

## Consultation Response Form

Your name: Beth Evans

Organisation (if applicable): Carers Wales

### Questions on Chapter 1: Eliminating profit from the care of children looked after

**Question 1.1:** Do you think that introducing provision in legislation that only allows 'not-for-profit' providers to register with CIW will support delivery of the Programme for Government commitment to eliminate profit from the care of children looked after?

If it is a legislative requirement then yes.

**Question 1.2:** What in your view are the likely impacts of the proposal? You may wish to consider, for example:

- Benefits, and disbenefits;
- Costs (direct and indirect), and savings;
- Impacts upon individuals and groups with protected characteristics;
- Other practical matters such as cross-border issues.

Your views on how positive effects could be increased, or negative effects could be mitigated, would also be welcome.

Please explain your reasoning.

There may be some unintended consequences of moving 'for profit' care for looked after children. Some organisations will inevitably close their doors, however there seems to also be adequate 'lead in' time to enable other not for profit organisations to develop and take their place. There must however be enough information to support 'for profit' providers to possibly turn their business around into 'not for profit' and also enough information and support for other providers to come forward and develop services.

**Question 1.3:** One approach could be for the legislation to define 'not-for-profit' in terms of the types of organisation that would qualify. Do you consider that the restriction should also be expressed in terms of the way that any trading surplus is expended? What would be the effects and implications of this?

If it is truly to be a 'not for profit' service then any surplus should be returned to the commissioning body or be used to develop further services. There should not be the taking out of 'excessive fees' by parent companies and the fees that are acceptable should be detailed at the outset by Government and via commissioning contracts.

**Question 1.4:** Do you think the primary legislation should include a power for Welsh Ministers to amend the definition of 'not-for-profit' through subordinate legislation?

It would be useful to have the power available even if that power is not immediately used.

**Question 1.5:** What are your views on the proposed timings for the primary legislation to come into effect?

There needs to be adequate lead in time but during that lead in time adequate information provided on process, practice, guidance, transition, commissioning processes and the development of Codes of Practice to accompany legislation should be available in plenty of time.

**Question 1.6:** Are there any issues in relation to transition for children looked after, local authorities and service providers you would like to draw our attention to?

**Question 1.7:** What are your views on the issuing of guidance to support the implementation of the primary legislation?

It must be done as soon as possible.

**Question 1.8:** What are your views on using legislation to place a restriction on local authorities to commission placements from 'not-for-profit' organisations only? In particular:

- Do you think it would support us to deliver the commitment to eliminate profit from the care of children looked after in Wales?
- What would be the benefits, disbenefits and other implications of such an approach?
- What would be an appropriate timescale for implementing such an approach, if it were to be adopted in Wales?

I think it will go some way to deliver the commitment to eliminate profit from the care of looked after children but it needs to be done in co-production with organisations to ensure that the views are taken into account in terms of timescale and what they actually need in terms of support, guidance etc and especially for organisations to transition from 'profit' to 'not for profit'.

Appropriate timescales should be co-produced with local authorities, commissioners and the not for profit services to ensure that they are realistic and can be met. This may help with transition and give organisations time to adjust/develop services.

**Question 1.9:** What are your views on the possibility of approaches being taken in response to these legislative proposals which would undermine the intention to eliminate profit from the care of children looked after in Wales? Are there any actions which would guard against such activity?

Again, I would suggest that you work with organisations/local authorities to co-produce and decide what is acceptable in terms of what can/cannot be deemed as profit, and where there is a profit, how that profit is to be used to develop further services. There needs to be robust accounting, transparency and effective monitoring of services/commissioning processes.

**Question 1.10:** We would like to know your views on the effects that the legislative changes to eliminate profit from the care of children looked after will have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favorably than English. What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

There is potential for more Welsh language services to evolve and develop.

