

**Y Pwyllgor Plant, Pobl Ifanc  
ac Addysg**

**Children, Young People  
and Education Committee**

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## **Re. Health and Social Care (Wales) Bill**

Dear Sam,

Following my letter dated 20 June 2024, please see Annex A for our views on those provisions of the Health and Social Care (Wales) Bill ("the Bill") about which we have collected evidence over the course of the Sixth Senedd. I should highlight that any views we heard about the restriction of profit from the care of children looked after related to the plans in the public domain at the time (autumn 2022 to summer 2023) about the Welsh Government's policy intention.

In addition to our views outlined in Annex A on relevant provisions in the Bill, we believe that radical reform of the care system is needed in areas that are within the broad scope of the Bill, but are not currently addressed within it. The areas of policy set out in Annex B relate directly to either placements for looked after children and/or the regulation of the social care services and the social care workforce, and could therefore reasonably be considered to fall within the scope of the Bill. We believe that they should have been included in the Bill to give effect to the radical changes to the care system that care experienced children and young people and their families deserve.

I hope that you find our views useful as you come to conclusions about the Bill in your Stage 1 report.

Yours sincerely,



Buffy Williams MS  
Chair

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

# Annex A: Our views on provisions within the Health and Social Care (Wales) Bill relevant to our work during the Sixth Senedd

## Chapter 1: Restrictions on profit in the provision of social care services to children

Restricting the making of profit in the provision of care home services provided wholly or mainly to children, secure accommodation services and fostering services (“restricted children’s services”)

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Sections 2 to 9 of the Bill regulate social care services provided to children, including to:

- amend the Regulation and Inspection of Social Care (Wales) Act 2016 (“the 2016 Act”) to insert a new provision that defines the meaning of “restricted children’s services” for the purposes of restricting profit making by providers of children’s homes services, secure accommodation services and fostering services;
- amend the 2016 Act to set out new requirements for applications for registration in respect of restricted children’s services;
- make transitional arrangements for existing providers of a restricted children’s service (who were registered prior to the new ‘not-for-profit’ requirements).<sup>1</sup>

Our inquiry into radical reform for care experienced children and young people (“our 2023 inquiry”) did not consider in significant depth the Welsh Government’s intention to eliminate profit from the care of looked after children. Our work focussed on the separate Programme for Government commitment to “Explore radical reform of current services for children looked after and care leavers.”<sup>2</sup> However, even though it did not fall within the inquiry’s terms of reference, the commitment to “Eliminate private profit from the care of children looked after” was nevertheless frequently raised by the individuals and organisations that contributed to our inquiry.

We heard universal support for removing profit from children’s care, particularly from care experienced young people themselves.<sup>3</sup> Professionals, academics and organisations also widely supported the policy intention. However, they had significant concerns about how it could be implemented. We heard that changes to the social care market of the scale would require a

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<sup>1</sup> Welsh Government, ‘[Health and Social Care \(Wales\) Bill \[AS INTRODUCED\]](#)’, 20 May 2024

<sup>2</sup> Welsh Government, ‘[Programme for Government – Update](#)’, January 2022, page 3

<sup>3</sup> [Written evidence, CEC 1.Voices From Care Cymru](#); Welsh Parliament, ‘[Children, Young People and education Committee: Engagement findings](#)’, March 2023, page 23

timeframe of 10 to 15 years to implement, and that removing profit-making placements before there are sufficient not-for-profit placements could make it even more challenging to find suitable placements for children.<sup>4</sup>

We concluded by supporting the *principle* of removing profit from the care of children. However, we noted that the evidence we received indicated that the ‘eliminate’ agenda may further reduce the sufficiency of placements in Wales in the short-term, as private providers withdraw placements without third sector or local authority placements being available to replace them. We urged the Welsh Government to pay close attention to the concerns raised to us by stakeholders, and to plan an implementation timetable accordingly.<sup>5</sup>

We note that according to the Explanatory Memorandum to the Bill, new providers registering with Care Inspectorate Wales will have to be a not-for-profit entity from 1 April 2026, and that all current for-profit providers be subject to transitional provisions from 1 April 2027.<sup>6</sup> We also note that the Bill places a duty on the Welsh Government to consult “any persons they think appropriate” about the length of the transitional arrangements for existing providers.<sup>7</sup>

