1 Expert-opinion-on-eliminating-profit-from-care-of-children-looked-after.pdf (wcpp.org.uk)

2 The highest ever was 7,265 in 2020/21

2. Is there a need for legislation to deliver the Welsh Government's stated policy intention?

- ☒ Yes
- ☐ No
- ☐ Don't know
- ☐ Don't have a view

3. Please outline your reasons for your answer to question 2

The Fostering Network believes that there is a need for legislation to deliver the Welsh Government's intention to eliminate profit from children's social care to ensure that this is robust. We would seek assurances that safeguards will be in place with an appropriate level of scrutiny during the legislative process. This policy intention has far reached impacts on children and the social care system, so we believe that the legislative process and the safeguards that this will provide are crucial to ensuring that it is delivered effectively and in a way that provides improved outcomes for children.

4. What are your views on Part 1, Chapter 1 of the Bill (sections 1-13), which makes provision intended to restrict the extraction of profit by providers of children's care home services, secure accommodation services and fostering services

As the leading fostering charity, we answer only in relation to the extraction of profit from fostering services and outline a summary of the views of our members.

In order to prevent the dominance of large UK and international social care organisations once the Bill takes effect, it is crucial that small, community-based fostering services are supported in their not-for-profit form. These smaller services often have a strong focus on supporting children and young people to remain in their communities when safe, near their birth family and siblings. There is concern that an opportunity to protect smaller SMEs has been missed and that only legislating to remove profit is not sufficient to achieve better outcomes for children. In addition to the Bill, local authorities (LAs) need to implement stringent social value assessments for all not-for-profit children's care providers in Wales, ensuring that supply chains align with the not-for-profit ethos and preventing surplus funds from being redirected as profit for back-office support functions or salaries. Transitioning to a not-for-profit model alone is unlikely to change organisational cultures, however, commissioning arrangements can significantly influence these cultures.

We believe that eliminating profit should be the basis for ensuring the needs of foster carers and those of children are being prioritised over shareholder interests. Some of our members are concerned that LAs may not fully understand their full production costs, which could then render this approach unsustainable if this has not been accounted for correctly. Additionally, those we consulted were concerned that this could lead to a destabilised sector and fewer choices of placement for Welsh children needing foster care in turn, this could result in more children entering residential care at a younger age, or having to be placed out-of-area or outside of Wales into England, for example. We, therefore, are supportive of the intention to eliminate profit from fostering services as long as the sufficiency of foster care is thoroughly explored and understood within this context.

5. What are your views on Part 1, Chapter 2 of the Bill (sections 14-22 and schedule 1), which makes a number of amendments in relation to social care services, social care workers and local authority social services, intended to ensure that the 2014 and 2016 Acts can operate fully and effectively

6. What are your views on Part 2 of the Bill (sections 23-26 and schedule 2), which relates to health care, and makes amendments to the National Health Service (Wales) Act 2006 in order to enable the introduction of direct payments within NHS Continuing Healthcare

7. What are your views on Part 3 of the Bill (sections 27-30) which contains a number of general provisions, including in relation to regulations, interpretation, consequential and transitional provisions, and coming into force provisions

Implementation and impact of the Bill (2/4)

8. Are there any potential barriers to the implementation of the Bill's provisions? If so, what are they, and are they adequately taken into account in the Bill and the accompanying Explanatory Memorandum and Regulatory Impact Assessment?

The key barriers to implementation identified by our members centre on the proposed timelines and transitional arrangements, which they do not think are currently robust enough. It is vital that these take a child centred approach and ensure that all decisions around the transitional timeframes are made in children's best interests. Our members have expressed concerns that the transitional arrangements will allow foster carers to remain registered with for-profit fostering services whilst they have a child in placement as there is currently no clear guidance on how long this should be allowed for. There is a concern that for-profit services will not be able to maintain and sustain the 'business' if they are unable to place new children, and will therefore go into administration, causing more instability for children. We would also suggest a new risk assessment is carried out by Welsh Government once for-profit providers have decided if they will transfer to charities or not in order to understand how many children will still be in placements with for-profit services.

Our members who are already charities are concerned that they have been told by Welsh Government that there is no money available to support them with the likely increase of foster carers they will have, following the transition period. This is despite LAs having been awarded circa £64m over 3 years to support the eliminate profit agenda. They believe that, if they were to be properly funded and supported, the third sector would be able to do more to increase sufficiency in a more targeted way.

9. Are any unintended consequences likely to arise from the Bill?

We are concerned that this Bill could result in Wales having less foster carers than we have currently. This is worrying as we estimate that Wales are already in need of 400 more foster carers within the next year. It is, therefore, crucial that the transfer protocols are clear and that foster carers and fostering services are aware of the processes that need to take place. Furthermore, we know from conversations with our members that the Welsh Government and AFKA good practice recruitment guide⁴ is not being followed by LAs. Our research and FOIs carried out last year also reveal there are still many inconsistencies between LAs, including for fees and allowances which we believe will not help prevent this likely net loss of foster carers during this process.

We are also concerned about the negative impact on children and young people currently placed with foster carers who are with profit making IFAs. As mentioned above, there is a risk of instability for children and young people if the for-profit provider they are placed with does not transfer to not-for-profit and then is financially unable to sustain their provisions.

There is likely to be a worsened impact on areas where there are more profit making IFAs and higher numbers of children in care, such as Cardiff. It is vital that it is made clear how these will be supported with the transition to ensure stability for children and sufficiency of placements.

The effect on specialist placements that are often mostly or completely provided by for-profit fostering services is another area of concern. Placements such as parent and child, and placements for siblings are already difficult to secure so it is crucial that none of the current foster carers are lost during this process, and that LAs and not-for-profit providers become more able to provide these placements.

Concerns have been raised with us that when profit making IFAs transfer to not-for-profit fostering services, they may still charge high prices to LAs and reinvest their profits by paying higher salaries or investing in other ways, therefore continuing to cause the sector to be financially unsustainable. We would like to know how this will be monitored by the Welsh Government, especially for services that also operate outside of Wales and would remain profit making in other areas.

Consideration should also be made as to the impact on independent providers who are currently using a profit-making model. Members have told us they feel they are now being labelled as 'bad' and demonised for their financial model. They will need to be supported effectively to transition, to ensure that this reputation does not carry forward and have negative consequences for their foster carers and the children placed with them.

10. What are your views on the appropriateness of the powers in the Bill for Welsh Ministers to make subordinate legislation (as set out in Chapter 5 of Part 1 of the Explanatory Memorandum?)

11. What are your views on the Welsh Government's assessment of the financial and other impacts of the Bill as set out in Part 2 of the Explanatory Memorandum?

12. What are your views on the Welsh Government's integrated impact assessments (set out in Part 2 of the Explanatory Memorandum), including the Children's Rights Impact Assessment

We support NYAS's submission to the Committee which states that the views or voices of the children and young people this will affect have not been adequately heard, consulted or addressed. The young care experienced people we have worked with often feel strongly that they are not listened to, so we believe it is important that this Bill does not add to those feelings.

The CRIA says "However, it is acknowledged there is a risk to placement sufficiency and stability as we build resilience and there is the potential for this to have a negative impact on children's rights and their outcomes in the short term" but the Bill or explanatory memorandum do not set out how this will be effectively mitigated. It also says that the Bill is in the best interests of the child, but we are concerned that if this is not mitigated, these proposals would not be.

Development of the policy and legislative proposals (3/4)

13. What are your views on the approach taken by the Welsh Government to the development of the policy and legislative proposals reflected in the Bill.

We are concerned about the lack of stakeholder involvement with children and young people affected by this Bill throughout this process and believe that it is important that the voice of children is adequately heard and respected in the development of this Bill.

Many of our members have also reported that foster cares are not aware of the proposed changes and what this will mean for them, or what they will have to if they need to transfer. We have also been told by our for-profit members that their carers and staff have felt demonised, which is unlikely to help with retaining foster carers and experienced social workers during this time.

Any other issues (4/4)

14. Are there any other issues that you would like to raise about the Bill, the accompanying Explanatory Memorandum and Regulatory Impact Assessment, or any related matters?

Our charitable independent members have highlighted that greater scrutiny is needed in respect of the impact of funding that has already been allocated to LAs from Welsh Government. A percentage of this was meant to be for LAs to work with the third sector, however they have not seen this funding being allocated to them and would like to better understand what is happening with it.

For children in Wales to have the best possible foster carer provision available to them the focus must be on them and what they need. Positive outcomes occur when consistent, high-quality, recruitment and retention practice is embedded across all aspects of service delivery. We would advise that there is an urgent need for improved data collection, scrutiny and evaluation across the fostering sector in Wales. Without improvements to this data collection, the impact on children will not be seen.

Evidence Submission from TACT Cymru for the Health and Social Care (Wales) Draft Bill

TACT warmly welcomes the Welsh Government's aspiration to eliminate profit from children's social care and the publication of the draft bill. We understand the complex nature of this work, and the balance that is needed between removing profit from children's social care without disrupting the sufficiency of foster care and residential care for Welsh children.

Profit, in itself, is not a determinant of quality. There are many SME's in Wales, often family owned, that provide excellent care whilst making only a small profit. Supporting small community based organisations that provide a high level of social value fits with the Welsh Governments approach to foundational economics. It is important therefore that those organisations are supported in their not-for-profit form to prevent the dominance of large UK or international organisations, often with remote senior management teams based outside of Wales, that may in the future be operating as not for profit entities in Wales.

We are extremely concerned that an opportunity has been missed to safeguard smaller SMEs in Wales and to effectively end the dominance of large private capital backed IFA's. We judge that allowing the Community Interest Company option will allow a loophole for private capital IFAs to exploit. A more effective approach would have been to restrict permissible suppliers to being the State or registered charities. The smaller SMEs could be supported to obtain charitable status. Charitable status would be unacceptable to private capital backed IFA's as the asset lock and financial reporting requirements would be inimical to their business model so they would exit the sector. The Charity Commission could act a gatekeeper and policing service for the Welsh Government.

Legislating to remove profit is not the only solution. We ask that the Welsh Government also ensures that Local Authorities, through their commissioning arrangements, apply stringent social value assessments to all not for profit children's care providers in Wales. This should set minimum levels of staff that are based in Wales, including senior decision makers and back office support, and should also ensure that supply chains reflect the not for profit ethos to prevent surplus being moved out of Wales and turned into profit for back office support. TACT applies a strong social value policy to its work in Wales, over and above what is required of us in the All Wales Fostering Framework contract, reflecting our belief in the importance of local place based services. Just over 80% of our entire supply chain is from Welsh SME's and not for profit providers and we are working hard to increase that percentage. This should be expected from all not for profit care providers in Wales.

The 2024 Expert Opinions Report by the Welsh Centre for Public Policy found that staffing ratios in privately owned care providers tend to be lower than in not for profit agencies. This impacts the quality of care provided. Becoming a not for profit agency is unlikely to change management cultures of organisations who have established practices that maximise the return of cash to its centre, whether in profit or surplus form. Commissioning arrangements can do more to influence culture by mandating behaviours from senior management, such as insisting on maximum caseload levels for social workers and enforcing safe staffing ratios in care homes. Using the social partnership and procurement act to impose its social partnership duty on all children's social care providers, enforced through commissioning

arrangements, will create safer and more positive working environments, improving the quality of care and relationships for children.

We must learn from what has not worked well in other parts of the UK. In Scotland, their legislation to remove profit has resulted in a reduction in the mix of local SME providers as large UK not for profit organisations have dominated the market (reference). The Welsh Government needs to help Local Authorities to set out a long term vision for what they want the independent social care sector to look like and the mix of providers needed. Not all local authorities in Wales publish market position statements and so developing long term investment plans in those areas is risky for smaller independent providers. Investing in the right staffing, training and support for foster carers relies on knowing predicted demand and needs of children. The eradicating profit programme should now be followed up with an ambitious long term plan that provides the independent care sector with a blueprint for what local authorities need and expect from us in the long term.

Scott Ruddock, TACT Director

Mike Anthony, Wales Service Manager



HSC(6) 36-24 Papur 5 | Paper 5

Evidence from: Nationwide Association of Fostering Providers

Senedd Cymru | Welsh Parliament

Y Pwyllgor Iechyd a Gofal Cymdeithasol | Health and Social Care Committee

Bil Iechyd a Gofal Cymdeithasol (Cymru) | Health and Social Care (Wales) Bill

You do not need to answer every question, only those on which you wish to share information or have a view.

General principles of the Bill

1. What are your views on the general principles of the Health and Social Care (Wales) Bill?

(This consultation response refers only to the remove profit programme)

Welsh Government was elected with a stated objective to remove profit from children's services and so has a democratic mandate to follow this through. The principle is often stated as being based on the views of children. We believe that the evidence published to support this claim is very weak. Whilst it may be true that some young people when asked specifically express objections, for most young people it is not one of the key issues that they raise about their care. As a principle, 'remove profit' fails to recognise the significant contribution made to the lives of children in foster care by independent fostering agencies (IFA) of all shapes and sizes. The principle will also not address the key barriers to improving foster care for children, including insufficient numbers of the kinds of foster carers needed by children.

2. Is there a need for legislation to deliver the Welsh Government's stated policy intention?

☐ Yes

X ☒ No

☐ Don't know

☐ Don't have a view

Please outline your reasons for your answer to question 1

Legislation is not required as removing profit in foster care will not improve services for children. The focus should instead be on better commissioning by local authorities, closer regional working and a new spirit of collaboration between local authorities and IFAs.

3. What are your views on Part 1, Chapter 1 of the Bill (sections 1-13), which makes provision intended to restrict the extraction of profit by providers of children's care home services, secure accommodation services and fostering services

The wider context of the role that IFAs play for children in care is key here. The impact of profit (or removing profit) is not a single issue and cannot be considered in isolation. It is an issue that sits in a complex and interconnected system, not just in Wales, but across England and Wales, and the wider UK.

IFAs have consistently shown over time that they offer excellent quality care for children. Children overwhelmingly report how happy they are with IFA foster care. Inspection reports also support this view. IFAs have developed to offer services that local authorities have been unable to provide. NAFP's recent report, [Outcomes from Fostering](#), shows that the children living with IFA foster carers have higher needs than those living with local authority foster carers. Yet, despite this, those children make at least as good progress - a remarkable achievement. This is in no small part due to the consistent and professional support offered to IFA foster carers. The service offered by IFAs cannot be easily replaced or replicated by local authorities. Children in foster care would have fared much worse had it not been for IFAs.

Most IFAs are small private sector companies, though there are also not for profit agencies and larger companies, started by foster carers or social workers to provide services that local authorities were unable to provide, often taking on loans to start and develop their agencies. Profit (or surplus) is a part of reinvesting in service development and in managing financial investment at a time when the public sector has been unable to invest. And many make very small levels of profit. IFAs have taken on the risk of this investment when the public sector is not placed to. They have also invested widely in their local communities - employment, offices, supporting local charities.

There is a widespread mis-understanding of the costs of foster care. Local authorities typically fail to fully cost their own services. Providing high quality services for children with the highest needs costs more. Local authorities have funded the Children's Commissioning Consortium Cymru (4Cs) for a number of years to ensure value for money from IFAs. Their continued funding of 4Cs might imply that 4Cs have achieved this. Profit in IFAs does not lead to higher fees to local authorities. The fees charged by IFAs are not linked to that IFA being for-profit or not-for-profit. This might be counter-intuitive for some, but it is largely the case.

By giving prospective foster carers a choice between working for a local authority or an IFA, it is more possible to maximise the numbers of people who take on the challenge of

caring for children. Recruiting foster carers is very challenging. However, experience tells us that IFAs retain and recruit foster carers, in general, better than local authorities. This is not about spending. This is because of the high quality support they offer and how they work closely with local authorities to ensure that children and foster carers are right for each other (the 'match').

Taking steps to remove profit risks losing these huge gains - for children and for effective public spending.

4. What are your views on Part 1, Chapter 2 of the Bill (sections 14-22 and schedule 1), which makes a number of amendments in relation to social care services, social care workers and local authority social services, intended to ensure that the 2014 and 2016 Acts can operate fully and effectively

5. What are your views on Part 2 of the Bill (sections 23-26 and schedule 2), which relates to health care, and makes amendments to the National Health Service (Wales) Act 2006 in order to enable the introduction of direct payments within NHS Continuing Healthcare

6. What are your views on Part 3 of the Bill (sections 27-30) which contains a number of general provisions, including in relation to regulations, interpretation, consequential and transitional provisions, and coming into force provisions

Implementation and impact of the Bill

7. Are there any potential barriers to the implementation of the Bill's provisions? If so, what are they, and are they adequately taken into account in the Bill and the accompanying Explanatory Memorandum and Regulatory Impact Assessment?

NAFP's IFA members care for 96% of children living with IFAs across the UK. IFAs are committed to continued delivery of their fostering services in Wales if possible and, of course, being legally compliant in the process. This is good news for children and for public spending. But the bill makes it more difficult for them to do this than it probably needs to.

The prescribed models of organisational governance identified in the bill are not sufficient for an easy transition to not-for-profit for current private IFAs. It is unclear as to why only these structures have been chosen. Additional simpler and less costly structures, such as a not-for-profit company limited by guarantee (as with NAFP), would better support an efficient transition. There are also for-profit structures, such as employee owned trusts, widely accepted as 'ethical', that have not been included where the blunt definition of 'profit' is the only criteria. It is also unclear why it was even necessary to list acceptable models. An alternative or addition would be to invite approval from IFAs of the best model for them to support the way in which they see as best to their unique service.

It is possible that either an existing or new not-for-profit IFA might look to buy a current private IFA from its owners. In this case, it would be challenging to secure such loans - they would need to look to commercial lenders. The not-for profit iFA would have to pay debt/loan interest on these funds.

As the IFAs recoup their costs from the fees charged to local authorities, the costs of transition to new structures and additional interest payments would be reflected in these fees.

8. Are any unintended consequences likely to arise from the Bill?

There is likely to be a loss of foster carers during transition. We have seen this when an IFA changes its ownership. Some foster carers see this as the appropriate time to retire or to change to a different role in their lives. They may well continue to care for children currently living with them, but choose not to take on any further children in the event of children moving on.

In a sad example for children in Wales, the Foster Care Cooperative, one of the larger not-for-profit IFAs, decided to stop offering services in Wales during the implementation of Government's remove profit programme. This decision may have been influenced by the toxic environment stirred up by the programme. It has made it more difficult for local authorities and their IFA partners to work together. Foster carers from The Foster Care Charity were invited to transfer to Barnardo's fostering service (foster carers are self-employed). It is inevitable that there would be losses of foster carers during this change.

Funds for marketing recruitment alone are not the answer to this loss. The investment in Foster Wales to recruit local authority foster carers is unlikely to offset this loss. Fewer foster carers means less choice for children in an already challenging environment. This is potentially disastrous.

In passing responsibility for sufficiency to local authorities, the bill fails to acknowledge the huge pressures on local authorities to achieve this. Any investment in early support for families is likely to take many years before this results in fewer children in care. In some ways, it is setting up local authorities to fail.

9. What are your views on the appropriateness of the powers in the Bill for Welsh Ministers to make subordinate legislation (as set out in Chapter 5 of Part 1 of the Explanatory Memorandum?)

10. What are your views on the Welsh Government's assessment of the financial and other impacts of the Bill as set out in Part 2 of the Explanatory Memorandum?

In their study of independent children's services, the Competition & Markets Authority (CMA) did not recommend removing, capping or limiting profit. They did not find evidence that limiting for-profit provision would result in better outcomes for children and local authorities in the long term (page 83, paragraph 4.98). IFAs offer very good services, whatever their organisational model.

11. What are your views on the Welsh Government's integrated impact assessments (set out in Part 2 of the Explanatory Memorandum), including the Children's Rights Impact Assessment

Development of the policy and legislative proposals

12. What are your views on the approach taken by the Welsh Government to the development of the policy and legislative proposals reflected in the Bill.

Among any other issues, please consider in particular the approach to engaging and consulting with stakeholders

Any other issues

13. Are there any other issues that you would like to raise about the Bill, the accompanying Explanatory Memorandum and Regulatory Impact Assessment, or any related matters?

HSC(6) 36-24 Papur 6 | Paper 6 – The Children's Homes Association

Senedd Cymru | Welsh Parliament

Y Pwyllgor Iechyd a Gofal Cymdeithasol | Health and Social Care Committee

Bil Iechyd a Gofal Cymdeithasol (Cymru) | Health and Social Care (Wales) Bill

You do not need to answer every question, only those on which you wish to share information or have a view.

General principles of the Bill

1. What are your views on the general principles of the Health and Social Care (Wales) Bill?

CHA welcomes the Welsh Government's commitment to Rebalancing Care and Support, including embedding Social Value principles throughout health and social care, and improving partnerships in a mixed economy.

We fully support the Welsh Government's aspirations to improve social care arrangements and achieve the aims of the Social Services and Well-being (Wales) Act 2014. However, 'rebalancing' and 'social value' can be achieved without eliminating profit.

The eliminating profit aspect of the Bill threatens decades of evolution and expertise in children's residential care and risks worsening the sufficiency crisis in Wales with significant impact on children and young people. There is no evidence to suggest that removing private children's homes providers will enhance Social Value in the short or long term – the financial cost alone at a time of unprecedented pressure on Welsh councils suggests the opposite.

2. Is there a need for legislation to deliver the Welsh Government's stated policy intention?

☒ Yes

☐ No

☐ Don't know

☐ Don't have a view

Please outline your reasons for your answer to question 1

The CHA is dedicated to supporting exemplary residential childcare and values a mixed economy of children's social care, including public, charity, and for-profit providers. Improving lives is a priority, and successful care benefits society, potentially saving over £3 million per care leaver in negative outcomes.

Recent years have seen significant changes in policy, regulation, and the needs of children in care, with independent for-profit providers developing most of the specialized care services, when public and voluntary providers were not. The sector's diversity is essential to meet the varied needs of children.

We emphasise the importance of ethical and transparent business models in a mixed economy of care. Taxes fund children's social care, so providers must contribute to the tax-funded system responsibly. Tax haven funded private equity and funding models do not align with the principles of social care. The NHS and Community Care Act (1990) that created a market did not anticipate private equity involvement and profit-making providers avoiding taxes. Profits from tax-funded services should be taxed and reinvested in quality care rather than high-interest loans.

To align with these values, the CHA updated its membership criteria to ensure that members must now:

- Be ultimately owned in the UK
- Have wholly or majority shareholders who are registered as a UK taxpayer
- Not receive loans of investments that originate from a tax haven

The CHA acknowledges that legislative change is required to tackle the unethical practice of some of the largest children's social care providers. However, it is crucial to understand the difference between 'profit' and 'profiteering'. The CHA believes that Welsh Government can meet its policy objectives without the dangerous and disruptive blanket approach of removing all profit from children's residential care, learning from changes we ourselves have made as an organisation to support social value, and looking at effective strategic commissioning and procurement strategies that seek to advance

the sector from short-term spot contracting to more sophisticated and stable partnerships.