**Question 1.11:** Please also explain how you believe the legislative changes to support delivery of eliminating profit from the care of children looked after could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

**Question 1.12:** This chapter has focused on how we can achieve the commitment to eliminate profit in the care of children looked after, and we have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

## Questions on Chapter 2: Introducing direct payments for Continuing NHS healthcare

**Question 2.1:** We have outlined our proposals to introduce further voice and control for adults receiving Continuing Health Care (CHC) in Wales. Do you agree or disagree with these proposals? Please explain your reasoning.

I wholeheartedly agree with the proposal. For many years carers have raised this very issue with us that when the person they care for moves on to CHC, any direct payments they were receiving for various aspects of their care was then withdrawn by local authorities. This has often had a devastating effect on disabled people and their family carers as the services and staff they were accustomed to were no longer an option and no longer available to them. This has meant a loss of choice, voice and control about when and how care and support needs were met. There has always been legislation in place to encourage joint working between health and social care, however with each sector having their own budgets, inevitably arguments have arisen over who provides what. The outcome is that often, service users and carers are left foundering between services. Anything that can be done to ensure that the NHS and Local Authorities tailor joint packages of care will be very much welcomed.

**Question 2.2:** What in your view are the likely impacts of the proposal?

You may wish to consider, for example:

- Benefits, and disbenefits;
- Costs (direct and indirect), and savings;
- Impacts upon individuals and groups with protected characteristics;
- Other practical matters such as cross-border issues or transition to the new arrangements.

Your views on how positive effects could be increased, or negative effects could be mitigated, would also be welcome.

Please explain your reasoning.

Benefits would obviously be for the person in receipt of care and support, enabling them to start or continue with their direct payments package. This in turn could be more cost effective and save the NHS money in staff time as well as other resources to meet care needs.

There may be difficulties however for individuals to recruit care work support due to the Direct Payment rates involved and lack of social care workers. This may be more acute in rural areas due to travel costs etc. It must also not be seen as a way to pass the onus on to individuals to find their own care workers. This has also been

happening, where someone has been assessed as having an eligible need, no care workers to meet that need so offering direct payments and expecting service users to find someone to provide care, that in effect doesn't exist.

It must also be made clear that family members can be paid using Direct Payments.

Direct Payment rates also need to reflect the care market in local areas to ensure that hourly rates are comparative or better than other employment sectors to encourage care workers to take up the jobs.

Ensure that where there is a dispute over which statutory organization provides what, that the service user is provided with the necessary payment as soon as possible and that any dispute is resolved later between the bodies. This will ensure that continuity of care continues, if someone is already in receipt of a direct payment or where someone wants to take up a direct payment they can do so as soon as possible.

**Direct Payments for carers in need of support should also be included in this legislation.** Often carers have told us that because someone is on CHC that wrongly LAs have refused services to them as they believe that the NHS should provide them with the support. This also needs to be urgently addressed and clarified.

**Question 2.3:** What lessons can we learn from other countries' practice in this area?

**Question 2.4:** Do you believe there are any other or complementary approaches we should be considering to achieve the same effect? If so, please outline below.

Not to my knowledge.

**Question 2.5:** We will work to ensure that any legislative change is supported by robust guidance to help both payment recipients and practitioners understand how the system will operate. Can you identify anything that it would be helpful to include in this guidance? What other support should be provided?

Explicitly say that the law has changed

That LAs and LHBs by law are now required to work together

How and who will have the responsibility for supporting the unpaid family carers

That DP recipients have the choice of who they employ, including family, people on self employed contracts etc

**Question 2.6:** We would like to know your views on the effects that introducing direct payments for continuing NHS healthcare would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English. What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

It enables people to have the choice of whom they employ to meet their needs, this includes welsh speaking care workers

**Question 2.7:** Please also explain how you believe our proposals for introducing direct payments for continuing NHS healthcare could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

**Question 2.8:** We have asked a number of specific questions in this chapter. If you have any related issues which we have not specifically addressed, please use this space to report them.

**Direct Payments for carers in need of support should also be included in this legislation.** Often carers have told us that because someone is on CHC that wrongly Las have refused services to them as they believe that the NHS should provide them with the support. This also needs to be urgently addressed and clarified

**In relation to the remainder of the consultation we have no particular comments as this is not our area of expertise.**