**Conclusion 1.** Based on the evidence that we received, it is our view that a deadline of 1 April 2027 for existing for-profit providers to transition to not-for-profit providers would be wholly inadequate to fully mitigate all of the risks of placing all children in fully not-for-profit care placements. We welcome the provisions in section 4 of the Bill, which allows for transitional arrangements to be set out in regulations for current for-profit providers to transition to not-for-profit status. However, we are concerned that there is no fixed end date for those transitional arrangements. It is important for the sector at large - not to mention for children and young people in the care system, who have the right to know who is providing their care and whether they are profiting from doing so - to have clarity over the date by which profit will be removed from children’s care. We therefore urge the Welsh Government to set out clearly an end date for the transitional arrangements, having first consulted fully and constructively with local authorities and other key stakeholders to ensure that a lack of not-for-profit placements does not push children into unsafe unregistered accommodation.

Placing children outside the placing local authority’s area

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<sup>4</sup> Welsh Parliament, ‘[Children, Young People and education Committee: Engagement findings](#)’, March 2023, page 24; [Children, Young People and Education Committee, 2 February 2023, Record of Proceedings](#), paragraph 83; [Children, Young People and Education Committee, 17 November 2022, Record of Proceedings](#), paragraph 73; Welsh Parliament, ‘[Children, Young People and Education Committee: Findings of stakeholder events](#)’, March 2023, page 14

<sup>5</sup> Welsh Parliament, ‘[Children, Young People and Education Committee: If not now, then when? Radical reform for care experienced children and young people](#)’, May 2023, pages 107-108

<sup>6</sup> Welsh Government, ‘[Health and Social Care \(Wales\) Bill Explanatory Memorandum](#)’, May 2024, page 148

<sup>7</sup> Welsh Government, ‘[Health and Social Care \(Wales\) Bill \[AS INTRODUCED\]](#)’, 20 May 2024, para 1(4) of the new Schedule 1A in section 4

Section 10 amends section 75 of the Social Services and Well-being (Wales) Act 2014 (“the 2014 Act”) to specify that the local authority must take “all reasonable steps to secure” accommodation for looked after children, rather than “steps to secure, so far as reasonably practicable” as is currently the case under the 2014 Act. Subsection 1 requires that this accommodation is “within, or near to, the authority’s area” rather than the current requirement that it “is within the authority’s area”.<sup>8</sup>

The Explanatory Memorandum to the Bill as introduced explains the policy intention for this change:

*“This enables local authorities to make arrangements with other local authorities to develop new children’s homes and foster care placements. It acknowledges that there may be circumstances in which a child placed outside of the local authority’s area may be nearer to their home community than if they were placed in a different part of the local authority’s area.”<sup>9</sup>*

We support any legislative changes to allow local authorities to make the right decision for each child on an individual basis. We appreciate that placing children outside their local authority may be the right decision, for example if:

- The out of area placement is the nearest high-quality placement to the child’s home. During our 2023 inquiry we heard consistently from both children and professionals that children should be placed as near as possible to where the child was taken into care, unless there was a serious risk to the child’s safety to do so.<sup>10</sup> The Association of Directors of Social Service told us that “There’s not one children’s services department across Wales that will say that that isn’t an absolute priority [but that] Finding those placements is difficult.”<sup>11</sup>
- There are safety concerns for the child in their home authority. This might be because the child is at risk of abuse (emotional or otherwise) or exploitation.<sup>12</sup> In our current inquiry ‘children on the margins’, we are hearing regularly about children who are moved out of their home local authority (or even between England and Wales) to keep them away from criminal activity, or to protect them where there is an immediate risk to the child’s life.<sup>13</sup>

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<sup>8</sup> Welsh Government, ‘[Health and Social Care \(Wales\) Bill \[AS INTRODUCED\]](#)’, 20 May 2024

<sup>9</sup> Welsh Government, ‘[Health and Social Care \(Wales\) Bill Explanatory Memorandum](#)’, May 2024, page 163

<sup>10</sup> [Written evidence, CEC 1 Voices From Care Cymru](#); [Written evidence, CEC39 Evidence from Children in Wales, with and on behalf of the National Children’s Charities Policy Group members](#); [Written evidence, CEC43 The Children’s Society](#)