We take a child-centred approach to policy evaluation and are concerned by any policy change that risks the well-being of children and young people. We are also concerned by the inaccurate reporting on this policy and its progress.

We welcomed the recommendations of the Competition and Markets Authority (CMA) report which, while raising concerns about the risks associated with some larger private equity owned providers (who do not represent the full spectrum of private providers in Wales), reinforced our position that the state of the market is due to many complex factors and no single solution will bring about the change required to improve sufficiency. As such, we also echo the CMA's reservations about calls to restrict profits and prices in residential childcare, given that the fundamental issue affecting children and young people is a lack of placements, and such drastic measures will reduce placements and damage sufficiency further.

3. What are your views on Part 1, Chapter 1 of the Bill (sections 1-13), which makes provision intended to restrict the extraction of profit by providers of children's care home services, secure accommodation services and fostering services

Whilst it is positive to finally have sight of the proposed legislation, the Bill doesn't offer any further detail from what was already known. The sector is concerned with transition arrangements and implementation, and the primary legislation in its current form is too simplistic. As a result, it has reinforced or confirmed providers' plans to exit the sector.

We are also concerned about legislating a policy which will have such profound consequences on children and young people, and small and medium sized business owners across Wales. The proposed legislation and the fact that detail is not contained in the Bill about transition and implementation further reinforce our view that there is a fundamental lack of awareness by the Welsh Government of the residential childcare sector, particularly how it operates and the children it is intended to care for.

The below points from the legislation need clarifying via secondary legislation and the regulations, and it is imperative that the sector is consulted on the proposed further detail which will come out during this process. Therefore, it is difficult to determine whether the provision will meet the policy intentions.

Supplementary placements and approval for for-profit placements

Sections 1(5) and 81B stipulate that local authorities must seek approval from Welsh Ministers before placing a child in for-profit provision starting from 1 April 2027. We are

concerned about the practical implications of this requirement. Many placement decisions are time-sensitive and need to be made on the same day. The additional step of obtaining ministerial approval places significant burdens on local authorities and introduces the risk of delays. If approval is not granted within the necessary timeframe, it could force children into unregulated or unregistered settings, or a provider could take a different child if there is demand for the placement.

We therefore recommend that the approval process be delegated to local authorities. This would allow for more immediate decision-making, ensuring that placements can be secured quickly and that the welfare of children and young people is not compromised. Local authorities are well-positioned to make these decisions promptly and effectively, adhering to the necessary regulations and standards.

Transition arrangements

Section 1(3)(c) states “any such provider that remains registered but is not incorporated as a not-for-profit entity may remain registered subject to conditions imposed by regulations”. Without detail on what these conditions are, providers cannot make sound business decisions or understand how these conditions may impact their business.

Local authority sufficiency plans

Section 75A covers a duty on local authorities to prepare and publish an annual sufficiency plan. However, it is unclear what happens if a local authority sufficiency plan isn't approved, and it could imply that by proxy Welsh Government are dictating what the sufficiency plan should contain, ignoring whether it is reasonable or achievable for the local authority. Local authorities should have the trust and autonomy to determine what is in the best interests of the children in their care. We are also concerned about the additional burdens this will place on local authorities by having to produce an annual sufficiency plan, and whether this will make any material difference to achieving the policy objectives.

4. What are your views on Part 1, Chapter 2 of the Bill (sections 14-22 and schedule 1), which makes a number of amendments in relation to social care services, social care workers and local authority social services, intended to ensure that the 2014 and 2016 Acts can operate fully and effectively

N/A

5. What are your views on Part 2 of the Bill (sections 23-26 and schedule 2), which relates to health care, and makes amendments to the National Health Service (Wales) Act 2006 in order to enable the introduction of direct payments within NHS Continuing Healthcare

N/A

6. What are your views on Part 3 of the Bill (sections 27-30) which contains a number of general provisions, including in relation to regulations, interpretation, consequential and transitional provisions, and coming into force provisions

N/A

Implementation and impact of the Bill

7. Are there any potential barriers to the implementation of the Bill's provisions? If so, what are they, and are they adequately taken into account in the Bill and the accompanying Explanatory Memorandum and Regulatory Impact Assessment?

Welsh Government facilitated a workshop in November 2023 with independent providers and commercial and legal experts to explore transition to not-for-profit status and reviewed Welsh Government's proposed operating models.

The survey following this workshop which asked how many providers would be willing to transition, showed that no independent providers would currently be willing or able to transition to not-for-profit structure, and would not reconsider without any further clarity from Welsh Government. A survey of Welsh CHA members in May 2022 also showed that out of 22 respondents (330 registered places), 21 would not transfer to a not for profit model.

Following publication of the Bill, CHA members do not feel that there is much further clarity for them to determine the future of their businesses, with many deciding they will exit the sector. Welsh Government has repeatedly stated that they intended to 'ensure the stability of the market and avoid disruption to existing placements for children.' If most residential childcare providers choose not to transition, it will throw into question whether the eliminate profit element of the Bill could reasonably be implemented due to unreasonable increased cost and sufficiency pressures, on local authorities and existing not-for-profit providers.

Additionally, some providers have advised CHA that some of the proposed 4 business models which would be acceptable from 2027 onwards, would in fact be illegal for them

to transition to. CHA is working with providers on this however this would be a significant barrier.

8. Are any unintended consequences likely to arise from the Bill?

It is our evidence-based view that the financial, social, and human costs of eliminating profit have been dangerously underestimated, and that the policy will not only worsen the sufficiency crisis in Wales, but directly impact the wellbeing and life chances of children and young people for whom the Welsh government has a duty of care. Further, it will create a barrier for local authorities to deliver their Statutory Duties.

The policy raises the most serious risks for vulnerable children in Wales (and risks for the English children who are placed in Wales) and an existential risk to many of the providers who care for them. Since the policy's announcement, there have been multiple anecdotal reports that disruption is already being felt, with one of the largest Fostering charities withdrawing from Wales due to the toxic environment the policy has created.

OWR

Children are being negatively affected by a sharp increase in the use of unregistered settings in Wales due to insufficient supply at a time of increasing demand. Most services operating without registration (OWR) are operated by local authorities. We are highly likely to see a further increase in children's homes OWR as providers exit the market and not-for-profit sufficiency unable to cope with demand, particularly in areas such as Cardiff.

Between 1 April 2022 and 31 March 2023, there were 92 children's homes OWR. Of these 92, only a small number became registered, half closed, and the remainder are still operating.

The CHA has submitted an FOI to Welsh Government to see the number of homes OWR in the last 2 years and how many children are living in illegal placements, directly because of this policy.

Sufficiency

It is unclear how LAs would meet their statutory duties due to the lack of provision available, and there is a significant likelihood that LAs would be in breach of their statutory duties. There is currently a lack of sufficient placements, which will be significantly exacerbated by this policy due to providers' intentions to exit the market.

Wales registered 31 new children's homes in 2022/23. This resulted in forty-five new places available for children. 5 of these (16%) were registered by local authorities. 9

children's homes closed during this period due to staffing and viability issues. 12 out of the 22 local authorities did not commission any not-for-profit provision in 2023.

There is no reported engagement or expansion of a new third sector, nor is there any significant movement from local authorities to open provision (noting the breadth of expertise that is lacking to progress this). Other key stakeholders such as Welsh LGA and ADSS Wales have also both warned about the policy implementation, particularly when we are already in an environment of severe workforce challenges and a 'pre-existing placement crisis.' Both organisations stated very clearly that *"you cannot eliminate any element of support underpinning a statutory service without first building the alternative."*¹

Some providers are deciding not to continue to invest in Wales, withdrawing altogether or starting to restrict placements only to children from England because they feel these may be subject to longer contracts than those being offered, given the Welsh Government's intentions. Independent providers have stated they will be likely to either close or move their businesses (for example into England for those near the border) or repurpose their buildings to allow them to operate in a different sector, resulting in Wales losing decades of skills and experience that have been developed. The policy could also see an increase of staff leaving the sector, at a time when the sector is already experiencing a workforce crisis, due to concerns about job security, if providers intentions are to exit the market.

Supplementary Placements

The Bill describes how LA's must request to place children in 'supplementary placements' during the transition period from 1 April 2027. A lot, if not the majority, of placement decisions are time critical. It is unclear what will happen if Minister approval is needed on a placement and this decision is not communicated on the same day. It is likely that children could continue to be placed in unregulated or illegal unregistered, unsuitable placements that do not meet their needs. It is also unrealistic to expect for profit providers to continue to provide care for only the most complex children.

9. What are your views on the appropriateness of the powers in the Bill for Welsh Ministers to make subordinate legislation (as set out in Chapter 5 of Part 1 of the Explanatory Memorandum?)

The CHA would support the affirmative procedure for the sections and powers set out in the Bill relating to the eliminate profit elements of the Bill. The affirmative procedure is particularly important when deciding timescales associated with the transition period

¹ Taken from LGA response to consultation

for current for-profit providers. Appropriate consultation generally across all areas, with sufficient timeframes to allow for meaningful engagement, is essential, particularly where additional burdens or procedures would be placed on providers and local authorities. Any areas which could be deemed controversial or will place additional burdens, as mentioned above, should be subject to the affirmative procedure.

10. What are your views on the Welsh Government's assessment of the financial and other impacts of the Bill as set out in Part 2 of the Explanatory Memorandum?

Part of the evidence base for section 2 is the CMA report, which has been significantly misquoted. The CMA did not recommend removing, capping or limiting profit, stating: 'On this basis, we have not found evidence that limiting for-profit provision would result in better outcomes for children and local authorities in the long term' (page 83, paragraph 4.98).

The reasons for their conclusion are:

- 1) It was unclear whether this would result in significant cost saving in respect of children's homes as the private sector price is not obviously higher than local authority in-house costs
- 2) 'Eliminating for-profit provision would risk reducing supply as local authorities and voluntary providers, who may not have access to capital to create new provision, may not be able to fill the gap left by reducing reliance on for-profit provision within an acceptable timetable' (page 84, paragraph 4.100), and that significant investment from the public sector would be required to achieve the policy intentions.

Quality

Part 2's discussion on quality of provision reveals critical issues in the Welsh Government's policy argument against for-profit care providers. Both the CMA and The 4Cs found no quality issues specific to for-profit provision, noting no significant difference in quality between local authority and for-profit services. The 2023 quality performance assessment (QPA) by The 4Cs further supports this by demonstrating:

- There is no notable evidence that the size of a residential care provider or its business model impacts the delivery of quality outcomes.
- Independent Framework residential care providers can evidence consistent good quality outcomes, across all outcome areas.

- Despite the uncertainty related to the Welsh Government agenda, providers continue to evidence commitment to their young people, ensuring placement stability is prioritised.
- The monitoring of outcomes in the last decade, achieved with children looked after by independent residential providers, shows that most Framework providers consistently deliver good-quality outcomes.
- It suggests that in Framework placements, most children looked after's needs are met most of the time, in line with their care and support plans.
- Data indicate the same high-quality outcomes are achieved across all providers, regardless of their size. While the MSMEs (micro, small, medium enterprises) score slightly higher, this is not a statistically notable variation. There is a higher percentage of residential providers who are MSME's than in foster care.
- Residential providers who offer evidence based therapeutic models of care, social workers report excellent multi-disciplinary working and clear communications.
- Overall, good strategic approaches to social value were provided by a mix of MSME and large for-profit providers.

The claims in this section overlook the robust performance and commitment demonstrated by for-profit providers, as well as the nuanced needs and outcomes of the children in their care. Furthermore, the research paper quoted by the University of Oxford, which shows outcomes are worse in for-profit provision than local authority provision, has multiple methodological issues and limitations, did not use current Ofsted data and extremely relevant to the legislation, found that 'third sector services perform worse than LA provision'. Further, in the paper's conclusion the authors stated that the 'findings should not be interpreted as evidence suggesting that overall service quality will naturally improve by banning or restricting for-profit provision'

Workforce

Many workforce claims in Part 2 are unfounded and based on outdated evidence, such as the DfE's 2013 workforce census. The DfE is currently conducting a new census, with the Phase 1 results released in March of this year. Additionally, Social Care Wales's report on residential childcare managers and staff is from 2017. It is unclear why outdated evidence is used and why Welsh Government has not utilized current, credible data, especially when the sector is experiencing a workforce crisis that is significantly impacting sufficiency.

Cost

Part 2 states that the estimated cost to local authorities for implementing the policy is £185.7m - £245.5m. Of this, between £107.1m and £142.8m is related to capital costs.

Welsh Government state that there are uncertainties around other costs related to implementing the policy. We would agree with this and argue that some key costs have not been factored into the assessment, or have been underestimated, including:

- Workforce and training costs
- Wastage. There will not be success with every home that is opened, and some homes will open that will subsequently close, potentially within a short period.
- Project management costs from inception to services being online and operational. LA's will have some capacity in-house for project management; however, it is highly unlikely they will have capacity for the scale and speed required.
- Operating costs pre-opening. 60-70% of staff will need to be in place several months before a children's home opens, with managers needing to be in post up to 6 months prior to opening. Additionally, a home will not open at full capacity so will be operating with only 1 or 2 placements for a period.
- Compensation that may be legally payable to providers if they exit the market.
- Transition costs for providers. If transition costs are not funded, it is likely that these will be reflected in increased fees to local authorities.
- Additionally, costs associated with increased unregulated and unregistered placements will increase substantially and have also not been considered, with an increase in these placements already being seen as a result of the policy.

In terms of transition and costs, it is also important to factor in that providers would need to move to being a new legal entity. This would divert resources and add new pressures during this period for business to do this. Also, any transition to being a new legal entity would need to be financed and will result in a debt burden. In this situation, some providers, particularly small providers, will go from having no debt to now having significant debts.

We would also challenge the estimated figure of £177.7m-£215.3m for lost profit of for-profit providers. The lack of engagement with providers throughout the past several years makes us question how this figure has been accurately determined.

Welsh Government also state Local authorities are expected to benefit from lower outturn costs for children's care, with a saving of between £184.0m and £253.9m. We again would challenge this figure and how it has been calculated. Cost of public sector provision is consistently shown to be higher than the independent sector by between 10 - 20% as reported in the PSSRU Unit Costs Reports 2018/19/20/21. These reports are based on actual spend by all local authorities. Additionally, the Minister for Social Care

responded to a written question in March of this year, stating that ... "the average cost to an independent provider of a child placed in a registered regulated care home setting will be about £3,811 per child per week. An equivalent placement within a local authority setting will be about £5,265 per child per week on average." This represents a 32% difference in cost and does not include education or clinical therapeutic support.

CHA is undertaking further investigation on the costs presented; however, our initial view is that they are significantly underestimated.

11. What are your views on the Welsh Government's integrated impact assessments (set out in Part 2 of the Explanatory Memorandum), including the Children's Rights Impact Assessment

Equality Impact Assessment

The paragraph oversimplifies the proposal's impact on equality and ignores significant challenges. It lacks evidence and specifics, failing to address potential negative consequences like provider transition difficulties and care disruptions, all of which are evidenced in the existing policy risk register. The claim about varying provider rules is vague and overlooks underlying complexities. Simply equalizing fees and rules doesn't guarantee fairness or improved care quality, and new regulations might reduce care options by burdening providers. Overall, it lacks a critical examination of the policy's feasibility and practical implications.

Children's Rights Impact Assessment

There is a very real, if not certain likelihood that Welsh Government would be in breach of Article 3 (best interest of the child) of the UNRC. It is acknowledged that the policy will have a negative impact on children's rights and their outcomes in the short term. However, we do not know with any confidence that this would be short term. If most providers decide to exit the market it is likely this would not be short term, but medium-long term as there would be insufficient placements for children, with more children ending up in unregulated and unregistered placements, and more children very likely to be placed outside of Wales into England due to sufficiency pressures.

Socio-economic duty

This impact assessment implies that staff working for not-for-profit providers would receive better pay, benefits and career aspects. There is no evidence to support this assertion and no work has been carried out on current workforce metrics to be able to come to this conclusion. In terms of access to training and CPD, as most of the experience in children's residential care resides in the private sector, it is likely that staff would find it more difficult to access training and development if the providers who offer this have left the market due to the policy.

The bill could also breach the Human Rights Act, Article 1 of the First Protocol: Protection of property. It also provides that compensation at commercial sale value is payable if the state interferes in private rights or takes the property away (for example, in effect, in this instance, reducing the value of some businesses to nil). This aspect does not appear to have been considered.

Development of the policy and legislative proposals

12. What are your views on the approach taken by the Welsh Government to the development of the policy and legislative proposals reflected in the Bill.

Among any other issues, please consider in particular the approach to engaging and consulting with stakeholders

Since the announcement of the eliminate policy, Welsh Government's process for policy development and implementation have been ineffective in terms of engagement, transparency, and responsiveness. It is not an example of evidence-based policy making in any form but is purely an ideological decision and has very much been developed without the support of the sector, including local authorities. The failure to involve key stakeholders and address their concerns adequately has resulted in a policy that risks being ill-conceived and harmful. The process has been marked by unproductive meetings, poor communication, and a dismissive attitude towards feedback, all of which undermine the potential success and effectiveness of the proposed policy. Below is a summary of the issues

Inadequate Stakeholder Engagement

The Welsh Government has significantly failed in its duty to engage effectively with stakeholders and providers regarding the proposed policy. Effective stakeholder engagement is essential in ensuring that policies are informed by and considerate of the practical realities within the sector. By neglecting meaningful dialogue with key parties such as providers, care home workers, and advocates for children and young people, the proposed policy risks harm to those it aims to support. This lack of engagement can lead to the development of policies that are not only impractical but potentially damaging.

Ineffectiveness of Programme Board Activities

Over the past two years, the programme board has wasted valuable time without providing stakeholders and providers with meaningful opportunities for discussion. The meetings including the workstreams were unproductive, failing to introduce new information or provide clarity on the policy details and implementation. This has resulted in frustration and a sense of being ignored among stakeholders, impeding any

meaningful progress. The lack of productive dialogue has undermined the collaborative efforts necessary for developing well-rounded, effective policies.

Poor Consultation Process

The consultation process carried out by the Welsh Government was fundamentally flawed. Effective consultation should occur at a formative stage before decisions are made and with an open mind about the outcomes. However, the process lacked transparency and inclusivity. It is unclear how key stakeholders were targeted, and important sectors such as health and education were insufficiently engaged. Many providers were unaware of the consultation until it was brought to their attention by the CHA, indicating a significant failure in communication and outreach.

Lack of Clarity and Accessibility in Consultation Documents

The consultation documents were neither in plain English nor sufficiently informative. According to established consultation principles, documents should include validated impact assessments of the costs and benefits of the options being considered. The absence of such impact assessments, particularly given the policy's impact on businesses and the voluntary sector, meant that respondents were unable to provide detailed or adequate feedback. This failure undermines the entire consultation process, rendering it ineffective and unproductive.

Ignored Concerns About Unintended Consequences and Implementation

Numerous concerns were raised by respondents about the unintended consequences of the policy and its implementation, including:

- Local Authorities' ability to meet their statutory duties.
- The potential increase in children being placed in unregistered placements, with their needs not being properly met
- Challenges in implementing the policy during a time of economic crisis.
- Exacerbation of the current workforce crisis in social care, including the loss of skilled staff.
- Uncertainty about the policy's funding.
- Issues related to cross-border placements in England

These concerns highlight significant risks and practical challenges that were not adequately addressed by the Welsh Government.

Inadequate Government Response to Consultation Feedback

The Welsh Government's response to the consultation feedback was exceptionally poor and limited. Despite acknowledging the significant challenges and concerns regarding sufficiency and implementation, the government's response indicated that the policy implementation would proceed as initially proposed, with no adjustments to the original timescales. Furthermore, Welsh Government have not engaged in discussion about workable compromise solutions that could increase the likelihood of achieving the policy intentions, such as alternative business models including Employee owned Trusts and Community interest Companies with share capital. This dismissive approach has left many CHA members feeling disappointed and ignored, further highlighting the government's failure to engage meaningfully with stakeholders and address their valid concerns.

Any other issues

13. Are there any other issues that you would like to raise about the Bill, the accompanying Explanatory Memorandum and Regulatory Impact Assessment, or any related matters?

The CHA has extensive knowledge of existing research - and undertaking it - on the theme of what is important to children from their care. Welsh Government claims that "feedback from children and young people suggests they have strong feelings about being cared for by privately owned organisations that make a profit from their experience of being in care". This is a finding that has never been found before in research. We are concerned about how these views were gathered from children, and if they potentially could have been primed and therefore manipulated and exploited, negating the objectivity required for research, and a missed opportunity.

Previous research has found that what is important to children from their care includes:

- Relationships with professionals and birth family achieved through placement stability
- Maintaining friendships
- Feeling safe
- Support in transitions
- Additional support with education
- Reducing stigma and labelling toward children in care
- To have the same opportunities as their non-care peers

- Respecting their views in care planning and decision making
- Information and choice about their health
- Mutual trust
- To be given a second chance.

In a 2022 Systematic Review (the Gold Standard for evidence review) of 'The experiences of young people living in residential care' concluded *'The synthesis suggests that young people's experiences of living in residential care elicited mixed perspectives from those prospering in a cooperative environment, to those who felt trapped in a system which had a perceived presence of power and control. None of the papers highlighted material needs such as clothing, food or shelter. Within this theme the unmet needs were conceptualised by the young people as being rooted in institutional and authoritarian control. Across the papers there were examples that, within residential care, shared decision making was not experienced as normative.'*

A statement that reflects the synthesis:

I've never been in a situation where a social worker makes a decision and you say "Well, I'm not really happy about that." I've never heard them say "well, maybe we can negotiate". It's "well, that's the decision, that's it"

We would therefore question this as the primary evidence base for the eliminate policy, and it could be reasonably assumed that Welsh Government has purposefully created this narrative to make what is a political decision, and not something which has been formed through evidenced based policy making, seem more justified.

Written evidence on the Health and Social Care (Wales) Bill

The Association of Directors of Social Services (ADSS) Cymru and All Wales Heads of Children's Services

About Us

The Association of Directors of Social Services (ADSS) Cymru is the professional and strategic leadership organisation for social services in Wales and is composed of statutory directors of social services, the All-Wales Heads of Children's Service (AWHOCs), the All-Wales Adult Service Heads (AWASH) and tier three managers who support them in delivering statutory responsibilities: a group which consists of over 300 social services leaders across the 22 local authorities in Wales.

