

## **General principles of the Bill**

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

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(we would be grateful if you could keep your answer to around 500 words)

I think that the way in which the bill has been approached is flawed and has damaged the experienced of children (and local authorities) in Wales over the last 2.5 years since its announcement. I welcome and agree with the need to rebalance and reshape the provision of children's services, and I also welcome steps to manage the unhelpful influence of private equity in our sector, especially those located overseas. However, the manner in which this has been approached has not engaged with the very rich, diverse, experienced smaller private sector providers, local employers who deliver excellent quality and value that cannot be replicated in the state. Most of the approx.45 private sector organisations are small, practitioner owner led and have been established (under the policy of the last 30 years). they are rooted in their local communities, are often major employers, reinvest significantly in service development, expand employment and ensure there is a circular reinvestment and tax intake for Wales. Rebalancing the landscape through robust commissioning would be a far more effective way of driving the diversity of provision and focussing on outcomes and value based on evidence. There is robust evidence that replacement provision will cost between 10-30% higher cost in the state, there is virtually no 3rd sector provision and local authorities do not have the operational competence to deliver these services, especially when looking at the profile of complex needs in referral trends. Sufficiency has gone into decline as a result of this policy intention, use of operating without registration and DoLs has increased. This policy has not been based on evidence. The costs are huge and the figures quoted make huge assumptions that are not realistic from an operational perspective. Having previously invested several million pounds in service development and creating extra employment in Wales over the last 20 years, since the policy was announced all our Welsh investment has stopped due to the uncertainty. The claim that this policy is based on children's views is also questionable. In 30 years of doing this work on the frontline I have never had a child question or raise the ownership arrangements of any service I have worked in

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

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No

### **Please outline your reasons for your answer to question 1**

(we would be grateful if you could keep your answer to around 500 words)

Further reform of commissioning based on evidence and robust technical demands on providers (including new LA provision) would deliver the majority of the intended objectives - the legislation and structures for this (4Cs framework for example) already exist. Driving up the technical governance of provision, based on audit of need, would deliver more diverse placement settings, across Wales, playing to the strengths of different providers - this would drive out/ provide barriers to, any entrant seeking to establish provision for purely commercial reasons. We work in both England and Wales, and based on years of operational experience, whilst some work was clearly needed to address sufficiency gaps, Wales was in a much more robust place in comparison to the English system. This has been significantly and negatively impacted over the last 2.5 years.

## **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**

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(we would be grateful if you could keep your answer to around 500 words)

I think this is a flawed approach which has misunderstood how services have been established (under existing policy for 20-30 years), how they are funded and operate. There has been no discussion about the value that is delivered, how much comparable service cost to deliver in the state (or even if they can be delivered in many cases). There has been an inability to define profit, or to understand the circular re-investment in facilities, new practice developments, research, innovation, charitable works, added community benefits that are all associated with small, local providers. The narrative has been skewed and not based on evidence. I appreciate concerns about private equity, offshore ownership, huge levels of debt etc - but these factors do not apply to the bulk of the provision that is now at risk. There is huge diversity in the provider landscape - and looking at the changing trends in referral demand, even greater diversity is required moving forward (we see this in England too) - discussions about value for money would be far more impactful and would provide the WLGA with much greater power to 'manage' and control the access to the vital services they need. This policy intention and the way it has been handles has been hugely detrimental to children and the overall landscape of provision in Wales. We fully support the WLGA submission to WEAGs own consultation at the end of 2023 and we are hopeful that the committee will be taking a much closer look at what has been happening over the last 2.5 years as a direct consequence of this policy.

**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**

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(we would be grateful if you could keep your answer to around 500 words)

**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**

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(we would be grateful if you could keep your answer to around 500 words)

not relevant to our operations

**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**

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(we would be grateful if you could keep your answer to around 500 words)

The lack of clarity about transitional arrangement, supplementary arrangements, sufficiency sign off etc means that the evidentially damaging situation of the last 2.5 years will just continue for many months - to the detriment of children month on month.