<sup>11</sup> [Written evidence, CEC39 Evidence from Children in Wales, with and on behalf of the National Children’s Charities Policy Group members](#); [Written evidence, CEC 43 The Children’s Society](#)

<sup>12</sup> [Written evidence, CEC43 The Children’s Society](#); [Written evidence, CEC7 Foster Parent](#); [Written evidence, CEC1 Voices from Care Cymru](#)

<sup>13</sup> [Written evidence, CYPM28 National Youth Advocacy Service Wales \(NYAS Cymru\)](#). We have received other evidence from our stakeholder events and engagement visits. Summaries of the findings of these events will be published shortly.

However, reasons such as these are likely to apply to a small proportion of children. For the majority, out of area placements should be avoided wherever possible. In our 2023 inquiry, much of the evidence we received suggested that children were often placed far away from their home or previous placements not because it was in the child's best interests to do so, but because there weren't any quality placements in their local area.<sup>14</sup> During engagement work, one young person from Swansea told us that they had been put in a residential home in England. They had no support at all so far away from everyone they knew. They told us that they felt like "one of the forgotten."<sup>15</sup>

Whatever the reason for an out of area placement, and however far it is from the child's home community, poor multi-agency working and the failure to follow established reporting procedures can place any child in an out of area placement at risk of harm. The Children's Society set out detailed evidence explaining what local authorities must do if they place a child in another local authority area. This includes completing and sharing a Wales Out of Area Notification Protocol and a Child Information Form for each child, which sets out critically important information, including details of the child's social worker and any specific needs the child has, or risks relating to the child. The Children's Society concluded that:

*"The primary finding from the responses we received from local authorities was the lack of a consistent approach to information sharing when a child is placed in another local authority area, or the lack of information sharing at all. These practices mean that some children do not receive the care and support they need when they are placed in a care setting far away from their homes, thereby increasing the risk both of unsuccessful placements and children not receiving appropriate support if they face particular risks, such as abuse, exploitation, or a history of missing episodes."*<sup>16</sup>

Children in Wales, with and on behalf of the National Children's Charities Policy Group members, reminded us about the tragic consequences of failing to adequately fulfil sharing responsibilities. Their written submission reminded us that the child practice review following the death of Logan Mwangi found "deep rooted practice issues locally, including a lack of appropriate information sharing arrangements between agencies and poor professional confidence in reporting concerns."<sup>17</sup>

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<sup>14</sup> [Children, Young People and Education Committee, 2 February 2023, Record of Proceedings](#), paragraphs 9 & 19-20; [Written evidence, CEC3 Individual: Written evidence, Care Inspectorate Wales \(additional information\)](#); Welsh Parliament, 'Children, Young People and education Committee: Engagement findings', March 2023, pages 23-25

<sup>15</sup> Welsh Parliament, 'Children, Young People and education Committee: Engagement findings', March 2023, page 23

<sup>16</sup> [Written evidence, CEC43 The Children's Society](#)

<sup>17</sup> [Written evidence, CEC39 Children in Wales, with and on behalf of the National Children's Charities Policy Group members](#)

**Conclusion 2.** We are concerned with how the provisions set out in section 10 will be interpreted and implemented, particularly in the context of the wider eliminate agenda, which we fear will put additional pressure on the number of available placements. We would have serious concerns if the provisions in section 10 lead to more children being placed outside their home area. The overwhelmingly pervading view across the evidence we have taken across both our 2023 inquiry and our current inquiry ‘children on the margins’ is that, for the majority of children, out of area placements increase the risk of children going missing, being criminalised or sexual exploited, not to mention making it more difficult to maintain relationships with their birth family or friends or avoid the need to move schools.

Even when it is the right decision to place a child in a different local authority, local authorities **must** consistently follow regulations and guidelines relating to information sharing to ensure that being in an out of area placement does not compromise the quality of safeguarding for any child.

### Placing children in unregistered accommodation

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Section 13 sets out the ways in which looked after children are to be accommodated. The Explanatory Notes to the Bill state that a placement can be in “unregistered accommodation (on a temporary basis or in cases of urgency)”.<sup>18</sup> The mechanisms for placing children are set out in section 13(3), which inserts sections 81A to 81D into the 2014 Act.