The role of ADSS Cymru is to represent the collective, authoritative voice of senior social care leaders who support vulnerable adults and children, their families, and communities, on a range of national and regional issues in relation to social care policy, practice, and resourcing. It is the only national body that articulates the view of those professionals who lead our social care services.

As a member-led organisation, ADSS Cymru is committed to using the wealth of its members' experience and expertise. We work in partnership with a wide range of partners and stakeholders to influence the important strategic decisions around the development of health, social care, and public service delivery. Ultimately, our aim is to benefit the people our services support and the people who work within those services.

Introduction

ADSS Cymru welcomes the publication of the Health and Social Care (Wales) Bill, which aims to improve the quality and sustainability of health and social care services in Wales. We support the overall vision and principles of the Bill, which are aligned with our own strategic priorities and values and will ensure move voice, choice and control for citizens in receipt of care and support services.

One of the key elements of the Bill is the proposal to remove private profit from the care of children looked after by local authorities. This means that only not-for-profit organisations will be able to provide residential care, foster care, and other forms of care for children who are in the care system.

This paper sets out our views on this aspect of the Bill, as well as the introduction of Direct Payments for Continuing Health Care (CHC), based on our experience and expertise as the professional voice of local government social care leaders in Wales.

Removal of profit from children looked after

Rationale and benefits

We recognise and share the policy intent behind the removal of profit for the care of children looked after. We believe that the care of children who are in the care system should be driven by their best interests, needs, and rights, rather than by financial motives or market forces. We agree that the profit motive can create perverse incentives and distortions in the provision and commissioning of care, leading to poor outcomes, high costs and reduced accountability.

In [*Eliminating profit from children's residential and foster care: evidence review*](#) (Welsh Government Publication May 2024)¹, researchers described strong evidence demonstrating that:

- children are more likely to be placed outside of their local area under a for-profit system
- an association between for-profit provision and poor placement quality
- an association between for-profit provision and poor placement stability and continuity.

In addition to literature reporting analysis of primary and secondary data, they analysed published sources reporting professional and policy experience, non-systematic qualitative evidence and subject-specialist journalism. These sources discuss the possible contradictions of potentially short-term private equity investment and the guiding principle of placement stability. Some sources also point to the prevalence of debt burden in the private sector.

We concluded that benefits could accrue from developing a functioning system where local authorities can more easily plan and secure appropriate care placements for children and young people. By enabling local authorities to do this more effectively, children and young people are more likely to be placed in environments that closely match their needs. This will support the overall well-being and development of children looked after, leading to better social, educational, and health outcomes and improved life chances.

A more efficiently managed market will reduce the need to place children far from their communities. By improving placement planning and capacity management, local authorities can make more placements available closer to the children's original communities.

Bringing services in-house will also support a social worker-led understanding of placement patterns. This will in time enable proactive capacity management, minimising the scramble for last-minute placements that can lead to suboptimal matches and higher costs.

¹ The topic of for-profit children's residential and foster care provision is under-researched and therefore there exists little published primary evidence pertaining to comparable outcomes, particularly from within a UK context.

Challenges and risks

While we support the policy direction and intention of removing profit for the care of children looked after, we are also aware of the significant challenges and risks that this will entail. These include:

- The transition from a mixed market to a not-for-profit model will require substantial time, resources, and planning, as well as effective communication, consultation, and engagement with all the relevant stakeholders. It will also need to be carefully managed and monitored to ensure that the quality and continuity of care for children looked after is not compromised or disrupted during the process.

We have set out in broad terms, what we perceive to be the resource implications regarding the implementation of this section of the legislation in a [Revenue Impact Assessment](#) document, which was a commissioned piece of work by the Welsh Government.

- The removal of profit may have unintended and adverse consequences on the diversity and quality of care provision for children looked after, in the short to medium term. Some for-profit providers may decide to exit the market (some have already) or reduce their services, leading to a loss of skilled and experienced staff, a reduction in the availability and suitability of care placements and an increase in the costs and complexity of commissioning and contracting arrangements.
- The responsibility and accountability for developing and providing care for children looked after will shift largely to local authorities, who will face increased pressures and expectations to ensure a sufficiency and sustainability of care provision. This will require significant investment and support from the Welsh Government and other partners, particularly at the transition phase, as well as a clear and consistent framework of guidance, regulation, and inspection.

There may be some disbenefits or trade-offs that need to be considered and addressed:

- The not-for-profit model may reduce the diversity and quality of care provision for children looked after, especially in some specialised or niche areas of care. Some for-profit providers have developed unique and high-quality care models that may not be easily replicated or replaced by not-for-profit organisations, and that may meet the needs and preferences of some children and young people better than others.
- The not-for-profit model may limit the scope and potential for innovation and partnerships in the care sector, as some for-profit providers may have more resources, expertise, and incentives to develop new and effective ways of delivering care. It may also discourage collaboration and cooperation between not-for-profit and for-profit organisations, which may have complementary strengths and assets that could benefit children looked after.

- The not-for-profit model may introduce some additional administrative and regulatory complexity and burden for local authorities and care providers, as they will have to comply with different rules and requirements for their legal and financial status, governance, and accountability. It may also create some confusion and inconsistency in the application and interpretation of the not-for-profit criteria and definition.

Conclusions on the intent of eliminating profit

Despite the challenges and risks, we believe that the removal of profit for the care of children looked after is the right thing to do. The direction and policy intent align with our vision and values to improve the outcomes and well-being of children and young people who are in the care system.

However, we must recognise that to overcome the challenges and mitigate risks there will be a need for careful planning, management, and evaluation of the policy change. We believe that the Welsh Government and legislators must consider these matters during the Bill's passage through the Senedd. In particular, the funding, construction of not-for-profit provision, and the timescales for change must be carefully considered.

ADSS Cymru is committed to working with the Welsh Government and other partners to ensure that the policy change is implemented in a way that is fair, transparent, and effective, and that it delivers the best possible care for children looked after in Wales.

Introduction of Direct Payments for Continuing Health Care (CHC)

Rationale and benefits

The Social Services and Wellbeing (Wales) Act 2014 (SSWBA) aims to give people more say and influence over their care and support. Direct Payments are a way of achieving this aim, offering a different option to the usual council arranged care and support to meet individual or carer needs. They can offer more choice, flexibility, control, holistic and alternative opportunities over the support they receive.

Continuing NHS Healthcare (CHC) is a package of care and support, arranged and funded by the NHS, where it has been assessed that the person's primary need is a health need. This is determined by consideration of the nature, intensity, complexity and unpredictability of the need. The care and support to meet these needs is free at the point of delivery, as it is NHS Funded.

Section 47 of the SSWBA states that:

“A local authority may not meet a person's needs for care and support (including a carer's needs for support) under section 35 to 45 by providing for or arranging for the provision of a service or facility which is required to be provided under a health enactment, unless doing so would be incidental or ancillary to doing something else to meet needs under those sections.”

Therefore, the SSWBA makes it unlawful for local authorities to provide services which are the responsibility of the NHS. However, given the current complexities of care in the community, there has been a blurring of boundaries over recent years.

In practice, this approach has contributed to a shift of responsibility from the NHS and inpatient services to social care and community services. District nursing teams have faced long standing pressures with high demands and it is common place for there to be delays in CHC assessments and for activities to be delegated to care staff that a decade or so ago would have been delivered directly by nurses. Similarly, nursing homes can struggle to attract and retain qualified nurses, leading care providers to accept people with increasingly complex needs with “residential” settings rather than “nursing care”.

This system shift has occurred gradually overtime and is potentially on an unconscious level. Practitioners are now very familiar with complexity and can consider some things now to be routine that would have previously considered as complex, this can lead to an unconscious bias for Multi-Disciplinary Team’s (MDTs). Moreover, when considering thresholds for CHC, the potential for scores to be lower than the empirical evidence would suggest that the MDT’s can also be led to consider tasks as “social care”. It is important to note that the threshold for CHC and the responsibilities of social care in law have not been changed, so we need to work with MDTs to guard against this drift.

Our members are aware that there are cases where citizens in receipt of social care have been wary of accessing CHC because they worry about losing their choice; autonomy; their Personal Assistants (PAs); and the ability to decide who delivers their services and where.

Therefore, we agree with the Welsh Government’s assessment that as a concept, the introduction of Direct Payments for CHC aligns with the key aims and principles of SSWBA by improving voice, choice and control for people who are in receipt of care and support and have a primary health need. Moreover, it also addresses the recommendation from the Audit Wales Report, which acknowledges that Direct Payments not only allow those in receipt of care and support more control over decision making for their care needs but it ensures that their carers also have that locus of control, which is extremely well valued.

However, from a local government perspective, the fundamental benefit of allowing health boards to use Direct Payments for CHC cases is that it will enable care arrangements to remain in place when a recipient of an established Direct Payment social care package becomes eligible for CHC. That will reduce bureaucracy and ensure constancy and continuity of care.

For example, if we look at employee arrangements, currently, in order to preserve continuity of care and employment arrangements with PAs, local authorities are having to be creative by exploring various options such as recharging health boards or consider PA’s transferring into the employment of health boards. Whilst such arrangements have achieved success for the person in receipt of care and support, the added complexity of much discussion, negotiation and the establishment of bespoke agreements between the statutory bodies, take up valuable time and

resource that would be better served if focused on ensuring the needs of the person continue to be met and the carers receive the required training and support.

Challenges and risks

Of course, there are a number of challenges and risks to implementing this element of the legislation that need to be explored during the scrutiny process, which include:

- Quality of care may suffer if the care being provided cannot be assured as being to the required standard or is not regulated. For example, one of the challenges of moving to Direct Payments through CHC is how to ensure that health boards have clear governance structures in place for delegation of appropriate tasks to PA's. This is important because the health-related needs and tasks they do may depend on the local health board's direction and control, not the individuals. This is an area that needs more clarity.
- Families may not be able to find suitable services or PAs who can meet their needs, especially given current capacity challenges in the social care system.
- Families or individuals may not want the responsibility of becoming an employer or may struggle with managing a PA via Direct Payments, with the associated reporting of working hours etc.

The recommendation to use the existing services and options that councils offer for those who receive care and their carers who need help with being an employer and accessing the right training and support is welcome. This should allow consistency for those who move between social care and CHC Direct Payments and let them maintain their current relationships and support and avoid repeating the same things for themselves and their families. However, this may require health boards to enter into a partnership arrangement with their local councils, or to purchase this service from the council, or there is a risk that two different providers or organisations are chosen, which could complicate things for the person in receipt of care and not take advantage of the benefits of scale and avoiding duplication. If health boards want to use the current council support around Direct Payments, then this extra capacity will need to be fully costed and funded.

- Those who are in receipt of care and support and have a primary health need could suffer adverse outcomes if they are not supported to make good decisions on how to spend Direct Payments.

Conclusions on the intent of Direct Payments for CHC

We support the aim of the Bill in relation to CHC Direct Payments but it is vital that this change comes with a significant improvement in how CHC works in practice. CHC is currently not applied consistently across Wales, with variation of interpretation between health boards. The Government's RIA indicates that there will be a three-year transition period for those who get social care Direct

Payments to switch to CHC Direct Payments, which means that CHC decisions will still affect council budgets negatively for some time. A central hub could ensure uniformity in how Direct Payments are delivered once CHC eligibility has been assessed and confirmed at a local level. However, this may not address the problems faced by councils who report that CHC only accepts responsibility for higher levels of health need than before, while the legal and policy standards have not changed, resulting in costs for services falling unfairly on councils.

WLGA response to the Health and Social Care Committee's consultation on the Health and Social Care (Wales) Bill

June 2024

About Us

The Welsh Local Government Association (WLGA) represents the 22 councils in Wales, and the three national park authorities and the three fire and rescue authorities are associate members.

The WLGA is a politically led cross-party organisation, with the leaders from all local authorities determining policy through the Executive Board and the wider WLGA Council. The WLGA also appoints senior members as Spokespersons and Deputy Spokespersons to provide a national lead on policy matters on behalf of local government.

The WLGA works closely with and is often advised by professional advisors and professional associations from local government, however, the WLGA is the representative body for local government and provides the collective, political voice of local government in Wales.

Introduction

The Health and Social Care (Wales) Bill aims to implement reforms in the social care sector. Its primary objectives are to eliminate private profit from the care of children looked after, ensuring that all public funds are reinvested into improving care services and outcomes for these children, and to grant individuals more control over their healthcare by enabling direct payments for continuing healthcare. This allows recipients, particularly those with long-term health conditions and disabilities, to choose their care providers, aligning continuing healthcare with existing social care options.

The WLGA welcomes the publication of the Bill and generally support the overall vision and principles set out. The WLGA appreciates this move is part of a wider strategy to enhance the quality, consistency, and accountability of services provided to citizens across Wales. In the longer-term we understand these measures will contribute to a more equitable, efficient, and effective health and social care system in Wales, ensuring more voice, choice and control for citizens in receipt of care and support services.

Whilst local government supports the overall ambition which the Bill aims to enable delivery of, there is also a need to be mindful of the extremely challenging context in which services are currently operating and the significant financial constraints facing public services. These will all have a significant bearing on council's abilities to implement the changes necessary

and across the specified timescales, particularly in relation to the proposals to eliminate private profit. We therefore welcome the opportunity to respond to the Senedd Committee's consultation on the Bill with this response focussing in particular on the provisions in relation to eliminating private profit from the care of children looked after and introducing direct payments for continuing healthcare.

Eliminating Private Profit from the Care of Children Looked After

Risks, Challenges and Financial Implications

There are significant challenges facing children's services, from sufficiency of the workforce, to a need for additional funding to meet the additional demands, to the lack of appropriate preventative services or placements available. The WLGA has welcomed the opportunity to engage with Cabinet Secretaries, Ministers and Welsh Government Officials on the wider Transformation Programme for children's services which includes the commitment to remove private profit.

In particular, while local government has previously outlined its support towards the commitment to remove profit, we have also been clear that there remain concerns about the resources and capacity available and the timescales being worked towards in achieving this ambition. It is essential to make sure that the actions and plans put in place to take this forward ensure councils are able to do so safely, without destabilising either current placements or the work that is underway in developing suitable local and regional supply of appropriate placements. With the expectation that councils will need to consider how to rebalance residential provision to new / expanded local authority / regional and not for profit provision it is critical that the market transition ensures placement sufficiency across the spectrum of children's placement requirements.

It is also important to recognise that this programme of change takes place within the context of existing placement and system pressures with evolving learning and practice where operating without registration (OWR) arrangements are sometimes necessary and used as a last resort. This underlines the challenge ahead to successfully plan, design and implement the commitment.

Transitioning from a mixed market to a non-profit model will demand significant time, resources, and planning. Effective communication, consultation, and engagement with all involved parties will be crucial, along with careful management and monitoring to ensure that the quality and continuity of care for children looked after remains uncompromised during the process. Throughout there will continue to be the risk that some for-profit providers might exit the market or reduce their services, resulting in the loss of skilled staff, fewer suitable care placements, and increased costs and complexity in commissioning and contracting.

If current for-profit providers decide to exit the market or reduce their services, there is a risk of a sudden and critical shortage of placements, especially for children with complex needs. This could drive up costs for councils as they may need to locate or create new placements, likely at a higher expense than existing ones. Additionally, with fewer placement options, children might need to be placed farther from home or in settings that are not ideally suited to their needs.

There is also a risk in relation to the workforce, with the shift towards a not-for-profit model potentially exacerbating existing pressures on the social care workforce. There is a risk that highly skilled professionals may be reluctant to transition to local authority or not-for-profit settings. Any loss of talent and skills would have a negative impact on the quality of care and innovation within the sector. Additionally, if not-for-profit providers choose not to develop children's residential services the burden and responsibility will fall to councils to develop additional provision through the direct provision of children's homes. Along with the additional costs associated with establishing this provision will come the need to adequately staff these homes and the challenges of recruiting and training appropriate, experienced and qualified workers.

The Regulatory Impact Assessment (RIA) that accompanies the Bill identifies significant transitional costs associated with this element of the Bill. It is estimated that the cost to local authorities for implementing the policy is £185.7m - £245.5m. Of this between £107.1m and £142.8m is the capital cost to purchase and refurbish properties to replace capacity that is expected to be lost when for-profit providers exit the market in Wales (or not able to operate). It is anticipated that these costs will be borne out over a three-year period (2025-26 to 2027-28). The RIA recognises however that there is a degree of uncertainty around these costs for this element of the Bill. For example, at this stage it is unclear as to the number of existing providers in the for-profit sector who will establish themselves as one of the four not-for-profit entities set out in the Bill. This makes understanding the true cost of implementation difficult to ascertain.

It is clear however that significant investment from Welsh Government will be required at a time when resources will be stretched more than ever according to independent economic forecasting organisations such as the Institute for Fiscal studies (IFS). Capital funding has been a specific constraint for the Welsh Government in the past and the outlook for both capital and revenue funding is bleak. This also comes at a time when council budgets are already under significant strain. During 2023-24 alone councils faced additional in-year pressures amounting to £219m, 50 per cent of this is attributable to social services pressures and builds on a £93m social services overspend in 2022-23. In 2024-25 social care budgets are facing an estimated pressure of £261m. In 2025-26 this will be £187m and £197m in 2026-27. Cumulatively, across all services, the pressures building up in the system across local government, and the resulting budget gap, means that the outlook is extremely stark and the options for many local services will be unpalatable. This will inevitably have an impact on the capability and capacity of councils to deliver existing services, let alone look to further invest in, develop and enhance provision.

Whilst the RIA sets out that this cost to councils is expected to be at least partially offset by a reduction in outturn costs, this is calculated over a 10-year period. Experience shows that this will be cost avoidance rather than cashable savings. Even if this were to be achieved, and there is no certainty this will happen, it does not take away from the substantial upfront capital investment that is required. Some authorities are working on business cases where the outlay is as high as £1 million per property and this will vary across Wales. It is also important to note that the ADSS Cymru report which accompanies the RIA and considers some of the cost implications highlights that some of the operational savings that have been identified with moving to a local authority model from a for-profit model are contested. In addition, the Competition and Markets Authority (CMA) report referenced throughout the RIA found that the cost to local authorities of providing their own children's home placements is no lower than the cost of procuring placements from private providers, despite prominent

levels of profit. Again better evidence might be drawn from local authorities who are currently bringing the service in-house.

This all underlines the importance of appropriate levels of investment from Welsh Government to support and enable implementation. There is a need to be clear, as early as possible, about what funding will be provided and when it will be available to enable planning, particularly given the lead in times required to develop new provision of residential services. As hinted above capital funding might be scarce and the Welsh Government might consider using revenue to cover the capital financing costs like it did with highways through the Local Authority Borrowing Initiative some years ago. Throughout implementation it is vital that this is kept under review and monitored in order to reflect the true costs associated and that appropriate levels of resource are made available as required.

Provisions to Eliminate Private Profit from the Care of Looked After Children

In a joint submission with ADSS Cymru, the WLGA responded to the original consultation on the proposals to remove profit from the care of children looked after. This response highlighted the significant levels of investment that might be required to successfully implement the commitment. It also raised concerns about some elements of the proposals, including timescales, definitions of terms (e.g. 'not for profit') and proposals that would place a restriction on local authorities to commission placements from 'not-for-profit' organisations only, regardless of where that placement was.

As the Bill is drafted, some of these concerns have been addressed to some extent. The Bill sets out a definition for what will constitute a 'not-for-profit entity'. This provides those for-profit providers operating some greater clarity around future expectations. Though there are significant concerns, particularly at this stage in relation to residential placements, over the number of providers who may not want to change their model of provision and what impact this would have on the availability of placements for children and young people in Wales. There will be a need to further consider whether these definitions provide enough scope for providers to be able to operate as a not-for-profit entity.

The original consultation proposed a firm timescale that all current providers would have to move to a not-for-profit position by April 2027. It is welcome that this position has now changed and the Bill sets out that in order to mitigate disruption to the lives of children in existing residential and foster care placements, transitional arrangements will allow a registered for-profit provider of a restricted children's service to continue operating after the provisions have come into force, providing a level of reassurance. This will be subject to conditions imposed by regulations and it is essential councils are engaged in the development of these regulations, with flexibility built in to be able to adapt to how the market responds to the legislation.

As drafted the Bill also sets out that if a local authority considers that none of the available not-for-profit placements would be consistent with the child's well-being it will be able to place the child in a "supplementary" (for-profit) placement. While this provides a level of reassurance that if a suitable placement was not available to meet any specific needs of a child, there is some flexibility in the system to be able to utilise a for-profit placement. Given that the Bill also sets out that any supplementary placement will be required to be approved by the Welsh Ministers, it is essential that further detail and clarity is provided on how this will

work in practice, without leading to delays or having a detrimental impact on the child or young person.

The transitional provisions will also prevent existing 'for-profit' providers from registering new homes or approving new foster carers. Care will need to be exercised that as a result of these transitional provisions existing providers, upon which there will still be reliance on, do not become unsustainable, having a further detrimental impact on our overall placement capacity. For Foster Carers registered by private providers who decide not to transfer to one of the four models there will be a need to consider how they can be transferred to council or other provider provision. Normally, this would involve re-registration which would risk existing Foster Carers deciding not to go through what can be a lengthy process again at a time when we know there is growing demand. Therefore, it would be helpful to consider and have in place a process for legacy Foster Carers so that with minimum disruption they are able to carry on their role.

As currently set out there is no timeframe for the length of the transition period, however the costings set out in the RIA imply that this could be over a 3-year period. With the amount of work required to take this commitment forward and the need to avoid as much disruption as possible there is a concern that this would be an overly ambitious aim. The experience of council's currently developing their own provision is that a longer period of time will be needed. It is essential that the transitional period, along with the financial costs and implications are monitored closely with adequate timescales applied. This will need to take into consideration a range of factors including the level of demand for placements in restricted services, and the speed of replacement of for-profit by not-for-profit provision. Any decision to bring this transition period to a close will need to be informed by close engagement with councils and careful consideration of children's rights under Article 8 of the UNCRC.

Introducing Direct Payments for Continuing Health Care (CHC)

A key principle of the Social Services and Wellbeing (Wales) Act 2014 is for people to have more choice and control over their care and support. Direct Payments have been an enabler in delivering on this principle, providing an alternative to more traditional council commissioned care and support to meet individual or carer needs. They can provide more choice, flexibility, control, holistic and alternative opportunities over the support they receive.

As evidenced in the Health and Social Care (Wales) Bill documentation following previous consultations, individuals and carers on social care Direct Payments have sometimes been reluctant to access CHC because they fear losing their choice; autonomy; their Personal Assistants; and the ability to determine who provides their services and where. Fear of being forced to go to a care or nursing home rather than remain in their own home and in their own community to the detriment of their mental health and increased loneliness due to being away from family and friends has also been highlighted.