## **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?**

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(we would be grateful if you could keep your answer to around 500 words)

There are huge barriers - mostly about maintaining safe capacity for children (which has been in reverse for the last 2.5 years since this was announced). The bill is based on high levels of conversions for existing provision - this is not happening as none of the included models are accessible and there is no funding - including other social enterprise models (EoTs for example) would remove this barrier. Without a route, most of the existing capacity will close. the bulk of provider have informed WAG they are very willing to convert - but no workable model has been made available to do this.

The other routes to build capacity to replace is though new LA provision - in the last 2 years there has been very modest LA opening homes, these have been riddled with operational problems, some homes closed by CIW for unsafe regulatory breaches, the bulk of LA registrations in this period has been the registration of OWR settings to make them legally compliant, these are not 'planned' or purposeful provisions and not

appropriate to respond to demand. The third area of extra capacity relies on huge growth of 3rd sector provision - this has been on broad decline over the last 20 years and there has been almost no increase in the last 2 years. This is not only about financial investment, the operational expertise and competence required to establish, maintain and sustain the diversity of provision simply does not exist in public and 3rd sectors. There is likely to be significant loss of workforce, both at leadership/experienced managerial/technical level, but also frontline staff - many existing organisations will pivot services to England or move to different client models (if they do not close entirely). WAG have been advised of this as the process has unfolded.

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

(we would be grateful if you could keep your answer to around 500 words)

The consequences are already being felt - huge rises in the use of Operating Without Registration, children being sent to English places due to lack of capacity, increases in regulatory breaches in public sector provision. There are costs to the economy and loss of jobs, and quality (especially considering the referral needs) is and will be poorer in the public sector - there is data in England that already models this. Investment in Wales has already reduced significantly and this cannot be replicated or replaced by public funds. There will be further loss of expertise as longstanding practitioner services with decades of experience exit Wales.... this will also see the loss of additional services such as therapy/therapeutic and specialist educational provision - exactly where the referral demand trends exist.

#### **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?)**

(we would be grateful if you could keep your answer to around 500 words)

#### **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?**

(we would be grateful if you could keep your answer to around 500 words)

The assumptions do not stand up - the Explanatory Memorandum notes this - it is stated that there is too much unpredictability. We refute this - and have been part of the workstream committees that have been reporting exactly the scale of risks with the narrow handling of this policy. WAG are already aware that private providers cannot covert (no models workable) and that they will close or repurpose their provision. The true costs of trying to build and replace lost capacity (let alone the lost diversity and expertise) has been wildly underestimated. On a very practice assumption - if the intention is to have a smaller residential sector, with a much larger fostering sector - then that small residential sector is going to be working with the most complex young people on the continuum - the very

cohort that the public sector cannot accommodate...and this in the context of a net decline in foster carers year on year.

**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 would be grateful if you could keep your answer to around 500 words)

Again, the impact assessments do not take sufficient account of the reality on the ground and how this has been declining over the last 2.5 years since this policy was announced.

**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 would be grateful if you could keep your answer to around 500 words)

This has been very poor. Whilst there have been opportunities to consult and workstreams, these have not resulted in the extensive evidence influencing the handling of this policy. One only has to look at the very robust concerns set out over many pages by WLGA in the consultation, and the few lines of rhetorical response to see this. Further, the governments own expert academic panel who reported late May 2024 have also echoed and set out similar concerns. These concerns are also consistent with the ongoing evidence, supported by FOI requests to CIW, of the deterioration of supply and the negative impact on children and costs to LAs which has been provided through workstream committees. This is an ideologically driven policy - that was made explicit from the start - and is not based on evidence, it is not intending to save money, nor to improve outcomes for children - both of which have been going in the opposite direction since this was announced.

**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?**

(we would be grateful if you could keep your answer to around 500 words)

A rebalancing of the provision map for Wales is a desirable outcome - this can be achieved through reform of commissioning and greater focus on the technical needs and governance - the demands placed on providers (of any status) to drive quality and value.

The system in Wales has been driven in reverse in recent times, and will take a considerable period to recover even if this policy were abandoned tomorrow. There are stakeholders from all sides: regulators, children's commissioner, WLGA, 4Cs, academics, provider bodies, practice charities etc all making the same/ overlapping assessments - these voices are not being engaged with in a meaningful way and the negative impact on children is clearly evidenced.