- Section 81A(2) sets out that a local authority must place a child in what it believes to be the most appropriate placement. Section 81A(3) then sets out what a placement means in that context, including a placement with a local authority foster parent or in a children’s home.
- Section 81A(4) sets out that a local authority foster parent providing placements who is not a friend, relative or otherwise connected to the child must be “authorised”, and that children’s homes must be “registered”.
- However, 81B(1) and (2) set out that if a local authority believes that the most appropriate placement is with a local authority foster parent or a children’s home, but that the local authority cannot comply with the requirement for the placement to be authorised or registered respectively, they can apply to the Welsh Ministers for the placement to be approved. Such placements are known as “supplementary placements”. The information that must be included in such a request, and provisions relating to how the Welsh Ministers might respond, follow in sub-sections (3) to (8).

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<sup>18</sup> Welsh Government, ‘[Health and Social Care \(Wales\) Bill Explanatory Memorandum](#)’, May 2024, page 165

New section 75D of the 2014 Act, to be inserted by section 12 of the Bill, provides that local authorities must report on the number of applications that they have made in that financial year for approval to place children in a “supplementary placement”.<sup>19</sup>

These newly inserted sections provide for a way by which local authorities can place a child with an unauthorised foster carer, or with an unregistered children’s home, with the approval of the Welsh Ministers. There is no timetable on the face of the Bill within which this approval must be given.

### **Our general concerns with the provisions relating to unregistered placements in the Bill**

In a letter to you dated 28 June 2024, the Minister for Social Services stated that:

*“The intention [of section 13] was to refer to accommodation where there is no requirement to register because the placement is not with a foster carer and the arrangements fall outside the definition of “a care home service”. There are a variety of circumstances where a local authority can decide to place a child in a setting other than foster care or a children’s home. The most common example of this is where a local authority places an older child aged 16 or 17 in supported accommodation as preparation for independent living.*

*We are aware that more recently usage of the terms “unregistered accommodation” and “unregulated accommodation” have tended to distinguish the two things, the term unregistered accommodation being used to refer to arrangements which fall within the scope of activity where there is a requirement to register but where the provider is not in fact registered and unregulated accommodation being used to refer to arrangements which fall outside the scope of regulated activity and therefore where registration is not required. That is not the sense in which “unregistered” is used here.”<sup>20</sup>*

However, section 13 makes no reference to accommodation “where there is no requirement to register” (quite the opposite: newly inserted section 81A(4) sets out explicitly that local authority foster carers should be authorised and that children’s homes should be registered). Neither does it refer at any point to children aged 16-17 specifically. Nor does it distinguish in any way between accommodation where registration/authorisation is required and when it is not.

At the time of writing, unregistered accommodation for children in care is illegal in Wales. During our 2023 inquiry, Care Inspectorate Wales set out that unregistered placements:

*“... are illegal and do not have the safeguards in place that come with registration. It is often the case local authorities are directly operating these services, redeploying*

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<sup>19</sup> Welsh Government, ‘[Health and Social Care \(Wales\) Bill \[AS INTRODUCED\]](#)’, 20 May 2024

<sup>20</sup> ‘[Letter from the Minister for Social Care to the Chair of the Health and Social Care Committee](#)’, 28 June 2024, page 10

*their own staff or using agency workers. Accommodation includes Air B&Bs which we have seen result in multiple moves for children from one premises to another. At times these placements have been outside of the child's local area, and many are unable to meet their therapeutic and/or care needs. In each case CIW considers if the threshold for criminal investigation and prosecution is met, whilst recognising the local authority's duty of care to the child."*<sup>21</sup>

We also heard strongly worded concern about the use of unregistered placements in Wales, including from CAFCASS Cymru<sup>22</sup> and the Association of Directors of Social Services:

*"In 35 years in social care, I've never seen a position like this, and it's frightening... Nobody wants to do this, it is a last resort. The alternative is driving around with the child in the social worker's car."*<sup>23</sup>

We recommended that the Welsh Government and the Association of Directors of Social Services must jointly publish no later than December 2023 an action plan setting out how they will prevent the use of illegal, unregistered accommodation in Wales. In its response, the Welsh Government stated that it had established a local authority task and finish group to consider the issue of services operating without registration under its Eliminating Profit Programme Board, due to report late in 2023.<sup>24</sup> To date, we are not aware that a report by the group has been published. However, an October 2023 report by Care Inspectorate Wales about children's care homes operating without registration found that:

*"Whilst some children achieve positive outcomes in a temporary service which is operating without registration, some do not..."*

*Often the premises used for unregistered services and/or the standard of the arrangements made for children falls below those required for registration.*

*In many cases, staffing arrangements to provide care and support have been ad hoc and subject to frequent change. The deployment of staff who are not trained to meet the care and support needs of the child or young person and the over reliance on agency staff is of particular concern."*<sup>25</sup>

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<sup>21</sup> [Written evidence, Care Inspectorate Wales \(additional information\)](#)

<sup>22</sup> [Written evidence, CEC 46 Cafcass Cymru](#)

<sup>23</sup> [Children, Young People and Education Committee, 9 March 2023, Record of Proceedings](#), paragraphs 69 & 71

<sup>24</sup> Welsh Government, ['Written Response by the Welsh Government to the report of the Children, Young People and Education Committee report entitled "If not now, then when? Radical reform for care-experienced children and young people"'](#), 5 July 2023, pages 16-17. Reference to the task and finish group is made here: Welsh Government, ['Removing profit from the care of children: update'](#), 20 November 2023

<sup>25</sup> Care Inspectorate Wales, ['Report on care homes for children operating without registration'](#), October 2023, page 5

## The use of Deprivation of Liberty Orders (DoLs) alongside unregistered placements

In our 2023 report 'If not now, then When?' ("our 2023 report"), we noted a link between shortages of secure accommodation and the increasing use of Deprivation of Liberty Orders (DoLs). The Right Honourable Sir Andrew McFarlane, President of the Family Division, told us that there is a "a lack, by a country mile, of provision for secure accommodation for young people" in England and Wales.<sup>26</sup> The Association of Directors of Social Services explained that local authorities may sometimes prefer a DoL to secure accommodation, because "At least using deprivation of liberties, you will keep children local, and you will keep them in an environment that possibly is more protected, rather than potentially going to secure accommodation in Durham."<sup>27</sup>

We fear that the practice of applying for a DoL for a child and placing them in unregistered accommodation may increase as a direct consequence of this Bill. A local authority can place a child subject to a DoL in residential care, but if a residential care placement is not available the local authority may have no choice but to place the child in unregistered accommodation.<sup>28</sup> We raise concern above that this Bill may result in additional shortages of residential care placements<sup>29</sup> as a result of the proposed profit-making restrictions, at least in the short-term. We are therefore concerned that enabling supplementary placements in unauthorised/unregistered settings under the new section 81B of the 2014 Act, against the backdrop of severe shortages of secure and residential accommodation, may lead to a significant rise in the use of DoLs in unregistered settings as local authorities struggle to place our most vulnerable children in secure accommodation or even in residential care homes.

**Conclusion 3.** We believe that the provisions set out in section 13 of the Bill would lead to an unacceptably high risk of an increased use of unregistered accommodation which would not provide the levels of care and support that children and young people in care deserve. We are deeply concerned about these new provisions, which provide a route for local authorities to place children in children's homes that are not registered with local authorities, or with foster parents who are not authorised by local authorities. We note the safeguards set out in the new sections 81B(3) to (8) of the 2014 Act, and the mandatory reporting arrangements in section 75D. But we are not convinced that these provisions mitigate the risks of normalising unregistered placements. Our concerns are compounded due to the likely short-term shortage of not-for-profit placements for children, as we

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<sup>26</sup> [Children, Young People and Education Committee, 8 February 2023, Record of Proceedings](#), paragraph 149

<sup>27</sup> [Children, Young People and Education Committee, 9 March 2023, Record of Proceedings](#), paragraph 106

<sup>28</sup> Community Care, '[Courts to stop monitoring regulation of unregistered placements for children deprived of liberty](#)', 13 October 2023

<sup>29</sup> A recent BBC article found that three quarters of the 314 children's homes operating in Wales are run by private companies. See: BBC, '[Wales plans to remove profit from children's care](#)', 20 May 2024

set out above, which may lead local authorities to place even more children in unregistered accommodation, including an increasing number of children who have been deprived of their liberty.