Continuing with social care Direct Payments when the reasons for care are primarily health, and CHC should be providing support and services, risks deteriorating health and an increase in health and care needs. In addition, for some individuals this will also mean they are also contributing to their own care costs when they should not.

The WLGA is supportive therefore of the inclusion of introducing Direct Payments for CHC to meet the needs of those eligible for CHC. Having more control over health and care delivery should support individuals to have autonomy and the opportunity to participate more fully in advocating their interests, including being involved within their own identified communities. The introduction of direct payments for CHC will also meet the recommendation from the Audit Wales Report which recognised that people who receive CHC via Direct Payments would have greater voice, choice and control in decision making. The report also identified how highly valued Direct Payments are by services users and carers.

However, there are a number of issues that will need to be taken into consideration to best support the transition to Direct Payments through CHC. For example, Personal Assistant's are not currently subject to the same registration and regulatory requirements as others in the social care workforce. The complexities and the needs being health related may mean that due to some tasks needing to be completed that this may need to be reviewed, especially if the local health board directs and controls the tasks a Personal Assistant completes. The current exceptions may no longer be applicable due to their actions not being under the direction and control of the individual. This is an area that will require further clarification.

While we are supportive of the intent behind the Bill it is essential that this change be underpinned by a significant change in practice and implementation of CHC, with on-going challenges experienced with CHC in its practice and implementation. The current implementation of CHC is not consistent across Wales with different thresholds being applied by local health boards. The RIA itself suggests that there will be a three year transition stage for the movement of those in receipt of social care Direct Payments to move to CHC Direct Payments meaning that there will continue to be a period of time where CHC decisions have a detrimental impact on council's budgets. The creation of a central hub could ensure that there is consistency in the delivery of Direct Payments once eligibility for CHC has been assessed and proven at a local level. This however is unlikely to solve the issues being experienced by councils who report that the level of health need before CHC accepts responsibility is increasing whilst the legal and policy thresholds have not changed, meaning that costs for provision of services inappropriately fall to councils.

The current lack of consistency leaves individuals and families at a disadvantage, and potentially adds to the justification and reasoning for not applying for CHC, alongside the issues raised around autonomy, choice and independence. The implementation of the Health and Social Care (Wales) Bill, the introduction of a Central Hub for CHC Direct Payments and the Health Service Procurement Reform in Wales provides an opportunity to reset and to provide clarity, transparency, consistency and efficiency across the CHC system.

There is concern that the current system will continue with health and councils using two different systems and processes. How the transition will be managed between the two systems and processes, whilst ensuring no individual is left with no funding and support during the transition phase will be important to set out. This should include any complaints process for individuals and an effective process to resolve disputes and challenges for non-compliance.

The suggestion that services to support individuals and carers with the practicalities of being an employer and ensuring appropriate training and support is available be utilised through existing organisations and routes being utilised by councils is welcomed. This should allow consistency for those moving between social care and CHC Direct Payments and allow

existing relationships and support to continue and reduce duplication for individuals and their families. However, for this to be achieved it may be appropriate for CHC to commission this element via the council, or the risk is that two different providers or organisations are chosen adding to the individual's burden and not taking advantage of economies of scale and reducing duplication. If CHC is to utilise the existing council support around Direct Payments then this additional capacity will need to be fully costed and funded.

We fully support the proposal to introduce Direct Payments for CHC and for the opportunity for people to continue to have their autonomy and choice, whilst accessing the correct funding source for their health and social care needs. It will be vital that any guidance is robust and its implementation monitored to ensure consistency and fairness across Wales.

**Y Pwyllgor Iechyd a
Gofal Cymdeithasol**

**Health and Social Care
Committee**

Senedd Cymru
Agenda Item 9.1

Senedd Cymru
Seneddlechyd@senedd.cymru
senedd.cymru/Seneddlechyd
0300 200 6565

Welsh Parliament

Cardiff Bay, Cardiff, CF99 1SN
SeneddHealth@senedd.wales
senedd.wales/SeneddHealth
0300 200 6565

Dawn Bowden MS
Minister for Social Care

22 May 2024

Dear Dawn

Profit in adult care homes

During the Committee's recent consideration of its forward work programme, some Members raised concerns about the profits being made by some adult care homes, noting the [Centre for International Corporate Tax Accountability and Research \(CICTAR\) Report \(2023\)](#) on extracting profits through care home real estate. The CICTAR report focuses on the profits of one large care home provider, 'Care UK', who have a chain of care homes across the UK, including two in Cardiff.

We are aware that large scale providers such as these represent a small proportion of the care home market in Wales, and that the majority of care homes for older people in Wales are owned by a single owner who owns one care home or an owner who has less than five care homes. In 2020, local authority-run care homes accounted for fewer than 9 percent of the total number of care home places available in Wales.

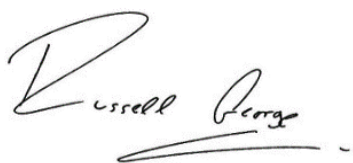
The Committee is also aware of the work of the Expert Group on a National Care Service, and the Welsh Government's March 2024 statement about the establishment of the National Commissioning Framework which is intended to set the principles and standards for commissioning practice.

In your 2023 initial implementation plan towards a national care and support service, you refer to some of the recommendations of the Expert Group, saying that you will proceed with work commenced under the Eliminate programme and Rebalancing Care and Support Programme to clarify 'profit' and the characteristics of not-for-profit organisations.

With this in mind, we would be grateful if you would set out, in detail, the Welsh Government's current position on the role of profit within the adult care home market, including your views on the CICTAR report and whether you have any plans to work towards the elimination of profit across the adult care sector.

In addition, we would be grateful for your response to the Expert Group's recommendation that the Welsh Government should commission research into quantifying levels of spending lost to the sector through profit, the mechanics of commissioning, profits made by private equity on care facilities and on the maintenance of a regulatory industry to monitor providers.

Yours sincerely

A handwritten signature in black ink, reading "Russell George". The signature is fluid and cursive, with a long horizontal stroke at the end.

Russell George MS
Chair, Health and Social Care Committee

Croesewir gohebiaeth yn Gymraeg neu Saesneg. We welcome correspondence in Welsh or English.

Dawn Bowden AS/MS
Y Gweinidog Gofal Cymdeithasol
Minister for Social Care



Llywodraeth Cymru
Welsh Government

Eich cyf/Your ref: DB-PO-0162-24

Russell George MS
Chair, Health and Social Care Committee
Welsh Parliament

13 June 2024

Dear Russell,

Thank you for your letter of 22 May 2024 on behalf of the Health and Social Care Committee. I will address each of your requests in turn.

At present, the role of profit within the adult care home market is distinctly different from that in children's care. This is in part due to the differing type of need between the two markets, size, and breadth of service provision. Where there are of course similarities, these tend to be surface level and there are more functional differences.

Factors which might be taken as distinctive of the children's social care market, and tending towards its current state of functioning (and seeming attractiveness for private equity), are: (i) relatively small size, (ii) the lack of predictability for each authority of the level of need for children's homes placements and foster placements from time to time, (iii) the speed with which arrangements can break down and the consequent urgency for local authorities to find alternatives, which tilts the market in favour of providers, (iv) the high cost of placements, which makes it more difficult for commissioners to hold back a strategic reserve, and (v) the unlikelihood of being able to make economies of scale in children's homes placements because the kinds of children who need children's homes placements are those whose social/emotional/behavioural issues are such that managing their needs around other children with similar needs in many cases is likely to make the task substantially more difficult. Many of these factors do not apply, at least to the same extent, to adult care.

Exploring this in more detail, in practice, all children's social care is funded by the state (s.85 and Schedule 1 of the Social Services and Well-being (Wales) Act 2014 does permit requirement for contributions towards maintenance of looked after children, but this is very seldom used), whereas all adults are expected to contribute to their care and support costs on a means-tested basis if in local authority-commissioned care. But there is also a significant completely self-funding presence in adult social care, either through those who self-fund care following a local authority needs-based assessment or those who arrange their care entirely privately without any interaction with local authority social services support. As such, there is no capacity to make private placements in children's social care whereas this is possible for adults care. This is a key consideration when determining the

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
0300 0604400

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1SN

Gohebiaeth.Dawn.Bowden@llyw.cymru
Correspondence.Dawn.Bowden@gov.wales

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.

role of profit in the adult care home market where individuals are free to make a choice on a placement and its cost.

Further, there are substantial differences in scale. As of 2023 there were approximately 22 times as many adult residential placements as children, for example, and nearly four times as many providers¹. The breadth of provision types is also greater in adult services, and service provision is more readily available in a geographical sense meaning adults are more likely to receive care and support services near their home area. Whilst Welsh Government policy of course seeks to ensure children have that same opportunity, placements are based on availability rather than location. Addressing this is one of the key principles of our plans to transform children's services, for example through encouraging more local authorities to provide care directly. These issues are not, generally, presented by adult social care except (unavoidably) where particularly specialised.

There is fundamental, material, structural and other differences between children's and adult social care which mean it is reasonable to treat the two parts of the sector differently. This, considered alongside the above, our work to date on the development of policy in relation to the elimination of profit from children's care therefore imply that excess profit is not generally an issue in the adult social care sector and is a point of material difference between adult social care providers and the children's social care providers in Wales at present. In this respect, there is an evidence-based justification for a difference in treatment between children's social care, with a basis for proceeding in relation to profit-making within the children's social care sector which is not replicated in relation to adult social care. The Expert Group formed to make recommendations to Ministers on the creation of a National Care Service for Wales also noted this in their [report](#), saying "Due to the complexity and nature of current adult provision, it does not automatically follow that the same pathway will follow for adult services...". Whilst I note the Centre for International Corporate Tax Accountability and Research (CICTAR) report and the concerns of some Committee Members, I strongly agree provisions such as Care UK represent but a small proportion of the care home market in Wales. I have instructed my officials to keep a watching brief on the position, and we will continue to consider the sector as a whole as we progress our ambitious plans grounded in a simple vision: to drive improvement in the delivery of social care in Wales to achieve better and more equitable outcomes, access, and service-user experience for the people of Wales.

In relation to the request for a response on the Expert Group's recommendation, I am very pleased to say our [Initial Implementation Plan](#) was published in December 2023, and sets out how we will consider and take forward the ambition for a National Care Service aligned to the recommendations within the Expert Group's report. I'd also like to take this opportunity to extend my thanks to Cefin Campbell MS for his involvement and support with this as the then Designated Member, and whilst the Co-operation Agreement has come to an end, the job of Welsh Government continues. As such, it remains my desire to take forward the recommendations towards a National Care Service.

Many of the recommendations put to Ministers by the Expert Group form Stage 1 (2022-2025) of our implementation plan. This of course is just the start, as our implementation plan spans 10-years, with Stage 2 delivery taking place over 2026-28, and Stage 3 will be delivered from 2029 onwards. Our learning from Stage 1 will inform the next Spending Review and the development of Stage 2, following the next Senedd election scheduled for 2026.

This will inevitably mean not all the Expert Group's recommendations are being taking forward immediately, as is the case with their recommendation on commissioning research *"into quantifying levels of spending lost to the sector through profit, the mechanics of*

¹ [CIW Services and Places by Setting Type and County \(gov.wales\)](#)

commissioning, profits made by private equity on care facilities and on the maintenance of a regulatory industry to monitor providers.” However, this recommendation has direct links to our new National Commissioning Framework as part of our Rebalancing programme, the children’s services transformation programme (including Eliminate) and market oversight. These important policy areas are, and will remain, a focus of Welsh Government with work continuing to progress at pace. As such, we will be well-placed to commission this important research as part of future stages of our 10-year National Care Service programme.

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 Social Care

Agenda Item 9.3

**Y Cynullin Senedd a
Cofal Cymdeithasol**

Health and Social Care Committee

Senedd Cymru

Bae Caerdydd, Caerdydd, CF99 1SN

Seneddlechyd@senedd.cymru

senedd.cymru/Seneddlechyd

0300 200 6565

Welsh Parliament

Cardiff Bay, Cardiff, CF99 1SN

SeneddHealth@senedd.wales

senedd.wales/SeneddHealth

0300 200 6565

Judith Paget CBE

NHS Wales Chief Executive

Director General of Health and Social Services

16 May 2024

Dear Judith

Following the publication of the Welsh Government's plan for transforming and modernising planned care and reducing waiting lists in April 2022, the Health and Social Care Committee agreed to monitor progress towards the ambitions set out in the plan, and to publish termly monitoring reports as part of that.

On 17 April, the Committee considered and published its fifth monitoring report; previous reports are also published on our website. The statistics in the report are taken from the Welsh Government's NHS activity and performance summary for December 2023 and January 2024, and Stats Wales. They highlight significant variations in waiting times across different regions, suggesting differences in healthcare service capacity and efficiency. They also highlight the need for targeted interventions and resource allocation to tackle disparities in waiting times, as well as underscoring the need for health boards to collaborate regionally, by sharing best practices, resource and expertise, so that health boards can work together to ensure equitable access to healthcare services for all patients, regardless of geographic location.

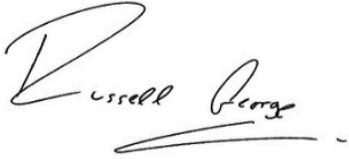
On the basis of the above, the Committee would be grateful to receive information from the NHS Wales Executive in a number of areas, specifically:

- how the Executive is facilitating regional working,
- how it is supporting health boards to address long waits in specific specialties and regions,



- for specific financial information on how it is monitoring additional funding and resources allocated to healthcare services to expand capacity; and
- for statistics on the number of extra healthcare professionals that have been hired, and details of new equipment and facilities.

Yours sincerely

A handwritten signature in black ink, reading "Russell George". The signature is fluid and cursive, with a long horizontal stroke at the end.

Russell George MS
Chair, Health and Social Care Committee

Croesewir gohebiaeth yn Gymraeg neu Saesneg. We welcome correspondence in Welsh or English.

Agenda Item 9.4

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

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



**Llywodraeth Cymru
Welsh Government**

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

17 June 2024

Dear Russell

Planned care and waiting times

Thank you for your letter of 16 May requesting information on a number of points relating to the Welsh Government's plan for transforming and modernising planned care and reducing waiting lists.

Context

The NHS Wales Planning Framework 2024-27 was issued in December 2023. This constitutes the Cabinet Secretary for Health and Social Care annual directions to the NHS in Wales and provides guidance on the development of organisations' Integrated Medium Term Plans. One of the Cabinet Secretary's priorities in this current Planning Framework is planned care. Therefore, NHS organisations are required to set out in detail their delivery commitments to improving performance in this area. They were also expected to detail plan for "maximising opportunities for regional working".

NHS organisations submitted Board approved plans to Welsh Government in March 2024. These plans are currently being revised to ensure delivery of key performance commitments and were resubmitted by 31 May 2024.

In relation to an example of direct national expectations on regional working, the Cabinet Secretary and I wrote to Hywel Dda and Swansea Bay University Health Boards on 19 March 2024. The letter contained directions under the Welsh Ministers' powers in accordance with Section 12(3) of the National Health Services (Wales) Act 2006 to direct both health boards to establish a Joint Committee. This is intended to strengthen arrangements to plan and deliver healthcare services on a regional basis where it is appropriate to do to ensure continued safety, quality and ongoing viability of services. The



**BUDDSODDWR
MEWN POBL**

**INVESTORS
IN PEOPLE**

Parc Cathays • Cathays Park
Caerdydd • Cardiff
CF10 3NQ

Judith.Paget001@gov.wales

Gwefan • website: www.gov.wales

expectation is that the Joint Committee will be formally established during Quarter 3 of this financial year.

How the Executive is facilitating regional working

As indicated above, it is the role of the Cabinet Secretary and Welsh Government officials to set the policy direction and provide national context for NHS planning arrangements, this includes the development of regional working.

The role of the NHS Executive is to support the NHS to develop their implementation plans through clinical and managerial arrangements. This support is based on clinical pathway design and recognised good practice such as Getting it Right First Time (GiRFT) principles and reviewing service fragility in order to describe regional service specifications to build sustainability.

Below are three areas of focus for regional developments which the NHS Executive is supporting:

1.Regional cancer services

The cancer network and the cancer improvement team in the NHS executive, have developed regional and national service models to support fragile services across Wales, and drive improvement in cancer modalities where there are service sustainability issues.

It is noted that two of the four treatment modalities for cancer are already fully regionalised - radiotherapy and systematic anti-cancer therapy (SACT). The third modality of surgery is an area where regional working has already been established, and more is being explored depending on their sustainability in the long term; this includes (thoracic, hepato-pancreato-biliary, oesophageal). The majority of palliative care isn't suitable for regionalisation due to its requirements for local delivery.

Other regional delivery models relate to Radio pharmacy, PET-CT, and paediatric cancers.

The network has also been involved in supporting equalisation of waiting times across health boards an example being:

Establishing shared lists for breast cancer between CTM and CV to reduce the variation in waiting times between the two neighbouring health boards.

2.Regional diagnostic services

The diagnostic improvement group in the NHS Executive through the national diagnostic implementation plan provide the executive leadership and remit to support health boards develop and agree regional diagnostic plans, this is specifically highlighted under their transformation section of the national diagnostic implementation plan.

Strategy aims being:

- Create national or regional models for fragile services with consolidation of some services to improve safety, throughput and efficiency.
- Push less complex diagnostics closer to primary and community care.
- Implement national planning for complex imaging provision such as PET-CT.

3.Regional treatments

Within the planned care recovery plan there is a clear expectation to support the development of regional resources for high volume low complexity activity. The two recognised specialities with high volume being orthopaedics and ophthalmology services.

All three regional networks, North, Southeast Wales and Southwest Wales have regional plans in various stages of maturity for these two treatment specialities.

In Southwest Wales, orthopaedic services across the two health boards have been exploring, supported by the NHS executive, how they can effectively work collaboratively sharing theatre resources across their regional footprint. This work is clinically driven and is being supported by the national strategic orthopaedic plan which provides the blueprint on how and what services are suitable for regional working.

Initial work has commenced on identifying patient treatment options being provided based on clinical need and types of post op recovery. The aim being to equalise and shorten waits by using the variety of resources across the two health boards.

The treatment option and the post operative care requirements can vary depending on individual patient assessment resulting in a range of service requirements. Rather than duplicate each level of care at both health boards, a regional approach allows for the total resource across both health boards to be assessed as one total resource. Through the support of clinical guidance and the work of the national orthopaedic strategy this total regional resource has been assessed and used to map where treatment and their post operative requirements should be used. This exercise has demonstrated how the targeted use of resources based on clinical need rather than geography allows for more effective use of resources with the aim of equalising waits based on both clinical need and length of wait. Final governance arrangements and clinical standards for operating procedures are being finalised to support this new model which will be implemented in phases in 2024-25. Funding of £18 million was provided to Swansea Bay UHB to develop Neath Port Talbot into a centre of excellence to support this work.

In North Wales, Llandudno hospital has been identified as a regional orthopaedic site to provide dedicated treatment in a protected space to increase capacity available across the whole year. £29.4m of capital funding has been allocated to support this plan.

In Southeast Wales, a mobile ophthalmology theatre based in Cardiff was used to provide treatment for residents across the region, from Cwm Taff Morgannwg and Aneurin Bevan areas. This was funded through their regional shares of investment for Southeast Wales as highlighted below.

How it is supporting health boards to address long waits in specific specialties and regions

In May 2024, Health Boards received a letter from Nick Wood, Deputy Chief Executive of NHS Wales, requiring each health board to develop a focused planned care efficiency and productivity plan. The aim being to demonstrate how through additional productivity, they can increase capacity to deliver their individual improvement trajectories to achieve the planned care national commitments.

The NHS Executive role is to work with each health board to identify and develop their improvement opportunities to support their local plans; these opportunities are based on a number of key national projects that include:

- Referral pathway redesign with joint primary and secondary care clinicians agreeing appropriate referral pathways, and the use of straight to test route where clinically appropriate.
- Outpatient redesign ensuring the most effective use of resources for both new and follow-up review and the use of the multidisciplinary team to increase capacity and effectiveness of the resources.
- Theatre productivity making the most effective use of this valuable resource building on the Getting it Right First Time (GiRFT) review and data.
- Implementation of GiRFT recommendations each health board will be expected to deliver against their agreed local recommendations from each of the national reviewed services (ophthalmology, orthopaedics, urology and gynaecology)
- Clinically agreed secondary care pathways to build national consistency and lean process to high volume low acuity clinical pathways across challenging specialities.

The NHS Executive will then provide regular feedback and assessment of progress against the health board plans; this feedback will be used in the Welsh Government accountability process to monitor NHS delivery.

For specific financial information on how it is monitoring additional funding and resources allocated to healthcare services to expand capacity

In 2022 Welsh Government identified £170m per annum of recovery funding to support health boards recover from the impacts of the pandemic. These resources were allocated to support additional capacity in elective services, diagnostics and to support regional working.

The majority of this allocation has been issued to the NHS to support additional capacity and activity in core elective services and rebuild levels of activity to pre covid levels.

In 2023/24 £50m of the additional recurrent annual planned care investment of £170m was issued under regional allocations, as it was recognised that further gains in activity levels would only be achieved through best use of regional resources.

- For Southwest Wales, Swansea Bay and Hywel Dda received £15.5m for orthopaedics and £2.6m to support diagnostics.
- For Southeast Wales, Cardiff and Vale, Aneurin Bevan and Cwm Taff Morgannwg received £8.34m for diagnostics and £7m for ophthalmology services.
- For North Wales, Betsi Cadwaladr received £7.16m for five projects to support validation and their orthopaedic delivery model.

The NHS Executive was commissioned by Welsh Government to assess the impact of this investment against a set of agreed areas of focus:

- 15% improvement in cohort booking and treat in turn.
- Focus on longest waiters to seek to eliminate over three-year waits.

- Focus on those specialities with small number of long waiters to seek to eliminate >104-week waits in all but the five most challenged specialities.
- GiRFT recommendations being fully implemented.
- Move to Regional PTL and service delivery for some diagnostic and challenged specialities.

While progress was demonstrated in the NHS Executive assessment, full delivery against each area of focus was not achieved, and as such, the development of efficiency and productivity monitoring, referenced above has been added into this year's accountability model.

For statistics on the number of extra healthcare professionals that have been hired, and details of new equipment and facilities

CASE STUDY – Developing the Clinical Endoscopist Workforce in Wales

Across the United Kingdom the demand for endoscopy services has increased year on year requiring an increase in endoscopy theatre capacity and the number of endoscopists.

Traditionally, endoscopists were medically trained but clinical (non-medical) endoscopists given appropriate training can achieve the competencies required to perform this complex skill.

In 2018, in partnership with the Moondance Cancer Initiative and Swansea University, a pilot was conducted to demonstrate the effectiveness of a training programme for Clinical Endoscopists, incorporating Masters Level academic components. After demonstrating the success of this approach, Health Education and Improvement Wales agreed to provide ongoing support and funding for the programme, extending annual invitations to all Health Boards to nominate potential clinical endoscopists to apply for the programme.

Now training the fifth national cohort of clinical endoscopists, the initiative has doubled the number of clinical endoscopists delivering endoscopy lists in Wales. Graduates of the course have developed their advanced practice roles to acts as Bowel Screening Colonoscopists and learn core therapy skills to enhance their value to their host Endoscopy Units. The National Endoscopy Programme has worked with Senior Nurse Leaders to agree an All-Wales banding structure for Clinical Endoscopists to aid recruitment and retention.

In 2023-2024 an additional 6,128 healthcare professionals (those who are required to be registered with a healthcare regulator) were appointed into roles across the Welsh NHS. This included 329 Additional Professional Scientific and Technical, 808 Allied Health Professions, 170 Healthcare Scientists, 2,138 Medical and Dental and 2,683 Nursing and Midwifery.

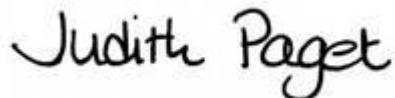
The total number of healthcare professional appointments made in 2022-23 was 6,609.

Capital resources have also been allocated to support the recovery programme. Whilst deployment of capital can be a more medium-term impact, Welsh Government have supported circa £95m of diagnostic capital programmes over the past two years to build capacity and capability in this key area of service recovery.

See table below on financial spend on diagnostic facilities, over seen by the National Diagnostic Programme in the NHS Executive.

Organisation	Funding allocated (m)	Spend included:
ABUHB	10,498	Gamma camera, Imaging equipment, Hysteroscopes
BCUHB	16,592	MRI upgrade, US, CT, Fluoroscopy, LAPB US machine
C&VUHB	14,183	Mobile MRI scanner upgrades, Endoscopy Decon
CTMUHB	10,174	US, CT, C-Arm, Imaging Academy equipment
HDUHB	19,865	US, CT, Fluoroscopy, Image Intensifiers
PtHB	0.120	Endoscopy Video Capture equipment
SBUHB	21,403	Gamma camera, CT, Fluoroscopy, MRI
Velindre	2,577	CT Sims, Imaging replacement
HEIW	0.554	Endoscopy Academy equipment

Yours sincerely



Judith Paget CBE

Agenda Item 9.5

Y Cymru'n Iechyd a
Cofal Cymdeithasol

Health and Social Care Committee

Senedd Cymru

Bae Caerdydd, Caerdydd, CF99 1SN

Seneddlechyd@senedd.cymru

senedd.cymru/Seneddlechyd

0300 200 6565

Welsh Parliament

Cardiff Bay, Cardiff, CF99 1SN

SeneddHealth@senedd.wales

senedd.wales/SeneddHealth

0300 200 6565

Eluned Morgan MS

Cabinet Secretary for Health and Social Care

22 May 2024

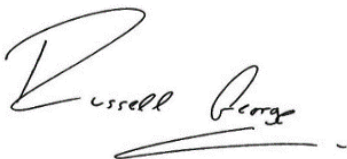
Dear Eluned

You will recall that, in April 2022, the Committee published its report, *Waiting well? The impact of the waiting times backlog on people in Wales*.

The report emphasised the importance of prioritising patient-centred care and ensuring patients receive access to high quality support as well as access to timely treatment. It called for the Welsh Government to work with Health Boards to improve communication with patients, providing clear information about waiting times and treatment options, and offering support services to alleviate the impact of long waits on patients' well-being. You have previously committed to do this by December 2023.

I would be grateful for an update on how the recommendations in our Waiting Well report are being implemented.

Yours sincerely



Russell George MS

Chair, Health and Social Care Committee

Croesewir gohebiaeth yn Gymraeg neu Saesneg. We welcome correspondence in Welsh or English.



Eluned Morgan AS/MS

Ysgrifennydd y Cabinet dros Iechyd a Gofal Cymdeithasol
Cabinet Secretary for Health and Social Care



Llywodraeth Cymru
Welsh Government

Russell George MS
Chair
Health and Social Care Committee
Senedd

SeneddHealth@senedd.wales

18 June 2024

Dear Russell

Thank you for your letter 22 May seeking an update about how the Welsh Government is working with health boards to improve patient communication and develop local services to offer support to people while they wait, as highlighted in the committee's report *Waiting well? The impact of the waiting times backlog on people in Wales*.

In our national planned care recovery plan: [Our programme for transforming and modernising planned care and reducing waiting lists in Wales](#), which was published in 2022, we made a clear commitment to improving communication and supporting people while waiting.

In August 2023, we launched our national [3Ps Policy: Promote, prevent and prepare for planned care](#), which demonstrates how we have translated the commitment into a dedicated policy and delivery plan. This is a commitment to change the way everyone is supported on referral to treatment pathways in Wales.

I enclose a supporting evidence report demonstrating how my officials have been working with health boards to deliver the policy and how it reflects the recommendations the committee raised in its report.

Yours sincerely,

Eluned Morgan AS/MS

Cabinet Secretary for Health and Social Care
Ysgrifennydd y Cabinet dros Iechyd a Gofal Cymdeithasol

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1SN

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
0300 0604400

Gohebiaeth.Eluned.Morgan@llyw.cymru
Correspondence.Eluned.Morgan@gov.wales

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.

Evidence Paper - June 2024.

Waiting well? The impact of the waiting times backlog on people in Wales

Introduction

1. The Welsh Government welcomes the opportunity to provide an update about the progress made in developing a model to provide better information and support to those waiting for secondary care. *(This report covers recommendations 1,2,3,9,11,12,16,17 and 20).*
2. Even though, consistent progress is being made to reduce waiting times, more needs to be done to ensure people receive timely care and treatment.
3. To aid recovery, the NHS needs to transform the way it delivers planned care to ensure sustainable services in the future. The Welsh Government has commissioned the Strategic Programme for Planned Care (in the NHS Executive) to support health boards to deliver the transformation and modernisation agenda.
4. Delays in care can significantly impact on the health and wellbeing of the population. The Welsh Government is working with health boards and the third sector to deliver phase one of the [3Ps Policy: Promote, prevent and prepare for planned care](#) (published in August 2023). This will ensure those waiting for treatment in Wales are better informed about and supported to maximise their health and well-being outcomes.

Background

5. Since March 2020, the number waiting for planned care services has increased markedly. In March 2020, a total of 474,120 were on an open RTT pathway in Wales and 29,221 had been waiting over 36 weeks. By March 2022 this had increased to 725,897 and 258,432 respectively. In March 2024, a total of 768,899 were waiting on an open RTT pathway with 251,287 waiting over 36 weeks. More needs to be done to increase the pace of recovery.
6. The Welsh Government has set out clear expectations to health boards regarding the productivity and efficiency improvements required. A new Planned Care Policy Framework and Plan are being developed to support health boards to recover and transform. The Welsh Government has commissioned the Strategic Programme for Planned Care in the NHS Executive to support health boards to implement these changes and to ensure sustainable services for the future.
7. As services implement plans to reduce waiting times, the Welsh Government is supporting health boards to implement new approaches to move from passive waiting to opportunities to pro-actively prepare for treatment, actively supporting people while they wait.

Enabling health boards to deliver phase one of the 3Ps Policy: the Waiting Well Single Point of Contact (SPOC) Service and better communication about waiting times.

8. As transformation and modernisation of services continue, progress is being made to better inform and support people waiting for planned care. A clear commitment was made in [Our programme for transforming and modernising planned care in Wales and reducing the waiting lists \(gov.wales\)](#) that more effective communication and support would be offered.
9. To support improved communication, national data on waiting times by speciality at each health board is now available on the national 111 platform [NHS 111 Wales - Planned Care](#). This provides average waiting times and an estimated longest wait based on people waiting on the last 10% of a pathway. While this cannot tell individuals their own personal waiting time, it does provide more timely information about waits and the variances across speciality and health boards. The website also has links to sign post individuals to important digital information on how they can be supported to stay well while they wait. [NHS 111 Wales - Waiting Well](#). The site also has links for carers [NHS 111 Wales - Carers](#).
10. The Welsh Government has co-produced the [3Ps Policy: Promote, prevent and prepare for planned care](#) with health and social services leads, NHS, third sector and patient representative groups. The policy was announced in August 2023.
11. A phased approach to implementing the 3Ps Policy is being taken:
 - Phase one – All health boards to implement a single point of contact to support people waiting for planned care. This is based on the lessons learned from Hywel Dda University Health Board's waiting list support service, which was initially piloted during the pandemic. This service is now fully embedded as a business-as-usual model.
 - Phase two – Extend the offer to earlier in the pathway, on referral.
12. Since publication, the Welsh Government has worked with the NHS to deliver the waiting well single point of contact at each health board. The aim is to provide high-quality, person-centred information, advice and support to promote healthy lifestyles, prevent worsening health and deconditioning and to actively prepare people for treatment and recovery.
13. £6.65m has been allocated from the planned care transformation fund between 2023-24 to 2025-26 to enable health boards to implement the single point of contact service and maximise once-for-Wales development opportunities.

Hywel Dda University Health Board Waiting List Support Service

14. The Hywel Dda pilot initially provided information and support to all those waiting for orthopaedic treatment. The service has been expanded to include people waiting in all specialities and at all stages.
15. Evaluation of the service shows that since the service was implemented:
 - Primary care has reported fewer people returning for appointments relating to their secondary care pathway wait.
 - Average length of stay has reduced by two days.
 - People reported improved lifestyle choices, including engagement with smoking cessation and weight loss programmes.
 - Satisfaction with the service is positive and complaints relating to waiting times have fallen by 25%.
 - The number of last-minute postponement of procedures because someone is not fit for treatment has reduced by 33%.
16. The service demonstrates how high-quality tailored support can improve health and well-being outcomes, reduce clinical risk, reduce postponed procedures by a third, reduce length of stay and improve patient experience.
17. All health boards will have a waiting well single point of contact service by summer 2024 based on the learning from Hywel Dda UHB. People will be able to access person-centred information, advice and practical support to empower them to better self-manage their condition and actively prepare for treatment and recovery.
18. Working with health boards, the third sector and patient groups, resources have been coproduced to promote equity of access including:
 - A Waiting Well Patient Charter which sets out the standards people can expect in accessing the waiting well offer.
 - A national induction and training programme to support single point of contact service staff to deliver safe, quality, person-centred care.
 - Clinically-approved standardised operating procedures to facilitate safe practice and timely escalation.
 - The combined waiting well patient-reported outcome and experience measure (PROM and PREM) – a standardised holistic assessment which will be integrated into the patient treatment pathway to support individualised care and identify deteriorating health and facilitate timely reprioritisation.
 - National and local resources (digital and non-digital) to promote communication, engagement, and public awareness of the importance of waiting well and where to seek support.
19. Once-for-Wales approaches will be maximised to capitalise on economy of scale opportunities and reduce health inequalities.

Delivering person-centred care and support

20. Effective preparation for treatment from the start of the pathway is an important part of prudent delivery of high-quality person-centred and outcome-focused care.
21. The waiting well PROM/PREM measures will facilitate an individualised support plan to empower people to better self-manage their condition and prepare for treatment to maximise their health outcomes.
22. People will be supported to complete a waiting well combined PROM and PREM to identify their individual needs and level of risk associated with their condition. This will be integrated into the treatment pathway and repeated, as a minimum every six months to ensure the support offered remains in line with current level of need and to provide timely identification of deterioration of symptoms to enable services to manage those risks, including reprioritisation.
23. The waiting well PROM/PREM will be integrated into the patient treatment pathway and supported by a data standard to ensure consistent implementation, recording, and reporting across all health boards.
24. Integration with the new national PROMs platform is in progress to enable communication and information sharing across teams and provide seamless care for patients whilst reducing the need for completing multiple PROMs.
25. Information and support will be made available to families and carers in line with patient confidentiality and consent policies and processes.
26. All waiting well single point of contact service staff will have access to bespoke directories of services relating to relevant local and national information, advice and support to help people to wait well and what actions to take to prepare for treatment. Support will be tailored in accordance with the assessed level of need and individual preference and will include:
 - Early screening pre-optimisation and pre-habilitation support for people assessed with higher risks and more complex needs which can be delivered on hospital sites and in community venues. For example, Cardiff and Vale UHB pre-habilitation and rehabilitation programmes delivered in community leisure centres.
 - Virtual programmes which can be accessed from home. For example, Hywel Dda's virtual orthopaedic pre-habilitation programme.
 - Signposting to national resources and community and third sector support.

Promoting awareness and effective communication with those waiting for care

27. Promoting awareness and communication is being supported by a communication and engagement strategy, toolkit and national campaign to raise awareness of the importance of waiting well and where to seek information on waiting times and support to prepare for treatment.
28. Different formats and bilingual resources are being co-produced with health boards and partners to ensure accessibility to information and support based on

individual language needs, sensory needs and preferences.

29. All resources are being developed by a national group to maximise shared learning opportunities and reduce duplication across the health boards.
30. Resources being developed will explain the importance and benefits of Waiting Well and how to access the local support and include:
 - Waiting Well video - [Bing Videos](#)
 - Waiting Well PROM/PREM video to promote understanding of the importance of completing the assessment and where to seek support if help is required with completion.
 - Waiting Well landing pages in all health boards in line with the national 3Ps Waiting Well Landing Pages Minimum Specification.
 - Hospital letters which include the single point of contact details, link and/or QR code to enable access to support.
 - Bilingual leaflets and posters.
31. Hywel Dda UHB is also piloting alternative approaches, including local newspaper adverts, local radio adverts and adverts/posters displayed on bus stops, especially in the more deprived/harder to reach areas.
32. Videos will be posted on Welsh Government and NHS social media platforms as well as displayed in hospital and primary/community care waiting rooms.
33. Work continues with Welsh Government and health board communication leads to develop consistent national and local messaging and information and explore alternative ways of engaging with all demographics in Wales.

Evaluating the impact of the 3Ps Policy

34. Work is being progressed with Digital Health and Care Wales standards colleagues to develop a data standard to record and report on single point of contact activity and outcomes consistently across Wales. This will be supported by system changes.
35. This standard will enable Welsh Government to monitor progress in delivering the 3Ps Policy, to benchmark activity and outcomes and identify areas of good practice.
36. It is expected that data will be provided by all health boards from September 2024 to facilitate ongoing progress monitoring and an initial evaluation of the impact of phase one of the policy in early 2025/26.
37. A data standard is also being developed for the Waiting Well PROM which is being piloted in Hywel Dda. This standard and supporting system changes will enable data to evaluate the impact of the information and support provided and patients' satisfaction with the service.
38. To evaluate the delivery of targeted support and signposting to people living in more deprived areas to reduce the health inequalities gap, the Waiting Well PROM will include demographic data including postcode, gender, age and ethnicity.

39. Dashboards will be developed in line with identified key performance indicators for both SPOC activity and outcomes and the Waiting Well Combined PROM/PREM.

Agenda Item 9.7

Y Fywllgor Dechreueth, Cyfiawnder a'r Cyfansoddiad

Legislation, Justice and Constitution Committee

Senedd Cymru

Bae Caerdydd, Caerdydd, CF99 1SN

SeneddDCC@senedd.cymru

senedd.cymru/SeneddDCC

0300 200 6565

Welsh Parliament

Cardiff Bay, Cardiff, CF99 1SN

SeneddLJC@senedd.wales

senedd.wales/SeneddLJC

0300 200 6565

Dawn Bowden MS
Minister for Social Care

18 June 2024

Dear Dawn

Health and Social Care (Wales) Bill

Thank you for attending our meeting on Monday 17 June 2024 to discuss the Health and Social Care (Wales) Bill. We have a number of additional queries relating to the Bill. As such, I would be grateful if you would respond to the questions in the Annex to this letter by Tuesday 9 July 2024.

Thank you also for agreeing to provide:

- I. Full details of the Welsh Government's assessment of the Bill's impact on children and their families, with particular reference to Article 8 of the European Convention on Human Rights, and the impact on service providers, with particular reference to Article 1 of the First Protocol to the Convention.
- II. Further details on what you consider "public good" to mean in the context of new section 6A(3)(b) being inserted into the 2016 Act (via section 3 of the Bill).

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

Yours sincerely,



Mike Hedges
Chair



Question 1 - What discussions have you had with the other UK administrations regarding the provisions and policy objectives of the Bill?

Question 2 – Why have you decided to make reference to the elimination of private profit from the care of looked after children in the various explanatory documentation to the Bill, rather than referencing the fact that the Bill makes provision to restrict making a profit?

Question 3 - With regard to the restriction of profit-making for restricted children's services, the timelines for delivering this are not clear. The new Schedule 1A to the *Regulation and Inspection of Social Care (Wales) Act 2016* ("the 2016 Act") provides that the transitional period begins with the day on which section 6A(1) of the 2016 Act comes into force. According to paragraph 3.42 of the Explanatory Memorandum, section 6A(1) will come into force on 1 April 2026, but paragraph 3.42 also states that existing "for profit" providers will be subject to transitional provisions from 1 April 2027. Can you provide clarification regarding the dates, please?

Question 4 - Section 2 of the Bill inserts definitions into the 2016 Act, one of which relates to a care home service that is provided wholly or mainly to children. To fall within the definition, a provider will need to show that it intends to provide more days of accommodation to children than adults over a set period, but the Bill does not provide any detail about how this intention is to be demonstrated or assessed in practice. It also doesn't make it clear whether the periods of time referred to must be continuous or not, i.e. if it is a 12 month period with the previous 24 months, does this mean 12 continuous months or any 12 individual months within the preceding 24 months? Do you have any concerns that this may lead to confusion about what constitutes a care home service in this context?

Question 5 - The new section 6A(3) of the 2016 Act, as inserted by section 3(3) of the Bill, refers to a person's objects or purposes primarily relating to certain matters, however no information is provided as to how objects or purposes are to be determined. What is the reason for the omission of this detail? It appears from the wording of the new section 9A(1)(b), as inserted by section 6(3) of the Bill, that some form of determination method has been contemplated as that refers to "objects or purposes as determined in accordance with section 6A(3)", but the method of determination is not apparent from the wording of the Bill.

Question 6 - The Bill defines some terms with reference to existing legislation, for example, "looked after children", "company having share capital" and "substantial interest in a body corporate". However, there is a risk of confusion as "looked after children" is defined with reference to section 74 of the *Social Services and Well-being (Wales) Act 2014* ("the 2014 Act"), but section 74 does not use this term. Similarly, "company having share capital" and "substantial interest in a body corporate" are given specific meanings in the Bill, but the phrases are not used in such forms in the Bill. Can you

explain why this approach has been taken and, on reflection, do you consider that the drafting of these provisions could be clearer?

Question 7 - The new Schedule 1A to the 2016 Act, as inserted by section 4(3) of the Bill, refers to a service being “provided wholly or mainly to children”. This phrase is given a specific meaning in the new section 2A of the 2016 Act, as inserted by section 2(2) of the Bill, but this meaning is stated to only apply in section 2A(1). Is it intended that the phrase should have the same meaning in Schedule 1A as it does in section 2A(1), and if so, do you think that the drafting reflects this? The same issue applies in relation to section 75(4) of the 2014 Act, as amended by section 10(6) of the Bill, which uses the phrase “wholly or mainly to children” but offers no explanation as to how this is to be determined.

Question 8 - Section 4(3) inserts a proposed new paragraph 1(1)(b), in a new Schedule 1A to the 2016 Act. Paragraph 1(1)(b) specifies that the transitional period for a restricted children’s service ends with the day appointed by the Welsh Ministers by regulations. In the Statement of Policy Intent you state that “The power recognises that it will be necessary to consider the progress of local authority disengagement from the use of for-profit placements in order to determine the appropriate point at which to bring the transition period to a close”. If one local authority, for whatever reason, struggles to disengage from the use of for-profit placements, does this mean the transition period across Wales will continue for all local authorities until all are ready?

Question 9 – Section 4(3) of the Bill inserts a new regulation-making power which enables the Welsh Ministers to specify enactments for the purposes of which the new paragraph 2(3) of Schedule 1A does not apply. Why are these enactments not listed in the Bill? The Statement of Policy Intent also states that the new powers in paragraph 2(4)(a) of Schedule 1A allow the Welsh Ministers to specify other instances where a provider should be treated as not meeting the not-for-profit requirement; what instances are envisaged here?

Question 10 – Section 11 inserts new section 75A into the 2014 Act relating to the preparation and publication of local authority annual sufficiency plans. On the face of the Bill, it appears that the new section 75A(2)(d)(iii) and (vi) are two separate regulation-making powers. However, the Explanatory Memorandum and Statement of Policy Intent refer to them in the singular. Can you confirm our understanding that there are two powers in section 75A(2)(d)(iii) and (vi)?

Question 11 – The Statement of Policy Intent sets out the reasons why a regulation-making power is needed in section 14 to set a time limit for the publication of an annual return. What time frame do you anticipate setting for this, and why would such a time frame ever need to be changed? Is a flexible time frame appropriate for the publication of an annual return?

Question 12 - Section 19 of the Bill permits interim orders to be extended by a panel in fitness to practise cases. Section 19(1) states that the power is to extend the order for up to 18 months, but section 19(2)(b) requires that “the extension does not result in the interim order having effect for a



period of more than 18 months". This wording implies that the interim order as a whole, not just the extension, cannot endure for more than 18 months, which is different to what section 19(1) says. Can you clarify the intention here?

Question 13 - Paragraph 7 of the new Schedule A1 to the 2014 Act, as inserted by section 20(2)(d) of the Bill, requires regulations made under the Schedule to specifically provide that direct payments under section 117 of the *Mental Health Act 1983* have to reflect the amount that the local authority estimates would be required to pay for the service in question. The power to make these regulations is a discretionary power, so if this power is not exercised, how will paragraph 7 be given effect? Why would it not be more appropriate to include these requirements about the direct payments on the face of the Bill?

Question 14 - Section 20(2)(a), (d) and (e) insert new provisions with regulation-making powers into the 2014 Act. The Explanatory Memorandum states that these powers replace existing powers, but then later goes on to say that "the negative procedure would be more appropriate". This gives the impression that the scrutiny procedure has changed for these powers, can you confirm whether this is the case and why the Explanatory Memorandum uses this wording?