## Annex B: Policy changes that we believe should be included in the Bill

### Children's social workers' caseloads

In our 2023 report, we concluded that:

*"... strengthening the social care workforce is key to reducing rates of children entering the care system, and improving the lives of those children for whom being in care is the right decision."<sup>30</sup>*

We came to this conclusion based on the numerous and consistent testimonies of young people themselves whose lives had been directly impacted by undercapacity within the social care workforce and the views of social work leaders, who told us directly that "The most radical reform that could be realised in this area is a reduction in workload for our social workers".<sup>31</sup>

We called on the Welsh Government to introduce legislation modelled on the Nurse Staffing Levels (Wales) Act 2016 to place a duty on local authorities to calculate safe and manageable maximum caseloads for different groups of social workers, and to take all reasonable steps to maintain those maximum caseloads. Alongside that proposed legislation, we recommended that the Welsh Government carry out a comprehensive workforce sufficiency plan, looking at routes into social work, and a nationalised approach to pay and conditions of social workers, like the approach that oversees teaching staff in Wales.

Our report stated clearly that "we are not calling for arbitrary legislative caps on caseloads", and it acknowledged that legislative reform would not, in and of itself, drive down social workers' workloads.<sup>32</sup>

The Welsh Government rejected this recommendation, arguing that "Complexity in cases varies considerably, and therefore it could be counterproductive to set a caseload maximum." Instead, it suggested that work carried out by Social Care Wales and others relating to workforce planning, and

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<sup>30</sup> Welsh Parliament, 'Children, Young People and Education Committee: If not now, then when? Radical reform for care experienced children and young people', May 2023, page 36

<sup>31</sup> Written evidence, CEC 38 Association of Directors of Social Services (ADSS)

<sup>32</sup> Welsh Parliament, 'Children, Young People and Education Committee: If not now, then when? Radical reform for care experienced children and young people', May 2023, pages 36-37

by the WLGA relating to social work terms and conditions, would drive improvements to social care capacity.<sup>33</sup>

We note that your April 2024 report on the Nurse Staffing Levels (Wales) Act 2016 concluded that:

*"... the Act has strengthened workforce planning by highlighting where the gaps are in the current workforce and evidencing the number of nurses required to meet the needs of patients. But, in relation to ensuring a long-term, sustainable supply of nurses, there are so many factors that influence the recruitment and retention of nursing staff that legislation can only be a part of the solution, rather than the solution itself."*<sup>34</sup>

We believe that strengthening social care workforce planning across the 22 Welsh local authorities is reason enough in and of itself to take legislative action on social workers' caseloads. Alongside our associated recommendation for a comprehensive workforce sufficiency plan and a national approach to the pay and conditions of social workers, we believe that a legislative approach could also begin a journey towards safe, manageable caseloads for children's social workers. This would enable the relationship-focused social work that social workers themselves told us was so critical to driving down the rates of children entering the care system.

We are hearing throughout our current inquiry into 'children on the margins' across written evidence, our stakeholder events and our engagement work that social workers' caseloads are often too high to effectively support our most vulnerable children. Barnardo's wrote that:

*"As with all areas of the social care workforce at this time, there are endemic issues around recruitment and retention of staff which makes it incredibly difficult to ensure that children always have access to the same worker and can build a trusting relationship. Welsh Government should invest in ensuring that social work across the board is an attractive career option with a focus on retaining experienced and trusted staff. The sector is in crisis, with high caseloads, long waiting lists and low morale. We must tackle this entrenched issue to improve outcomes – both in terms of staff themselves and the way that we can support children, young people and families."*<sup>35</sup>

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<sup>33</sup> Welsh Government, [Written Response by the Welsh Government to the report of the Children, Young People and Education Committee report entitled "If not now, then when? Radical reform for care-experienced children and young people"](#), 5 July 2023, page 2

<sup>34</sup> Welsh Parliament, [Health and Social Care Committee, Nurse Staffing Levels \(Wales\) Act 2016: Post-legislative scrutiny](#), April 2024

<sup>35</sup> [Written evidence, CYPM21 Barnardo's Cymru](#). See also: [Written evidence, CYPM30 Children's Legal Centre Wales](#). Social workers' caseloads has also been raised during informal evidence gathering; a summary of the findings of our stakeholder events and engagement visits will be published shortly.