Question 15 - Section 24(2) of the Bill inserts a new section 10B into the *National Health Service (Wales) Act 2006* ("the 2006 Act"), which makes reference to a person lacking capacity. This term is given a meaning by the new section 10B(8)(b) of the 2006 Act, but it is defined with reference to the *Mental Capacity Act 2005* as a whole. The phrase is given meaning by section 2 of that Act, so why is the reader not directed to that provision?

Question 16 – Section 24(2) of the Bill inserts a new section 10C into the 2006 Act, which allows the Welsh Ministers to make regulations relating to direct payments. Some of the matters that such regulations may cover, as indicated in the new section 10C(2), are detailed and potentially complex. Why do you consider that the negative scrutiny procedure is appropriate for such regulations?

Question 17 - Section 28(2)(a) of the Bill contains a Henry VIII power and it allows regulations to "amend, modify, repeal or revoke any enactment". Section 28(3) sets the requirements for which delegated powers in the Bill, when exercised, will be subject to the draft affirmative procedure. This provision only refers to "amend, modify or repeal". The Explanatory Memorandum further describes the draft affirmative scrutiny procedure applying when regulations "amend, repeal or otherwise modify", while the Statement of Policy Intent uses the phrasing "amend or repeal". Can you provide clarification as to whether you intended any difference in meaning or application of the provision in section 28(3), and explain the drafting inconsistencies.

Eich cyf/Your ref DB-PO-0167-24

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

19 June 2024

Dear Russell,

Following the introduction of the Health and Social Care (Wales) Bill into the Senedd on 20 May 2024, please find attached a copy of the Statement of Policy Intent on the powers to make subordinate legislation under the Bill. This document is provided to support scrutiny of the Bill by the Senedd.

I look forward to providing further evidence to the Committee in due course.

I am copying this letter to the Chair of the Legislation, Justice and Constitution Committee and the Chair of the Finance Committee.

Yours sincerely,



Dawn Bowden AS/MS
Y Gweinidog Gofal Cymdeithasol
Minister for Social Care

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
0300 0604400

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1SN

Gohebiaeth.Dawn.Bowden@llyw.cymru
Correspondence.Dawn.Bowden@gov.wales

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.



Llywodraeth Cymru
Welsh Government

HEALTH AND SOCIAL CARE (WALES) BILL

Statement of Policy Intent for Subordinate Legislation

June 2024

HEALTH AND SOCIAL CARE (WALES) BILL

STATEMENT OF POLICY INTENT FOR SUBORDINATE LEGISLATION

This document provides an indication of the current policy intention for the subordinate legislation that Welsh Ministers would be empowered or required to make under the provisions of the Health and Social Care (Wales) Bill ('the Bill'). It has been prepared in order to assist committees during the scrutiny of the Bill and should be read in conjunction with the Explanatory Memorandum and Explanatory Notes.

The key purpose of the Bill is to introduce changes that:

- eliminate private profit from the care of looked after children;
- enable introduction of Direct Payments for NHS Continuing Healthcare (CHC); and
- make amendments to ensure that the Regulation and Inspection of Social Care (Wales) Act 2016 (the 2016 Act) and Social Services and Well-being (Wales) Act 2014 (the 2014 Act) are able to operate fully and effectively.

For ease of reference, this document includes separate information for each provision in the Bill which involves subordinate legislation. However, in reality a number of these areas would be likely to be combined and dealt with, for example, within a set of regulations. The contents of this document correspond to the information provided in Chapter 5 of the Explanatory Memorandum.

In developing subordinate legislation, the Welsh Government will work closely with stakeholders, consulting where appropriate, in order to ensure the provisions are relevant, valid and proportionate.

PART 1: SOCIAL CARE

CHAPTER 1 – PROVISION OF SOCIAL CARE SERVICES TO CHILDREN: RESTRICTIONS ON PROFIT

REGULATIONS RELATING TO	Allowing Welsh Ministers to prescribe information required in an application to be registered to become a provider of a restricted children's service
BILL PART	Part 1, Chapter 1
SECTION	3(2)
METHOD OF BRINGING INTO FORCE	Negative
DESCRIPTION OF THE REGULATIONS	

Section 3(2) inserts a new subsection 6(1A) in the 2016 Act which contains the power to make regulations.

The power will allow Welsh Ministers to prescribe information required in an application to be registered to become a provider of a restricted children's service, in order for them to be satisfied that the person applying to become a provider meets the necessary requirements.

REASON FOR AND POLICY INTENT OF THE POWER TO MAKE REGULATIONS

The 2016 Act already sets out (at section 6(1)(a)-(c)) some information that must be included in an application to the Welsh Ministers when a person who wants to provide a regulated service applies to the Welsh Ministers for registration. There are existing powers at section 6(1)(d) and section 6(2) of the 2016 Act which enable Ministers to prescribe further information and the form in which an application must be made.

This power mirrors the approach already taken in section 6(1)(d) of the 2016 Act (concerning applications for registration as a service provider), and ensures that the Welsh Ministers can prescribe information that needs to be provided in the case of an application to provide a restricted children's service, to satisfy the Welsh Ministers that the organisation which is applying meets the requirement in section 6A(1) that they are a not-for-profit entity. This is expected to include information on the organisation's objects or purposes, and the type of organisation which is applying (e.g. a charitable company limited by guarantee without a share capital).

By conferring a power on Welsh Ministers to prescribe information that needs to be provided in the case of an application to provide a restricted children's service, the Bill allows for the application process to be reviewed from time to time and enables flexibility to adapt the process if necessary.

REGULATIONS RELATING TO	Allowing Welsh Ministers to prescribe what is an acceptable "public good" to which the objectives or purposes of a person proposing to provide a restricted children's services must primarily relate
BILL PART	Chapter 1 of Part 1
SECTION	3(3)
METHOD OF BRINGING INTO FORCE	Negative
DESCRIPTION OF THE REGULATIONS	

Section 3 inserts new sections - 6A and 6B - into the 2016 Act regarding registration in respect of a restricted children's service and definitions. Section 6A(3) deals with requirements in relation to the objects and purposes of a person seeking registration to provide restricted children's services. Proposed new section 6A(3)(a) specifies "the welfare of children" as an acceptable 'public good' to which those objects or purposes must primarily relate. Section 6A(3)(b) specifies that Welsh Ministers may also prescribe other such public good(s).

This power allows Welsh Ministers to prescribe what is an acceptable "public good" to which the objectives or purposes of a person proposing to provide a restricted children's service must primarily relate.

REASON FOR AND POLICY INTENT OF THE POWER TO MAKE REGULATIONS

The power will allow Welsh Ministers to prescribe what is an additional acceptable "public good" to which the objectives or purposes of a person proposing to provide a restricted children's service must primarily relate, thus permitting the 'future-proofing' of the provisions against the possibility of new public goods being identified.

New forms of 'public good' may be identified in the future, for example if a not-for-profit entity for children also wished to pursue objects/purposes relating to the welfare of adults in need of care and/or support by providing services for adults. In a circumstance such as this Welsh Ministers may wish to consider whether specifying a new public good could allow that, while still being consistent with the policy.

REGULATIONS RELATING TO	Allowing Welsh Ministers to determine the end of the transition period for restricted children's services
BILL PART	Chapter 1 of Part 1
SECTION	4(3)
METHOD OF BRINGING INTO FORCE	Draft Affirmative
DESCRIPTION OF THE REGULATIONS	
Section 4(3) inserts a proposed new paragraph 1(1)(b), in a new Schedule 1A to the 2016 Act. Paragraph 1(1)(b) specifies that the transitional period for a restricted children's service ends with the day appointed by the Welsh Ministers by regulations.	
REASON FOR AND POLICY INTENT OF THE POWER TO MAKE REGULATIONS	
<p>The power will allow Welsh Ministers to determine the end of the transition period for restricted children's services, including the ability to respond to the potential need to determine different days in relation to different types of service and different descriptions of service provider; for example, if the achievement of not-for-profit placement sufficiency is uneven across service types.</p> <p>The power recognises that it will be necessary to consider the progress of local authority disengagement from the use of for-profit placements in order to determine the appropriate point at which to bring the transition period to a close (i.e. the time at which placement disruption for children and service providers can be avoided or minimised).</p>	

REGULATIONS RELATING TO	Allowing Welsh Ministers to prescribe enactments for the purposes of which sub-paragraph (3) of paragraph 2 does not apply.
BILL PART	Chapter 1 of Part 1
SECTION	4(3)
METHOD OF BRINGING INTO FORCE	Negative
DESCRIPTION OF THE REGULATIONS	
<p>Section 4(3) inserts proposed new paragraph 2(4)(b), in new Schedule 1A to the 2016 Act relating to transitional registration arrangements for existing service providers. Paragraph 2(4)(a) sets out that the requirements in sub-paragraph (3) – that the registration of the service provider is not subject to the requirement in section 6A(1) and the entry on the register maintained under section 38 must show that the provider does not meet the requirement of being a not-for-profit entity – do not apply for the purposes of an application made under section 6(1) and 11(1)(a)(i) of the 2016 Act.</p> <p>Paragraph 2(4)(b) sets out that the requirements in sub-paragraph (3) also do not apply for the purposes of any other enactments Welsh Ministers may prescribe.</p>	
REASON FOR AND POLICY INTENT OF THE POWER TO MAKE REGULATIONS	
<p>The power will allow Welsh Ministers to prescribe enactments for the purposes of which sub-paragraph (3) of paragraph 2 does not apply. It complements paragraph 2(4)(a).</p> <p>Sub-paragraphs 2(4)(a)(i) and (ii) operate so that although for most purposes an ineligible provider of a restricted service is treated as if it met the not-for-profit requirements whilst the transitional period lasts, this is not the case where that provider is making an application to provide an additional regulated service (or vary its registration to do so). This power allows Welsh Ministers to specify other instances where such a provider should be treated as not meeting the not-for-profit requirement.</p>	

REGULATIONS RELATING TO	Allowing Welsh Ministers to impose conditions on existing providers of restricted children's services.
BILL PART	Chapter 1 of Part 1
SECTION	4(3)
METHOD OF BRINGING INTO FORCE	Draft affirmative
DESCRIPTION OF THE REGULATIONS	
Section 4(3) inserts proposed new paragraph 3(1), in new Schedule 1A to the 2016 Act. 3(1) sets out that Welsh Ministers may by regulations make provision imposing conditions on a service provider to whom paragraph 2 applies (an existing provider of restricted children's services during the transitional period).	
REASON FOR AND POLICY INTENT OF THE POWER TO MAKE REGULATIONS	
<p>The power will allow Welsh Ministers to impose conditions on existing providers of restricted children's services during the transitional period, including restrictions on the type of service they may provide and the description of looked after children they may accommodate.</p> <p>This may include imposing conditions to restrict providers who are subject to the transitional provisions to only providing places for children whose placement has been approved by Welsh Ministers under section 81B of the Social Services and Well-being (Wales) Act 2014, or to limit the circumstances in which such providers may accept placements from local authorities in England (for example to circumstances where the placement is necessary to allow siblings to be accommodated together). The power could also be used to prevent providers who are subject to the transitional provisions from providing a place for any new child after a certain date. The draft affirmative procedure will support scrutiny of the proposed conditions.</p>	

REGULATIONS RELATING TO	Allowing Welsh Ministers to specify the information contained within, and the form of, an application by a provider of restricted services for a variation of that provider's registration.
BILL PART	Chapter 1 of Part 1
SECTION	4(3)
METHOD OF BRINGING INTO FORCE	Negative
DESCRIPTION OF THE REGULATIONS	
<p>Section 4(3) inserts proposed new paragraph 4(3), in Schedule 1A to the 2016 Act). This sets out that a provider of a restricted children's service applying for variation of registration and being a not-for-profit entity (as per the requirement in section 6A(1)) must include in their application such information as may be prescribed to satisfy Welsh Ministers that the person meets the requirements of being a not-for-profit entity, and that an application be in the prescribed form.</p> <p>The power relates to a task which is administrative in nature and the procedure mirrors that in relation to applications for variation under s.11(3)(a)(iii) and (3)(b) of the 2016 Act.</p>	
REASON FOR AND POLICY INTENT OF THE POWER TO MAKE REGULATIONS	
<p>The power will allow Welsh Ministers to specify the information contained within, and the form of, an application by a provider of restricted services for a variation of that provider's registration. This ensures that Welsh Ministers have access to the information they require in order to determine an application for variation of registration from a provider of restricted children's services.</p> <p>Such information is more properly contained within Regulations. The rationale is consistent with that set out above for the power inserted by section 3(2) to require the equivalent information for applications for registration.</p>	

REGULATIONS RELATING TO	Allowing Welsh Ministers to prescribe information about evidence relevant to the fit and proper person test which must be included in the annual return.
BILL PART	Chapter 1 of Part 1
SECTION	7(a)
METHOD OF BRINGING INTO FORCE	Draft affirmative on the first use, and subsequently negative (see section 10(6) of the 2016 Act, and section 7(c)(ii) of the Bill)
DESCRIPTION OF THE REGULATIONS	
<p>Section 7(a) inserts a proposed paragraph (viii a) into section 10, subsection (2)(a) of the 2016 Act relating to the annual return. This sets out that an annual return must contain such information about evidence relevant to the fit and proper person test as may be prescribed.</p> <p>The power mirrors that in relation to annual returns under s.10(2)(a)(ix) of the 2016 Act.</p>	
REASON FOR AND POLICY INTENT OF THE POWER TO MAKE REGULATIONS	
<p>The power will allow Welsh Ministers to prescribe information about evidence relevant to the fit and proper person test which must be included in the annual return. The purpose of this is to form part of the evidential basis for judgements about fitness of those who are operating restricted children's services (for example in relation to payments in excess of specified amounts or to particular persons or for particular sorts of services which may have been made by a not-for-profit entity).</p> <p>This information is appropriate for stipulation in Regulations and would be the basis for Welsh Ministers as regulator to inquire as to whether the payments contravened section 9A because they were unreasonable or disproportionate. The policy intention is that regulations will be used to ensure that the information contained within the annual return and used in relation to the fit and proper person test will be proportionate, factually-based, current and consistent.</p>	

REGULATIONS RELATING TO	Allowing Welsh Ministers to prescribe information to be included in an annual return in order to satisfy Welsh Ministers that the provider meets the requirements of section 6A(1) (concerning requirements in order to be registered as a provider of a restricted children's services).
BILL PART	Chapter 1 of Part 1
SECTION	7(b)
METHOD OF BRINGING INTO FORCE	Draft affirmative on the first use, and subsequently negative (see section 10 of the 2016 Act, and section 7(c)(iv) of the Bill)
DESCRIPTION OF THE REGULATIONS	
<p>Section 7(b) inserts a proposed new section 2A after subsection (2) into section 10 of the 2016 Act relating to the annual return. This sets out that an annual return for a provider, other than a local authority, of a restricted children's service must also contain such information as may be prescribed to satisfy Welsh Ministers that the person meets the requirements of being a not-for-profit entity.</p> <p>The power relates to a task which is administrative in nature and the procedure mirrors that in relation to annual returns under s.10(2)(a)(ix) of the 2016 Act.</p>	
REASON FOR AND POLICY INTENT OF THE POWER TO MAKE REGULATIONS	
<p>The power will allow Welsh Ministers to prescribe information to be included in an annual return in order to satisfy Welsh Ministers that the provider meets the requirements of section 6A(1) (concerning being a not-for-profit entity). The purpose of this is to form part of the evidential basis for judgements about adherence to requirements on the part of those who are operating restricted children's services in relation to the type of undertaking set out in section 3(3)(4) or the person's objects or purposes.</p>	

REGULATIONS RELATING TO	Allowing Welsh Ministers to prescribe information to be included in an application to vary a provider's registration to be able to provide a restricted children's service.
BILL PART	Chapter 1 of Part 1
SECTION	8(2)
METHOD OF BRINGING INTO FORCE	Negative
DESCRIPTION OF THE REGULATIONS	
<p>Section 8(2) inserts a proposed new subsection (4) after subsection (3) into section 11 of the 2016 Act relating to an application for variation of registration as a service provider. This sets out that a restricted children's service provider wanting to provide a regulated service which it is not already registered to provide, must, in its application to vary its registration, also contain such information as may be prescribed to satisfy Welsh Ministers that the person meets the requirements of being a not-for-profit entity.</p> <p>The power relates to a task which is administrative in nature and the procedure mirrors that in relation to application for variation to registration as a service provider under s.11(3)(a)(iii) of the Act.</p>	
REASON FOR AND POLICY INTENT OF THE POWER TO MAKE REGULATIONS	
<p>The power will allow Welsh Ministers to prescribe information to be included in an application to vary a provider's registration to be able to provide a restricted children's service, in order to satisfy Welsh Ministers that the provider meets the requirements of section 6A(1) (concerning being a not-for-profit entity). The purpose of this is to form part of the evidential basis for judgements about whether a provider is eligible to provide a restricted children's service.</p> <p>The rationale is consistent with that set out above for the power inserted by section 3(2) to require the equivalent information for applications for registration.</p>	

REGULATIONS RELATING TO	Allowing Welsh Ministers to prescribe information to be contained in local authority sufficiency plans, about for-profit providers who provide accommodation in Wales or England, respectively, and who are likely to be named in applications for approval of supplementary placements
BILL PART	Chapter 1 of Part 1
SECTION	11
METHOD OF BRINGING INTO FORCE	Negative
DESCRIPTION OF THE REGULATIONS	
<p>Section 11 inserts new section 75A into the 2014 Act relating to preparation and publication of local authority annual sufficiency plans. Subsection (2)(d)(iii) and (iv) of new section 75A provides that annual sufficiency plans must include, in relation to applications for approval of supplementary placements, information to be prescribed in regulations about for-profit providers who provide accommodation in Wales (subsection (2)(d)(iii)), and information to be prescribed in regulations about for-profit providers who provide accommodation in England (subsection (2)(d)(iv)).</p>	
REASON FOR AND POLICY INTENT OF THE POWER TO MAKE REGULATIONS	
<p>The power will allow Welsh Ministers to prescribe information to be contained in local authority sufficiency plans, about for-profit providers who provide accommodation in Wales or private providers who provide accommodation in England, and who are likely to be named in applications for approval of supplementary placements. Given that private providers in England are expected to be both for-profit and not-for-profit, Welsh Ministers may wish to have specific information about the type of entity in those cases.</p> <p>Sufficiency plans will promote a coherent approach to the planning and provision of not-for-profit services according to local needs and the rebalancing of care and support provision more widely. The power to prescribe information about for-profit providers in Wales and private providers in England who are likely to be named in applications for approval of supplementary placements allows a dynamic approach to sufficiency plan requirements which can be adapted to the evolving position in relation to sufficiency of not-for-profit provision in Wales.</p>	

REGULATIONS RELATING TO	Allowing Welsh Ministers to prescribe other information to be contained in local authority sufficiency plans.
BILL PART	Chapter 1 of Part 1
SECTION	11
METHOD OF BRINGING INTO FORCE	Negative
DESCRIPTION OF THE REGULATIONS	
Section 11 (subsection (2)(f) of new section 75A to be inserted into the 2014 Act relating to preparation and publication of local authority annual sufficiency plans) sets out that annual sufficiency plans must include such other information as may be prescribed by regulations.	
REASON FOR AND POLICY INTENT OF THE POWER TO MAKE REGULATIONS	
<p>The power will allow Welsh Ministers to prescribe other information to be contained in local authority sufficiency plans.</p> <p>As with other regulation-making powers in relation to sufficiency plans more broadly these plans will promote a coherent approach to the planning and provision of not-for-profit services according to local needs and the rebalancing of care and support provision more widely. The power to prescribe information to be included in local authority sufficiency plans allows a dynamic approach to sufficiency plan requirements which can be adapted to the evolving position in relation to sufficiency of not-for-profit provision in Wales.</p>	

REGULATIONS RELATING TO	Allowing Welsh Ministers to prescribe the form of local authority sufficiency plans.
BILL PART	Chapter 1 of Part 1
SECTION	11
METHOD OF BRINGING INTO FORCE	Negative
DESCRIPTION OF THE REGULATIONS	
<p>Section 11 (subsection (3) of new section 75A to be inserted into the 2014 Act relating to preparation and publication of local authority annual sufficiency plans) sets out that annual sufficiency plans must be in a form as may be prescribed by regulations.</p> <p>The power relates to a task which is administrative in nature.</p>	
REASON FOR AND POLICY INTENT OF THE POWER TO MAKE REGULATIONS	
<p>The power will allow Welsh Ministers to prescribe the form of local authority sufficiency plans, a task which is administrative in nature.</p> <p>As per other regulation powers in relation to sufficiency plans, these plans will promote a coherent approach to the planning and provision of not-for-profit services according to local needs and the rebalancing of care and support provision more widely.</p>	

REGULATIONS RELATING TO	Allowing Welsh Ministers to prescribe other information to be contained in an application by a local authority for a supplementary placement.
BILL PART	Chapter 1 of Part 1
SECTION	13(3)
METHOD OF BRINGING INTO FORCE	Negative
DESCRIPTION OF THE REGULATIONS	
<p>Section 13(3) (subsection (3)(g) of new section 81B to be inserted into the 2014 Act relating to ways in which looked after children are to be accommodated and maintained, specifically in relation to an application for approval of a supplementary placement) sets out that applications from local authorities applying for a supplementary placement must include such other information as the Welsh Ministers may prescribe in regulations.</p> <p>The power relates to a task which is administrative in nature.</p>	
REASON FOR AND POLICY INTENT OF THE POWER TO MAKE REGULATIONS	
<p>The power will allow Welsh Ministers to prescribe other information to be contained in an application by a local authority for a supplementary placement. This will enable the application process to be reviewed from time to time and adapted if necessary.</p>	

REGULATIONS RELATING TO	Duty to submit and publish annual return
BILL PART	Chapter 2 of Part 1
SECTION	14
METHOD OF BRINGING INTO FORCE	Negative
DESCRIPTION OF THE REGULATIONS	
<p>Section 14 inserts a new subsection (4A) into section 10 of the 2016 Act. Subsection (4A) is a power to allow the Welsh Ministers to prescribe the time limit within which an annual return must be published.</p>	
REASON FOR AND POLICY INTENT OF THE POWER TO MAKE REGULATIONS	
<p>The Regulations will allow the Welsh Ministers to prescribe the time limit within which an annual return must be published by a service provider.</p> <p>The intention is to use the regulations to prescribe a reasonable timescale for the publication of annual returns by service providers. This will ensure that timely and consistent information is available to the public.</p> <p>Using regulations rather than specifying a timescale on the face of the Act provides flexibility to adjust the timescale should it prove necessary in practice.</p>	

REGULATIONS RELATING TO	Application for cancellation of service provider's registration: information to be provided
BILL PART	Chapter 2 of Part 1
SECTION	15
METHOD OF BRINGING INTO FORCE	Negative
DESCRIPTION OF THE REGULATIONS	
<p>Section 15 inserts a new subsection, (1A), into section 14 of the 2016 Act. Subsection (1A)(a) is a power to allow the Welsh Ministers to prescribe the information required from a service provider applying to cancel their registration. Subsection (1A)(b) is a power to allow the Welsh Ministers to prescribe the form of an application for cancellation.</p>	
REASON FOR AND POLICY INTENT OF THE POWER TO MAKE REGULATIONS	
<p>The Regulations will allow the Welsh Ministers to require specific information in a suitable format as part of an application to cancel a service provider's registration. It is envisaged these regulations will be used to require information from service providers seeking to cancel their registration setting out how they will continue to comply with the requirements in the Regulated Services (Service Providers and Responsible Individuals) (Wales) Regulations 2017 until the service ceases to be provided. This will ensure the regulator has relevant information about the operation of the service and the care of individuals using or living at the service to carry out its duties effectively during the closure period.</p> <p>Using regulations rather than specifying information requirements on the face of the Act will provide the flexibility to vary the information requirements according to the type of regulated service and will future proof the requirements, ensuring they remain fit for purpose.</p> <p>These regulations will complement the regulation-making powers in sections 11(3) of the 2016 Act which provides an equivalent regulation-making power to require prescribed information when an application is made for variation of a service provider's registration.</p> <p>It has become apparent during the operation of the 2016 Act that there is a disparity in the information requirements between service providers who are applying to vary their registration (by removing one or more services from the registration) and those who are seeking to cancel their registration in its entirety and exit the market. This hinders the regulator's ability to be assured about the provider's intentions to support the ongoing safety and well-being of individuals using the service until it closes. The regulation-making power allowing the Welsh Ministers to require information from a service provider applying to cancel their registration will address this gap in the regulatory framework. It will align the approach for service providers exiting the market with that of those who are varying their registration.</p>	

Prescribing the information required in regulations will provide clarity and certainty for service providers.

The power to prescribe the form of an application for cancellation is a technical matter and simply ensures such applications are fit for purpose and include the necessary level of detail for the regulator to make a decision.

REGULATIONS RELATING TO	Enabling Welsh Ministers to provide that childcare workers (persons employed/working to provide care and supervision to children by a person registered under Part 2 of the Children and Families (Wales) Measure 2010) are to be treated as social care workers.
BILL PART	Chapter 2 of Part 1
SECTION	18
METHOD OF BRINGING INTO FORCE	Negative
DESCRIPTION OF THE REGULATIONS	
<p>Section 18 will amend section 79 of the 2016 Act, to provide Welsh Ministers with the power, by regulation, to extend the definition of social care workers for the purpose of the Act to include childcare workers.</p> <p>The power will allow the Welsh Ministers to provide that childcare workers (persons employed/working (including agency workers) to provide care and supervision to children by a person registered under Part 2 of the Children and Families (Wales) Measure 2010) are to be treated as social care workers.</p>	
REASON FOR AND POLICY INTENT OF THE POWER TO MAKE REGULATIONS	
<p>Regulations would specify that childcare workers are to be treated as social care workers, this will provide a formal basis for the support Social Care Wales (SCW) currently provides to the childcare workforce and enable SCW to carry out further functions to support the sector as a whole. .</p> <p>The ultimate goal is to ensure that all those who make up the childcare workforce can be offered ongoing support by an expert body. This will take place on many fronts, through attraction, entry, recruitment, induction, and career progression. At all times the aim of SCW is to develop a highly skilled qualified workforce with a child centred approach at the heart of all they do. Whilst historically SCW has provided support to the sector and received funding for doing so, the making of regulations will provide a legal basis for this.</p> <p>Regulations would specify that childcare workers are to be treated as social care workers and provide a legal basis for the support SCW provide to the childcare workforce.</p> <p>Whilst legally there is no distinction between persons who work/are employed within daycare and play settings (play settings being included within the meaning of day care in section 19 of the Measure) in practice the support provided by SCW has not extended to persons working within play settings (play workers). It is</p>	

proposed that any regulations made in accordance with the amendment will formalise the support currently provided by SCW to the sector and ensure that this is provided to the sector as a whole (including play workers).

REGULATIONS RELATING TO	Enabling Welsh Ministers to make regulations to require or allow local authorities to make direct payments towards meeting the needs of adults, children, or carers, replacing the existing powers in sections 50 to 52 and 53(11) of, and Schedule A1 to, the 2014 Act.
BILL PART	Chapter 2 of Part 1
SECTION	20
METHOD OF BRINGING INTO FORCE	Negative
DESCRIPTION OF THE REGULATIONS	
This power replaces existing powers in sections 50 to 52 and 53(11) of, and Schedule A1 to, the 2014 Act allowing the Welsh Ministers to make regulations to require or allow local authorities to make direct payments towards meeting the needs of adults, children, or unpaid carers.	
WHAT CAN THE REGULATIONS ACHIEVE?	
<p>Section 50 of the 2014 Act (direct payments to meet an adult's needs) contains a regulation-making power for Welsh Ministers to require or allow a local authority to make direct payments to a person towards the costs of meeting the needs of an adult for care and support under section 35 or 36 of the Act. Currently section 50 permits the local authority to make a direct payment in respect of an adult's needs to either an adult with mental capacity, or a "suitable person" if the adult lacks mental capacity.</p> <p>Regulations made under the new section 49A and the substituted section 50 will also allow local authorities to make direct payments to a nominated person (individual or body) where an eligible adult has mental capacity, provided that both the adult and the person nominated give consent.</p> <p>Regulations made under the new section 49A and the substituted section 51 of the 2014 Act will enable direct payments to be made to nominated persons in similar circumstances in respect of a child's needs for care and support under sections 37, 38, or 39.</p> <p>Regulations under the new section 49A and substituted section 52 of the Act, will enable direct payments to be made to a nominated person in respect of the provision of support for a carer (unpaid)</p>	
REASON FOR AND POLICY INTENT OF THE POWER TO MAKE REGULATIONS	
The regulations are required to allow local authorities to make direct payments to nominated people so that they can manage direct payments on behalf of adults with capacity, children, and unpaid carers where both the individual entitled to the payments and the person nominated to receive have given consent.	

REGULATIONS RELATING TO	Enabling Welsh Ministers to make regulations under powers in a substituted Schedule A1 to the 2014 Act (which is introduced by a new section 53A) to require or allow local authorities to make direct payments in respect of a person to whom section 117 of the Mental Health Act 1983 (after-care) applies, in lieu of providing or arranging for the provision of after-care services. This replaces equivalent powers in the existing Schedule A1 of the 2014 Act and sections 50, 51 and 53(11) of the 2014 Act.
BILL PART	Chapter 2 of Part 1
SECTION	20
METHOD OF BRINGING INTO FORCE	Negative
DESCRIPTION OF THE REGULATIONS	
The power to make regulations in a substituted Schedule A1 to the 2014 Act (which is introduced by a new section 53A) enables the Welsh Ministers to make regulations to require or allow local authorities to make direct payments in respect of a person to whom section 117 of the Mental Health Act 1983 (after-care) applies, in lieu of providing or arranging for the provision of after-care services. This replaces equivalent powers in the existing Schedule A1 to, and sections 50, 51 and 53(11) of the 2014 Act.	
REASON FOR AND POLICY INTENT OF THE POWER TO MAKE REGULATIONS	
The regulations will enable local authorities to make direct payments in lieu of after-care services to people who are eligible to receive after-care under section 117 of the Mental Health Act 1983, or to a person nominated by the person eligible to receive after-care under section 117 of the Act, whether or not the person eligible to receive after-care has capacity to consent to the making of the payments.	

REGULATIONS RELATING TO	Enabling Welsh Ministers to make provision that will require or enable LHBs to make direct payments under section 117 of the Mental Health Act 1983
BILL PART	Part 2
SECTION	24
METHOD OF BRINGING INTO FORCE	Draft affirmative on the first use, and subsequently negative
DESCRIPTION OF THE REGULATIONS	
<p>Section 24(2) inserts new section 10B “Direct payments for healthcare” into the National Health Service (Wales) Act 2006 (the 2006 Act) which gives the Welsh Ministers the power to make direct payments in lieu of the provision of services under that Act.</p> <p>The new section 10B(5) enables the Welsh Ministers to make regulations that will require or enable Local Health Boards to make direct payments to individuals or to a person nominated by them, in lieu of the provision of after-care services they have a duty to provide under section 117 of the Mental Health Act 1983 (the 1983 Act).</p>	
REASON FOR AND POLICY INTENT OF THE POWER TO MAKE REGULATIONS	
<p>The regulations would enable Local Health Boards to make direct payments to individuals, or to a person nominated by them, in lieu of after-care services required and that would be arranged for by the Local Health Board following the individual being discharged from hospital in instances when they have been detained under sections 3, 37, 45A, 47 or 48 of the 1983 Act.</p> <p>Section 117 of the 1983 Act places a duty on Local Health Boards to provide after-care services to individuals who are eligible if they have been detained under the specified sections of the 1983 Act. Without this power, Local Health Boards would not be able to make direct payments to individuals who have been discharged from hospital following detention under the specified sections of the 1983 Act, in lieu of the Local Health Board arranging or providing services to meet that person’s needs for after-care services . The powers ensure consistency between individuals who are entitled to after-care services under the 1983 Act and those who receive NHS services under the 2006 Act.</p> <p>The 1983 Act also makes provision for individuals to receive after-care services funded by a local authority; such individuals are currently able to receive direct payments funded by the local authority in lieu of provision of care and support under the 2014 Act by virtue of regulations made under that Act.</p> <p>Regulations made under the new section 10B(5) of the 2006 Act will enable such a person to receive direct payments in lieu of services to meet their assessed needs for after-care, whether they are for care and support under the 2014 Act, or health care under the 2006 Act.</p>	

REGULATIONS RELATING TO	Enabling Welsh Ministers to make provision to set out the detail of how direct payments made in lieu of the provision of NHS services will need to operate.
BILL PART	Chapter 2
SECTION	24
METHOD OF BRINGING INTO FORCE	Negative
DESCRIPTION OF THE REGULATIONS	
Section 24(2) inserts new section 10C (regulations about direct payments) into the 2006 Act. The power would enable Welsh Ministers to make regulations to set out the detail of how direct payments made in lieu of the provision of NHS services will operate.	
REASON FOR AND POLICY INTENT OF THE POWER TO MAKE REGULATIONS	
<p>Direct payments will provide an alternative way of meeting the needs of adults who are eligible for Continuing NHS Health Care (CHC). Rather than providing or arranging for their needs to be met directly, a direct payment would enable the recipient, or a nominated person acting on their behalf, to arrange the care themselves. This gives the recipient greater choice and control over how their needs are met.</p> <p>The regulations are required to ensure that Local Health Boards, on behalf of the Welsh Ministers, are able to make a direct payment to recipients or their representatives within a clear framework, which is detailed, and may need to be changed as wider circumstances change. The regulations will make provision about who may be eligible to receive direct payments, set out the circumstances when direct payments may be available, the services for which they may or may not be used and details of the arrangements required to administer such payments.</p> <p>Section 10C contains the regulation-making power and includes an inexhaustive list of the sort of provision that may be made using this power.</p> <p>It is intended that the Welsh Ministers will make regulations under existing powers in the 2006 Act to direct Local Health Boards to exercise functions in relation to the making of direct payments on their behalf.</p>	

REGULATIONS RELATING TO	Enabling Welsh Ministers to make provision that is incidental or supplementary to, or consequential on, any provision of this Act and to make transitional or saving provision in connection with any provision of this Act.
BILL PART	Part 3
SECTION	28
METHOD OF BRINGING INTO FORCE	Negative if amending or revoking subordinate legislation. Draft affirmative if amending or repealing primary legislation.
DESCRIPTION OF THE REGULATIONS	
This is a power to allow the Welsh Ministers to make provision that is incidental or supplementary to, or consequential on, any provision of this Act and to make transitional or saving provision in connection with any provision of this Act.	
REASON FOR AND POLICY INTENT OF THE POWER TO MAKE REGULATIONS	
<p>This power is required to ensure that any new provision made in or by virtue of the Act will be able fit into the existing legislative framework.</p> <p>These regulations are required to allow the Welsh Ministers to make supplementary, incidental, consequential, transitional, or saving provisions if it is considered necessary for the purposes of giving full effect to the provisions of the Bill. It is likely that such changes would be relatively minor, and making them through regulations will provide appropriate flexibility for such provisions to be made without the need to amend primary legislation on each occasion.</p> <p>If the regulations amend or repeal any provision of primary legislation, then they will be subject to the draft affirmative procedure. Otherwise, they will be subject to the negative procedure.</p>	

**Children, Young People
and Education Committee**

Senedd Cymru

Bae Caerdydd, Caerdydd, CF99 1SN

SeneddPlant@senedd.cymru

senedd.cymru/SeneddPlant

0300 200 6565

Welsh Parliament

Cardiff Bay, Cardiff, CF99 1SN

SeneddChildren@senedd.wales

senedd.wales/SeneddChildren

0300 200 6565

Russell George MS

Chair of the Health and Social Care Committee

20 June 2024

Re. Health and Social Care (Wales) Bill

Dear Russell,

Thank you for your letter dated 20 May inviting members of the Children, Young People and Education Committee to join relevant Health and Social Care Committee evidence sessions about the Health and Social Care (Wales) Bill. Unfortunately, commitments in our forward work programme mean that we are unable to do so.

As you know, we retain a strong interest in the care system and services that support care experienced children and young people. Much of the Bill is directly relevant to the extensive work we carried out as part of our inquiry into radical reform for care experienced children, our current inquiry into children and young people on the margins, and other related areas of work we have carried out over the past year or so.

We therefore intend to write to you in July to set out our views about the content of the Bill, based on the evidence we have already gathered to date. We hope that this written evidence is useful as you come to conclusions about the Bill as part of the Stage 1 scrutiny process.

Yours sincerely,



Buffy Williams MS

Chair



Croesewir gohebiaeth yn Gymraeg neu Saesneg.

We welcome correspondence in Welsh or English.

Agenda Item 9.10

**Y Pwyllgor Iechyd a
Gofal Cymdeithasol**

Health and Social Care Committee

Senedd Cymru

Bae Caerdydd, Caerdydd, CF99 1SN

Seneddlechyd@senedd.cymru

senedd.cymru/Seneddlechyd

0300 200 6565

Welsh Parliament

Cardiff Bay, Cardiff, CF99 1SN

SeneddHealth@senedd.wales

senedd.wales/SeneddHealth

0300 200 6565

Eluned Morgan MS

Cabinet Secretary for Health and Social Care

22 May 2024

Dear Eluned

You will recall that, in June 2022, the Committee published its report, *Hospital discharge and its impact on patient flow through hospitals*. The report highlighted the importance of good patient flow through health and social care services in improving the quality of care for patients. It also drew attention to the severe lack of capacity in our social care system, meaning that some patients who are ready for discharge are remaining in hospital. These delayed transfers of care are detrimental to both the individual and the flow of patients through the hospital, and contribute to pressure on A&E departments and ambulance services.

At our meeting on 15 May, we took evidence from the Welsh Ambulance Services University Trust. When asked about delays in response times, they told us

"what causes the response delays is our inability to hand over patients at the emergency department, and what causes that problem is the fact that there's a problem with flow through the hospital, through the emergency department into the hospital and back out into the community, particularly in adult social care."

They also told us that the average handover time at the emergency department is in excess of two hours, when it should be taking 15 minutes.



In light of this, the Committee would welcome an update on progress in implementing the recommendations of our report and the actions being taken by the Welsh Government to improve patient flow through hospitals.

Yours sincerely

A handwritten signature in black ink, reading "Russell George". The signature is fluid and cursive, with a long horizontal stroke at the end.

Russell George MS
Chair, Health and Social Care Committee

Croesewir gohebiaeth yn Gymraeg neu Saesneg. We welcome correspondence in Welsh or English.

Agenda Item 9.11

Eluned Morgan MS/MS
Ysgrifennydd y Cabinet dros Iechyd a Gofal Cymdeithasol
Cabinet Secretary for Health and Social Care



Llywodraeth Cymru
Welsh Government

Russell George MS
Chair
Health and Social Care Committee

SeneddHealth@senedd.wales

20 June 2024

Dear Russell

Thank you for your letter of 22 May, as Chair of the Health and Social Care Committee, requesting an update on progress in implementing the recommendations of the Committee's Report on Hospital Discharge and its Impact on Patient Flow Through Hospitals.

The attached annex provides a comprehensive update on action undertaken towards delivering the individual recommendations, and in particular I would like to highlight some of the key areas to aid timely hospital discharge and can advise the Committee that:

- Our Pathways of Care Delays reporting system has now been fully operational for over a year, providing a rich data source that records all patients deemed as "clinically optimised" and ready for discharge but remain in hospital post 48 hours. Each delay is assigned to a specific reason code and lead area (social care/health/joint) to help identify key and consistent delay reasons. Informed by this data, health boards and their local authorities are required, together on a regional basis, to target and respond to chief delay causes, such as assessment related delays and community based social care capacity. This has been a useful tool in helping us identify the key issues affecting discharge, allowing us to shape actions accordingly.
- A number of measures are already in place, and a number in development, to expand community-based provision to enable safe and appropriate discharge. The development of the 'six models of care' provides the foundation for this and are central in building our Integrated Community Care System to support and help reduce the flow in, through and out of hospital. Other developments include our aim to increase the proportion of Allied Health Professionals accessible within the community to provide step-up services to help avoid hospital admission, and post discharge step-down reablement support. In addition is the development of a range of step-down facilities, including bedded facilities, to enable discharge processes and patient flow from admission to "Home First".

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1SN

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
0300 0604400

Gohebiaeth.Eluned.Morgan@llyw.cymru
Correspondence.Eluned.Morgan@gov.wales

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.

- To help respond to workforce issues to support community base social care provision, the Social Care Fair Work Forum continues to work in social partnership to identify action to improve terms and conditions for social care workers. This includes the continued development of the Pay and Progression framework and initiating a 'Social Care Workforce Partnership', a unique model which will ultimately incorporate many Fair Work elements currently being progressed by the Forum. There is also an on-going commitment to raise the profile and status of the social care workforce. Through the Social Care Fair Work Forum trade unions, employers and Welsh Government continue to work in partnerships on what steps can be taken to improve terms and conditions to attract more care workers to the sector.

I trust that the contents of this response will provide the Committee with the necessary details of our actions to address the recommendations and provide assurance that we are prioritising improvements to patient flow and hospital discharge process.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'M. E. Morgan'.

Eluned Morgan AS/MS

Cabinet Secretary for Health and Social Care

Ysgrifennydd y Cabinet dros Iechyd a Gofal Cymdeithasol

Written response by the Welsh Government to the Report of the Health and Social Care Committee following its Inquiry on:

Hospital discharge and its impact on patient flow through hospitals

Update on recommendations – June 2024

Recommendation 1. Before the end of 2022, the Welsh Government should write to us to provide an update on the effectiveness and impact of the system reset across health and social care, including the extent to which it has supported and improved flow throughout the system, the impact it has on the number of delayed patients, and what further action is planned as a result.

A review of the impact of the system was provided in the formal response to the Committee in July 2022. No further nationally coordinated system resets are planned at this stage although local health and social care systems are able to plan and deliver similar exercises where they believe value is added.

The Care Action Committee in 2023-24 focused on assessment delays which accounts for roughly 50% of all delayed discharges. Health boards and local authorities have been brought together to find solutions to this challenge. Local authorities have reduced the number of delays due to social worker allocation and assessment, however they remain high.

The Trusted Assessor (TA) Model is embedding at hospital ward level across Wales. TAs help ease pressures on assessment delays by conducting preliminary or more routine proportionate assessments on patients, which can subsequently free up social workers to focus their efforts on those more complex cases. This work is supported by the Pathways of Care Delays reporting system (set out under rec. 4) which was used to initially identify the gap leading to work commencing, and then to monitor overall assessment performance across regions.

Recommendation 2. The Welsh Government must ensure that the new Health & Social Care Regional Integration Fund (RIF) is effective in identifying and mainstreaming successful projects which improve patient flow into common practice across Wales. The quarterly status reports should therefore include an assessment of progress in developing and rolling out projects to improve patient flow.

The Regional Partnership Boards (RPB) have recently submitted their second RIF end of year reports and are identifying core components to develop the six models of integrated care. We are mapping those components at a national level including comparing similar project activity ahead of developing national specifications.

The total annual investment of £145m to end March 2027 has been allocated across the models with Community Based Care: Prevention and Community Co-ordination receiving 30% (£36.197m) of the funding allocation. Home from Hospital allocation is at 25% and equates to £29.674m, followed by Complex Care Closer to Home which stands at 20% (£24.327m). Other models of care range from 16%-2% respectively. To note - there is year on year fluctuation due to projects accelerating

or embedding with funding being reallocated to new projects within the models of care.

The development of the six models of care provides the foundation and are central in building our Integrated Community Care System which is intended to build community capacity to support and help reduce the flow in and out of hospital with timely and proactive assessment to ensure people are able to remain at home or avoid re-admittance.

Recommendation 3. The Welsh Government should provide further information about how and when the proposed audits of the Health & Social Care Regional Integration Fund (RIF) will take place, how stakeholders will be consulted, and whether reports will be published.

The Expert panel was paused while work was developed to streamline and align a wider range of connected programmes such as the RIF, *Six Goals for Urgent and Emergency Care* programme and the Strategic Primary Care programme. As part of this it was agreed that RPBs should be monitored against the wider picture rather than just the RIF.

The RIF is subject to ongoing evaluation and findings of the first phase evaluation of the RIF has been presented to officials and RPBs. A workshop to consider themes and areas for improvement has taken place which will inform the work of the second year of the national evaluation. The RIF reporting process was reviewed and strengthened in 2023 and a Measurements framework was co-produced.

There is extensive, ongoing stakeholder engagement in the communities for practice, which are aligned to the six models of care, including service user and carer representatives.

Publication of the RIF Year One annual report took place in 2023. The Year Two report is scheduled for publication at the end of summer/early autumn along with a showcase event due to take place on 16 September 2024 and will bring together the RIF/IRCF/HCF and an Oral Statement.

Year Two has provide more complete data and we will consider how we develop more routine monitoring once we are satisfied that all the regions are reporting robustly both quantitatively and qualitatively.

Recommendation 4. The Welsh Government should set and publish a timescale for the introduction of new, improved data measurements in respect of delayed transfers of care.