**Conclusion 4.** We regret that the Welsh Government has taken no action in the Bill to address children’s social workers’ caseloads. We remained concerned that the work undertaken by Social Care Wales and others, such as ‘A Healthier Wales’ and its underlying delivery plans, though valuable, are unlikely to result in the radical reform that children, their families, and indeed social workers themselves deserve.<sup>36</sup>

## **Registration of foster carers and the creation of a national register of foster placements**

As you will know from your scrutiny of the Bill to date, sufficiency of placements for looked after children is a critical concern for the sector. In our 2023 report, we discussed shortages of high quality foster placements, residential care placements, and secure accommodation for young people, even putting aside the Welsh Government’s intention to restrict profit-making placements.<sup>37</sup> As of 31 March 2023, 68.7% of children looked after in Wales were in a foster placement (4,955 children), and so sufficiency of high-quality foster places is absolutely critical to meeting the needs of children in care across Wales.<sup>38</sup>

During our evidence gathering and since, we heard stories of children whose lives were transformed by the wonderful support they received from dedicated and loving foster carers. Sadly, we also heard heartbreaking stories of children who had been placed with foster carers who were not fit to look after children. Some young people told us that they had been sexually, emotionally and/or physically abused.<sup>39</sup>

The Fostering Network and others argued for a national register of foster carers as a way to get a better idea of how many foster carers we have across Wales, the number of placements they provide, where they are, and other relevant information. They also suggested that foster carers should be required to register with Social Care Wales, who would be the body responsible for holding and maintaining the proposed register. We were persuaded by the arguments put forward by the

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<sup>36</sup> Social Care Wales data indicates that in March 2022, there were 6,736 social workers registered with Social Care Wales – an increase of 3% compared to March 2021. However, the social care workforce as a whole was 7% less in March 2022 than it was in March 2021. Also as of March 2022: the number of vacant social work posts had increased by 17% compared to 2021, and 12% of social workers were employed by an agency. In spring 2023, 77% of social workers say having too much work or not having enough time to do it causes stress at work, and 38% are dissatisfied with their current job. None of this data is broken down into adults’ services/children’s services social care workers. See: Social Care Wales, ‘[Social care workforce delivery plan 2024 to 2027](#)’, last updated 7 June 2024

<sup>37</sup> Welsh Parliament, ‘[Children, Young People and Education Committee: If not now, then when? Radical reform for care experienced children and young people](#)’, May 2023, pages 84-90, 95-96 and 102-103 respectively

<sup>38</sup> StatsWales, ‘[Children looked after at 31 March by local authority and placement type](#)’

<sup>39</sup> Welsh Parliament, ‘[Children, Young People and education Committee: Engagement findings](#)’, March 2023, page 23

Fostering Network, and recommended that the Welsh Government fund and deliver a national register of foster carers accordingly.<sup>40</sup>

Our recommendation was accepted in part by the Welsh Government, which committed to explore “what a national register could look like in Wales”.<sup>41</sup> Disappointingly, it is clear from the Fostering Network’s recent evidence to your Committee that the work is not progressing:

*“But we also know that we don't have a great deal of insight and knowledge as to where our foster carers are in Wales and who they are. In the radical reform inquiry, a register was put forward as a recommendation, and I would strongly urge that to ensure that this legislation does actually meet its full requirement that, alongside this, we expedite the opening up of a social care register for foster carers in order for them to ensure that they have that same level of status as social workers and residential care workers. Other parts of the sector have that via the provision of the register for them, and I think we have an urgent need to do that in Wales, and I'm very grateful that it was accepted as a recommendation by a previous committee. What we need to do now is actually expedite it, because it's been over a year since that recommendation was accepted, and we still don't seem to have a great deal of progress in relation to that.”<sup>42</sup>*

**Recommendation 1.** The Health and Social Care Committee should consider recommending to the Welsh Government that the Health and Social Care (Wales) Bill should be amended to make it mandatory for foster carers to register with Social Care Wales in order to provide foster placements for looked after children, thereby accelerating progress towards a national register of foster carers.

## Residential visiting advocacy

Residential visiting advocacy is where a residential home assigns an independent advocate to represent all the children at the home. The advocate will support the children by answering any questions they may have about their care, resolving disputes, and liaising with other advocacy services where required.

During our inquiry into services for care experienced children and young people, NYAS reminded us that advocacy in Wales – and indeed the establishment of the Children’s Commissioner for Wales –

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<sup>40</sup> Welsh Parliament, ‘[Children, Young People and Education Committee: If not now, then when? Radical reform for care experienced children and young people](#)’, May 2023, pages 87-90

<sup>41</sup> Welsh Government, ‘[Written Response by the Welsh Government to the report of the Children, Young People and Education Committee report entitled “If not now, then when? Radical reform for care-experienced children and young people”](#)’, 5 July 2023, pages 12-13

<sup>42</sup> [Health and Social Care Committee, 27 June 2024, Record of Proceedings](#), paragraph 18

came as a result of the North Wales child abuse scandal: a series of incidents of sexual and physical abuse across residential children's homes in Clwyd and Gwynedd.<sup>43</sup> As the Waterhouse Report set out, advocacy for children in residential care is particularly important because they can be much more vulnerable and isolated, and therefore at risk of harm or abuse.<sup>44</sup>

Our 2023 report noted that:

- The concept of advocacy (such as the statutory right that all Welsh-domiciled looked after children have access to an 'active offer' of issue based advocacy) is still not widely understood by those who own or work in private children's homes.
- Up 25% of children in residential homes were placed by English local authorities (and therefore do not have the right to an 'active offer' of advocacy like Welsh children do).
- At the time of writing, although all local authority run residential homes had assigned advocates, only 15% of private/voluntary residential homes did.

We concluded by recognising the benefits of an advocate who can take a broader overview of the residential home's care services as a whole, to reduce the risk of systematic abuses such as those that were investigated as part of the Waterhouse inquiry ever happening again.<sup>45</sup>

We recommended that the Welsh Government ensure that every child in a residential care home in Wales should have access to residential visiting advocacy by revising the arrangements in place under the Regulation and Inspection of Social Care (Wales) Act 2016 to make the provision of residential visiting advocacy in each and every children's home (by a contracted registered advocacy provider) a requirement for registration as a provider of children's care homes in Wales.<sup>46</sup>

The Welsh Government rejected this recommendation, arguing that the 'active offer' of advocacy is extended to children in residential settings, and that each child will also have an Independent Reviewing Officer to hold professionals and services to account.<sup>47</sup>

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<sup>43</sup> [Children, Young People and Education Committee, 2 February 2023, Record of Proceedings](#), paragraph 142

<sup>44</sup> Waterhouse, Ronald et al, ['Lost in Care: Report of the Tribunal of Inquiry into the Abuse of Children in Care in the Former County Council Areas of Gwynedd and Clwyd since 1974'](#), February 2000

<sup>45</sup> Welsh Parliament, ['Children, Young People and Education Committee: If not now, then when? Radical reform for care experienced children and young people'](#), May 2023, pages 81-84

<sup>46</sup> Welsh Parliament, ['Children, Young People and Education Committee: If not now, then when? Radical reform for care experienced children and young people'](#), May 2023, pages 83-84

<sup>47</sup> Welsh Government, ['Written Response by the Welsh Government to the report of the Children, Young People and Education Committee report entitled "If not now, then when? Radical reform for care-experienced children and young people"'](#), 5 July 2023, pages 11-12

For the reasons so clearly set out in our report and summarised above, and despite the Welsh Government's response, we continue to believe that the current advocacy arrangements for children in residential care are insufficient. The Health and Social Care (Wales) Bill, which sets out new requirements for applications for registration in respect of restricted children's services, is an ideal legislative vehicle for our recommendations in this area to be taken forward. Residential care homes provided by the third sector will continue to be a key part of the residential care landscape in Wales under the Bill. As our report sets out, relatively few independent care homes have advocates, and staff working in independent care homes are not always as aware of children's advocacy rights as they should be.

**Recommendation 2.** The Health and Social Care Committee should consider recommending to the Welsh Government that the Health and Social Care (Wales) Bill should be amended to so that the provision of residential visiting advocacy for each and every children's care home is a requirement for registration as a provider of children's care homes in Wales.