From April 2023, the Pathways of Care Delays (PoCD) Framework has been in operation as the formal, validated, reporting mechanism. It provides health and social care partners with a comprehensive and consistent dataset on their regional discharge delays so that relevant interventions and actions can be targeted more appropriately. Monthly delays data are published [Pathway of Care Delays by reason for delay and date \(gov.wales\)](#) under an extensive set of reason codes,

broken down to health board and local authority level, providing a clear oversight of the position across Wales.

Regions also use this data to inform their quarterly action plans, that are co-produced by health boards with their local authorities, to identify key delay themes and trends in order to establish new or improved working practices to respond to largest delay groups.

PoCD has helped ensure all sectors have a joint responsibility to work together to address discharge delays. The data are being utilised as part of the NHS Performance Framework as well as at individual IQPD meetings with health boards.

Health boards and their partners are being supported and encouraged to do more to get beneath the surface of the monthly figures and establish what more can be done to embed sustainable improvements to joint working practices that will ultimately benefit patient flow and reduce discharge delays.

In addition, Welsh Government has published updated Hospital Discharge Guidance: [HOSPITAL DISCHARGE GUIDANCE \(gov.wales\)](https://gov.wales/hospital-discharge-guidance) aimed at frontline staff to support their discharge processes. The Guidance sets out the key tasks, standards and expectations of each relevant partner organisations involved in the discharge process and places an emphasis on ensuring discharge is undertaken in a safe and timely manner. Some of the key supporting information included within the guidance are:

- Ensuring good communication and information sharing practices are in place throughout the process to help facilitate a patient's transition either back home or to their usual place of residence such as a care home.
- Specific information for patients, their families and/or carers on key social care functions that could be needed as part of their ongoing care and links to supporting information that staff can share with patients and families.
- Details on how the role of the Care Co-ordinator is pivotal to the discharge process as they are responsible for overseeing each patient's discharge plan. This includes the assessment, communication and active management of their discharge process.
- Links to work under the *Six Goals of Urgent and Emergency Care Programme* including Discharge to Recover then Assess (D2RA) Pathways, SAFER and Red to Green. These processes are aimed at supporting patients through the hospital pathways and making sure that they are prepared and ready for discharge as soon as they are clinically optimised.

Recommendation 5. As part of its monitoring of the implementation of Discharge to Recover then Assess (D2RA), the Welsh Government must clarify how it intends to ensure that discharge planning is happening at the earliest possible opportunity and includes representatives of all relevant sectors.

D2RA Pathways have been implemented across Wales on general adult wards in both Acute and Community Hospitals.

Key D2RA measures are currently at Phase 2 testing across Wales. It is anticipated that data will be available by the spring of 2025. Welsh Government is working

closely with the NHS Executive Goal 6 Team to support health boards in developing suitable systems for recording and reporting against the five key measures as follows:

- Number and % of people allocated to a D2RA pathway and No Pathway Allocated within 1 Day of admission.
- Number and % of people clinically optimised and allocated a D2RA pathway (by pathway) and No Pathway Allocated.
- Number and % of people Discharged to each D2RA Pathway 0,1,2,3 and No Pathway Allocated.
- Median Length of stay for each pathway and No Pathway Allocated.
- Readmission rates to Hospital within 28 Days for all people Discharged on a D2RA Pathway.

Recommendation 6. The Welsh Government should explain how the targets outlined in the Minister for Health and Social Service's statement of 19 May 2022 on urgent and emergency care and the Six Goals Programme to eradicate ambulance patient handover delays of more than four hours and reduce the average ambulance time lost per arrival by 25 per cent (from the October 2021 level) have been set. It should also confirm the target dates for the achievement of these targets.

Although improvement has been demonstrated by some health boards there remains variable progress in respect of improving ambulance patient handover performance. We remain concerned about the impact delays are having on patient experience and ambulance capacity to respond to others in the community.

A new expectation has been set for health boards for 2024-2025. All health boards are expected to achieve a 30% reduction in the numbers of patients experiencing a wait longer than an hour for transfer to the care of emergency department staff by December 2024. This is in addition to a new improvement expectation for the reduction of >12 hour waits for discharge, admission or transfer from emergency departments.

Improvement trajectories have been submitted by health boards and are monitored weekly by the NHS Executive, with monthly meetings between the Welsh Government, the NHS Executive and health boards, and quarterly meetings between the CE NHS Wales/DG HSCEY group and the relevant health board chief executive.

Health boards are supported to achieve these improvements by *the Six Goals for Urgent and Emergency Care* programme and additional Welsh Government funding of £2.7m to support local programme delivery plans.

Recommendation 7. The Welsh Government should increase funding for reablement and home therapy services and work with partners to establish a comprehensive wrap-around rehabilitation service.

The National Allied Health Professions (APH) Framework programme continues to seek the change in deployment of AHPs in Wales. The aims include increasing the proportion of AHPs who are accessible in community services and can provide

proactive, early intervention (such as 'step up' intermediate care) as well as 'step-down' community rehabilitation and reablement goal setting. In 2023 the Welsh Government published the [community rehabilitation standards](#). These standards have been developed to support the [All-Wales Rehabilitation Framework \(2022\)](#).

From April 2023, an additional £5m was provided for additional AHPs and support staff in primary and community services. To date (June 2024) there are an additional 89 WTE people in post, providing more primary and community-based intervention to support people to remain well at home and return home after hospital discharge. Reablement services require AHPs to make person centred assessments and set individual plans for recovery, however, the reablement delivery staff are normally provided via local authority services which is funded separately.

Recommendation 8. The Welsh Government should set out how it will work with health boards and other partners to increase the availability of more appropriate step-down facilities across Wales.

Step-down community provision describes a combination of additional bedded facilities as well as increasing step-down integrated health and social care provision in the person's own home as a safe alternative to hospital admission and/or expediting discharge.

To deliver this, Welsh Government provided £8.24m rising to £11.95m for 2024-25 to increase community health and social care capacity. We have separately invested £5m from 2023-24 to create additional community Allied Health Professionals and £8.3m to widen access to Adferiad Funded Services.

Additionally, in the last year nearly £145m has been invested through the RIF on projects delivered by health and social care partners to provide community services. The RPBs, through the RIF, are developing increased step-down provision which are important elements of the models of care, specifically Home from Hospital and Complex Care Close to Home, with reablement as a key feature.

Those models of care are integral to how we build the Integrated Community Care System. Having a range of step-down facilities supports discharge from hospital processes and patient flow from admission to home first. The RPB and clusters are playing a pivotal role through joint working which is crucial as we develop the Integrated Community Care System.

In November 2023 £11.3m of funding from IRCF and HCF was awarded to Flintshire County Council to develop a new build facility, Croes Atti, to provide residential care and integrated care services for older people in Flintshire. The building will have a 56-bedroom capacity and will enable the relocation and expansion of the existing 31-bedroom capacity Croes Atti Care Home, also in Flint. At least 12 bed spaces will be regularly allocated to support D2RA. There will also be a provision of 28 bed spaces for Elderly Mentally Infirm (EMI) Residential, with flexibility to adapt to changing needs of the population.

Overall, we expect this funding to be aligned to ensure a well-integrated, multi professional service response in the community. Health boards and their local

authority and wider partners are jointly responsible through the pan cluster planning groups for determining how they will utilise this investment, recognising that plans will need to build on local need and existing services.

Recommendation 9. The Welsh Government should provide further details of how much will be invested in intermediate care accommodation and step-up/step-down facilities as a result of the Housing with Care Fund.

The Housing with Care Fund (HCF) has a guideline allocation target of a minimum of 20% for 'Objective 2: intermediate care and accommodation' activities each year. Objective 2 activities cover intermediate care and accommodation and include short and medium-term settings, such as step-up/step-down, rehabilitation settings in the community, transitional accommodation for young people leaving care, and residential care for children with complex needs. Service users will not hold tenancies in these settings which will be managed by the principal service provider.

In 2022-23, 37% (£10.8m) of HCF capital spend was committed to Objective 2 activity and in 2023–24, approximately* 49% (£20.6m) was committed to Objective 2 activity.

*These are initial figures and are still to be verified.

Recommendation 10. The Welsh Government should clarify its expectations about the availability of allied health professionals in different health and care settings, and set out how it will work with health boards to increase the presence of such professionals at the “front door” of services, particularly GP surgeries and A&E departments. In doing so, the Welsh Government should identify how any barriers to increasing allied health professional availability, including the need for any capital investment in estates or facilities, will be addressed.

Updates under Rec 8 and Rec 9 cover this recommendation.

Recommendation 11. The work of the task and finish group on interim residential care placements needs to take place as a matter of urgency. The Welsh Government should publish a timetable for this work and commit to publishing the outcomes on completion, including a clear plan for taking forward any recommendations.

Updates under Rec 8 and Rec 9 cover this recommendation.

Recommendation 12. Significant reforms to the pay and working conditions for social care staff must be delivered at pace. By the end of 2022, the Welsh Government should provide an update on the work undertaken to improve the pay, terms and conditions and career progression opportunities for the social care workforce, and address inequities with their NHS counterparts. This should also include an update on the introduction of a national pay structure for care.

The Social Care Fair Work Forum continues to work in social partnership on what steps can be taken to improve terms and conditions for social care workers. This includes the continued development of the Pay and Progression framework and

initiating a 'Social Care Workforce Partnership', which will ultimately incorporate many Fair Work elements currently being progressed by the Forum.

This is a significant step as the Partnership is the first of its kind in the UK, bringing together government, employers, and unions to work in social partnership to agree a minimum set of employment expectations for staff working in the independent social care sector, that employers will voluntarily adopt. Its longer-term ambition is to embed fair work in the social care sector, and for its agreed expectations to be adopted as minimum standards for all staff within scope in the sector.

The Social Care Fair Work Forum has agreed its broad principles and vision for this partnership working and developed a 'Memorandum of Understanding' (MoU) for voluntary membership which is due to be published shortly.

Following the consultation of the draft Pay and Progression Framework, responses and next steps has been considered by the Pay and Progression sub-group and the Forum. Working with the Forum's sub-group, Social Care Wales will project managing Phase 2 of the work in 2024-25.

The Forum's 2024 annual progress report will be published shortly providing an overview of all the Forum's activities and upcoming priorities.

<p>Recommendation 13. By the end of 2022, the Welsh Government should provide an update on the work that has taken place to address the issue of sickness pay for social care workers and an outline of the Social Care Fair Work Forum's planned work (including timescales).</p>

The Social Care Fair Work Forum developed recommendations around actions on sickness pay. Work includes enhancing wrap-around services in areas such as well-being which is a fundamental principle underpinning the health and social care workforce strategy and menopause support, which is currently being progressed. Officials have been working through the recommendations to assess and cost short, medium, and long terms actions. However, work has needed to be considered within the context of financial challenges we are facing. We are committed to continuing work with the Forum to move forward with agreed approaches.

Last year Canopi, which is funded by the Welsh Government, extended its confidential and personalised service of support and advice to social care staff. This service offers social care staff free access to self-help and guided self-help resources, support from colleagues and virtual therapy sessions. Canopi supports our workforce to improve their well-being whilst at work and during periods of sickness.

The newly established Social Care Workforce Partnership will focus in its first year on improving and developing non-pay related HR policies, including policies and guidance to support staff during periods of ill-health.

<p>Recommendation 14. The Welsh Government should explain how it will increase recruitment to the social care sector. It should also undertake a robust evaluation of the WeCare.Wales recruitment campaign to demonstrate that it has provided</p>
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value for money and increased the actual number of applications for social care jobs and take up of social care roles.

We remain committed to raising the profile and status of the social care workforce. Through the Social Care Fair Work Forum trade unions, employers and the Welsh Government continue to work in partnerships on what steps can be taken to improve terms and conditions to attract more care workers to the sector.

WeCare Wales continues to be a positive force for the sector. Social Care Wales commissioned research to explore the current recruitment and attraction challenges and to understand the impact of WeCare Wales. Their report published in May 2024 presents a series of ten recommendations for WeCare Wales and by extension Social Care Wales, alongside four recommendations for employers and providers. We will work with Social Care Wales to support the implementation of these recommendations, however the research concluded that WeCare Wales brings significant value for the sector. Its activities do well to engage and inform jobseekers and were perceived as vital to address attraction and recruitment challenges.

The new WeCare Wales website (www.wecare.wales) launched on 20 March 2024 with a clearer design and layout. Social Care Wales reports that, between 20 March and 6 June 2024, 19,886 job adverts have been viewed with 1,583 people clicking to apply or contacting the employer directly.

Recommendation 15. The Welsh Government should work with local authorities to review how information about direct payments is communicated to social care users and their carers, and develop a targeted information campaign to raise awareness of direct payments. As part of its response to this recommendation, the Welsh Government should advise when they expect this work to be completed.

As previously highlighted, we fully recognise and support the intention underpinning the Committee's recommendation and the outcome it seeks to achieve.

We have worked with the AGW and local authorities to embed the recommendations in the 2022 [Direct Payments for Adult Social Care](#) report into Statutory Guidance. This includes specific recommendations for local authorities to improve the information provided to people as well as through the workforce. We will be writing to local authorities to confirm the position on this in the Autumn.

Later this year we will use the information from our new Performance Framework with local authorities to review take-up and work with local authorities on how to strengthen this using best practice, not least around communications. This will inform the potential need for and required content for a publicity campaign.

This broader evidence is helping us to better understand the current direct payments landscape. For the last two years (up to March 2023), the number of adults receiving a direct payment has been stable at around 5,600 people – or 11.3% of all adults with a care and support plan.

Recommendation 16. The Welsh Government should update the Senedd on whether it has decided to develop and introduce a fast-tracked system for direct payments to carers, taking account of any relevant recommendations made by the Auditor General for Wales following his review of direct payments. If such a system is to be introduced, the Welsh Government should set out how and when this will be done. If it decides not to proceed, the Welsh Government should set out how it plans to improve access to support for unpaid carers.

The Report reflected the high levels of satisfaction direct payment recipients reported to the Auditor General encompassing the assessment and care planning process; peoples' feelings about their ability to manage a direct payment; and having a clear understanding of legal obligations of being an employer.

There is a balance to be achieved between receiving a timely response and one that ensures practitioners invest the necessary and appropriate time to listen to and understand what the person wants to achieve. Person-centred planning to identify an unpaid carer's eligible needs must continue to be the primary mechanism to support unpaid carers if we are to listen to what matters to them and ensure that is done in a holistic way. Where that can be done proportionately, we expect that to happen.

Recommendation 17. As a matter of urgency, the Welsh Government should set out its plans to work with local authorities to fully reinstate disrupted carer services and prioritise the re-opening of day centres, and provide an update on progress to this Committee before the end of 2022, along with reasons for any delays.

ADSSC published a [report](#) of its review into Day Opportunities in March 2024. A Written Statement was issued making a commitment to establish a working group to consider the seven recommendations in the report, which centred on commissioning, co-production, employment and eliminating profit, workforce and digital innovation. The group met in May 2024 and further meetings are being arranged. The group will look at improving outcomes in the short term and making recommendations for further targeted interventions which may require additional resource if required.

The report has been presented at the Directors of Social Services meeting and at the Learning Disability Ministerial Advisory Group, where there is significant concern about the impact of the cost-of-living crisis on services.

Recommendation 18. The Welsh Government should undertake a rapid review of whether carers' rights under the Social Services and Wellbeing (Wales) Act 2014 are being breached as a result of having to take on more caring responsibilities than they may be willing or able to, due to lack of available services. The results of this review should be reported to this Committee and made publicly available.

The Associate of Directors of Social Services' rapid review was [published](#) in November 2023. Findings include delays and lack of access to carers' needs assessments and lack of awareness of carers' rights. A Task and Finish group was established in January 2024. The group comprises health, local authority and unpaid carer representatives. All local authorities have completed a survey to self-assess their performance in relation to information, advice and assistance to unpaid carers

and carers' needs assessments. Good practice examples and barriers are being established and progress is being overseen by the Ministerial Advisory group for Unpaid Carers. The Welsh Government [charter](#) outlining carers' rights continues to be reviewed and updated when required.

Recommendation 19. The Welsh Government should mandate further dementia training for NHS staff who may come into contact with people living with dementia.

Health Boards continue to submit six monthly reports to Welsh Government outlining progress on the training undertaken by staff at an informed, skilled and influencer level. Any concerns are fed back to the health board for action.

Improvement Cymru and Welsh Government continue to communicate the Dementia Care Standards so that they are recognised as a national priority. The standards include a focus on learning and development, namely: Standard 17 - All staff delivering care at all levels within all disciplines and settings, will have the opportunity to participate in person centred learning and development. Six monthly reports are also received on these standards. Through the planning for the successor dementia action plan, we will be considering our future priorities.

Recommendation 20. The Welsh Government should work with health boards to set up pilot schemes to trial set discharge slots for people with dementia, and report the findings to this Committee.

Work continues to progress on the Hospital Charter Care Fit for Vision Individual Perspective and Social (VIPS) programme. Robust governance arrangements are being set up in health boards and a number of workshops and meetings have taken place.

Going forward, Improvement Cymru will be working to ensure that Dementia Care Mapping (DCM) is aligned into the hospital charter workstream. They will also support the regions to develop the DCM programme that offers meaningful observations and outcomes to support improving dementia care.

There is also a specific standard (19) which focuses on services ensuring that when a person living with dementia has to change/move between any settings or services, care will be appropriately coordinated and that we receive six monthly updates on this work. Improvement Cymru is supporting RPBs to work collectively in how this can be achieved and remain a focus of the hospital charter work.

Recommendation 21. The Welsh Government should explore options for opening up access to hospital wards for families/carers and, where appropriate, care home staff to help with day-to-day tasks, and provide a report to this Committee. This report should also address the issue of insurance for care home workers in undertaking such a role.

Through the hospital charter work, RPBs are supporting action to improve person centred care within hospitals. Examples include embedding the Butterfly Scheme, including This is Me, and John's Campaign (promoting open visiting) in wards.

During the COVID-19 pandemic, the Welsh Government issued detailed guidance to health boards and NHS trusts in relation to hospital visiting to help control the spread of Coronavirus among patients, staff, and the public. An All-Wales hospital visiting guidance group was established to monitor the application of these arrangements and met regularly adopting an iterative process of learning and sharing examples of best practice throughout the pandemic period.

In August 2022, the All Wales Hospital Visiting Group directed a Task and Finish group to consider the formal Lessons Learnt report and develop a set of - *operating principles for hospital visiting post pandemic*. A number of staff and patient surveys informed the work, and the NHS in Wales now operates a risk-based approach to visiting with flexibility to adapt based on circumstances where visiting considerations need to be taken into account.

Recommendation 22. The Welsh Government should issue guidance to health boards, stressing that housing needs must be given higher priority in the hospital discharge process, and that housing organisations should be included in the multi-disciplinary teams, as a matter of course.

As noted in the update against recommendation 4, we have recently published updated hospital discharge guidance that covers a number of new areas of guidance on both health and social care issue to support staff. Dedicated sections are included in the Hospital Discharge Guidance (See rec 4) that cover:

Homelessness – to ensure ward staff aim to establish actual/potential homelessness status soon after admission to help ensure timely referrals to relevant multidisciplinary services. The aim is to help early identification and address any housing needs post discharge. PoDC data (rec 4) records delays associated with 'Homelessness' and 'No Suitable Abode' to help highlight and tackle housing related issues at a local level;

Assistive Equipment and Technology - to help ensure people can live safely and independently at home, particularly if their needs have changed following a hospital stay;

Housing Adaptation for Discharge - to ensure minor adaptations are planned as early as possible to support safe discharge.

In addition, with regard to improving working practices between homelessness and health, a White Paper on ending homelessness in Wales was subject to consultation earlier this year. The outcomes of the consultation are in the process of being considered and a further work programme is being developed that will seek to introduce improved practices to support homeless people, or those at risk of homelessness, when entering and being discharged from hospital. Ministers are working closely to consider updated policy positions in a number of areas, including hospital discharge.

Recommendation 23. The Welsh Government should issue guidance to health boards to highlight the importance of including pharmacy teams as an integral part of the multidisciplinary team as a matter of course.

The Welsh Government published its response to the Independent Review of Clinical Pharmacy Services at NHS Hospitals in Wales in September 2023 [Independent Review of Clinical Pharmacy Services at NHS Hospitals in Wales - Welsh Government Response](#)

A key recommendation was:

- *Pharmacy teams must be involved in planning for discharge, starting on admission, with the default position being to refer patients for post-discharge medicines support/care unless it is clearly not needed.*

The Chief Pharmacists Group/Directors of Pharmacy of health boards have established a working group to implement the proposed actions (immediate, short and medium term) to address pharmacy's role in optimising patient flow.

Recommendation 24. The Welsh Government should set out its plans, including timescales, for reviewing and improving communication with families and carers. This review should also include an evaluation of the quality and effectiveness of care and support needs assessments being undertaken prior to discharge.

The Hospital Discharge Guidance (see rec 4) included a dedicated section on 'Unpaid Carers' to ensure the discharge process fully engages with families and unpaid carers. The Carers Trust was involved with its production. The section sets out specific information for patients, their families and/or carers on key social care functions that could be needed as part of their ongoing care together with links to supporting information that staff can share with patients and families.

D2RA Pathways (see rec 5) also places an emphasis on involving, supporting and updating families and carers in decision making throughout the discharge process.

Recommendation 25. The Welsh Government should clarify what steps are being taken to address any data protection concerns and ensure that appropriate memorandums of understanding and information governance protocols are in place, so that there are no barriers to data sharing between different parts of the health and social care system.

Social Care Wales continues to work with Digital Health and Care Wales (DHCW) on implementing a new Information Sharing Gateway that will provide health and care organisations with a digital solution for managing their data sharing and Information Governance processes. The system, developed as a non-profit solution by the NHS in England, is in the process of being tailored to work with the updated Wales Accord for Sharing Personal Information (WASPI) process and will be made available to local authorities, health boards and other health and care organisations for free with a commitment towards a small annual maintenance fee.

Social Care Wales now manages an Information Governance stakeholder reference group. The group was convened in 2022 to allow stakeholders to discuss and share information on matters relating to data sharing, data processing, data standards and information governance. The group has members from local authorities, Welsh

Government, health, and the Information Commissioner's office and meets on a quarterly basis.

Social Care Wales are also active participants in the National Data Resource (NDR) programme and are commissioned by the NDR to undertake work on understanding how we can provide social care data into the platform. We have completed work on data maturity in local authority social services departments that will be published in 2024 and are members of a four nations group developing data standards for social care utilising the Fast Healthcare Interoperability Resource (FHIR). We are in the process of scoping a project to develop a Minimum Operating Data Standard (MODS) for social care in Wales using work that has previously been carried out by NHS England. We are also scoping a project that will begin to gather and develop specific use cases that will help us to understand the types of data shared in social care.