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Llywodraeth Cymru
Welsh Government

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Sam Rowlands MS
Temporary Chair
Health and Social Care Committee
Senedd Cymru

6 September 2024

Dear Sam,

Thank you for your letter of 26 July, following the appearance of the Minister for Social Care before the Health and Social Care Committee on 17 July to discuss the Health and Social Care (Wales) Bill.

During the Committee session the Minister committed to engage with the Cabinet Secretary in order to provide further information on issues connected with the provision of Continuing Health Care. This, along with a response to the additional question included in your letter, is attached at Annex A.

In addition, you may wish to be aware that since the Committee session, a [Delphi study](#) on eliminating profit from the care of looked after children has been published, which complements earlier reports from the [Wales Centre for Public Policy](#) and [Cardiff University](#) as well as [ADSS Cymru](#).

We are copying this letter to the Chairs of the Legislation, Justice and Constitution Committee and the Finance Committee.

Yours sincerely,

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

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

Elimination of private profit from care of looked after children

1. In relation to the elimination of profit from children looked after, we asked Care Inspectorate Wales whether the provisions in the Bill and explanatory memorandum relating to supplementary placements will act to effectively 'legalise' and normalise unregistered placements in Wales ... Can you confirm your position ... and, in particular, whether you intend to make any changes to the relevant provisions of either the Bill or explanatory memorandum.

The Government is clear that the provisions in the Bill relating to the approval of supplementary placements will not act to effectively 'legalise' or normalise unregistered placements. These provisions enable Welsh Ministers to approve a placement with a registered for-profit provider of children's residential or foster care who is subject to the wider transitional arrangements set out in the Bill. It will not enable Welsh Ministers to authorise an unregistered placement.

The provisions relating to supplementary placements need to be considered alongside those relating to the revised local authority sufficiency duty and the duty on local authorities to prepare and publish an annual sufficiency plan. Taken together these provisions give robust direction to local authorities about putting in place a sufficiency of placement capacity and utilising the right type of provision and provider, which should negate the need to utilise unregistered placements.

We are aware there has been some confusion regarding the reference to 'unregistered accommodation' in the Explanatory Notes to the Bill. Section 13 of the Bill sets out the ways in which looked after children are to be accommodated in "the most appropriate placement". The Explanatory Notes state that a placement can be in "unregistered accommodation (on a temporary basis or in cases of urgency)".

The intention 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 care home service for children (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.

More recently usage of the terms "unregistered accommodation" and "unregulated accommodation" have tended to distinguish between 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. The former is not the sense in which "unregistered" is used in the Explanatory Notes.

In light of the points raised, we propose to make a revision to the Explanatory Notes on this point at the end of Stage 2, to remove the reference to 'unregistered' accommodation, and provide an alternative form of words which will be clearer for lay readers consulting the Explanatory Notes in future.

Continuing healthcare

- 2. In relation to issues with continuing healthcare you gave an undertaking to ask the Cabinet Secretary for Health and Social Care to update the committee on progress with the review of the current CHC Framework. As part of this, we would like to hear whether there is any scope to bring this review forward, and whether there is merit in doing this so that any changes that are needed to be made to the existing system can happen in tandem with the introduction of direct payments for CHC.**

The current CHC Framework was published in 2021 and became operational as of 1 April 2022. This Framework replaced the previous 2014 publication. The Welsh Government gave a commitment to review the Framework within five years of implementation, therefore a new Framework should be in place and operational by April 2027.

With the introduction of the Health & Social Care (Wales) Bill and its provisions to enable the introduction of direct payments for Continuing NHS Healthcare, it would be timely to consider the legislative timetable of the Bill in tandem with the revision of the CHC Framework. This would enable relevant information regarding the newly established direct payments for CHC to be included in the revised Framework document. Given the Bill's current timetable, it is hoped that the Bill might receive Royal Assent in late Spring 2025. This will be followed by the drafting of Regulations and Guidance during 2025-26 and with the aim that some direct payments for CHC would begin during 2026. This timetable would therefore fall in line neatly with the revision of the CHC Framework.

The revision of the Framework would require a full external consultation exercise, involving key partners and other stakeholders, with all responses being considered before a revised Framework is published.

The Complex Care Joint Forum, formed in 2023, would also be key in discussing changes to the CHC Framework, as it includes Welsh Government policy colleagues and representatives from local authorities and health boards. The group supports the implementation of the Framework, with a particular focus on the interface between social care and healthcare, and on partnership working between health boards and local authorities. The group aims to work together for shared knowledge and cross organisational working.

These key partners and stakeholders would also be heavily involved in the introduction of the newly established direct payments system. I am conscious that such key external partners will be involved in both aspects and, therefore, we need to ensure that we are not excessively loading them with additional work whilst implementing such a significant change.

- 3. Also in relation to continuing healthcare, we have heard from health board representatives that there is currently no performance framework for CHC, as it is in the process of being revised. They said this framework was critical, and should include metrics to capture and measure progress and success. You agreed to ask the Cabinet Secretary to provide us with an update of work in this area, including details of when the revised framework will be put in place.**

The CHC Framework 2021 refers to a National Performance Framework, forming part of the governance and accountability arrangements for CHC in Wales.

During the pandemic, there was an agreement that health boards would not be required to complete returns in relation to a CHC Performance Framework, due to pressures faced.

Discussions then took place with the health boards' CHC Leads regarding the possibility of re-establishing the Performance Framework. There was agreement that it needed to be refined in order that it was a meaningful exercise for the health boards and that the information collated was of benefit to the Welsh Government.

During this time, it became apparent that not all health boards collect information using the same categories or indicators. It was therefore difficult to compare information received from the various health boards.

In November 2023, Judith Paget, Director General of Health and Social Services / Chief Executive NHS Wales, wrote to the Chief Executives of all health boards informing them of the work of the newly established Value and Sustainability Board, which included five workstreams, one being a CHC workstream.

Shane Mills, Clinical Director, National Collaborative Commissioning Unit, along with a national group, has undertaken a time-limited piece of work to review high-cost patient placements, to identify opportunities to reduce the cost whilst ensuring quality and outcomes are protected. This work is still underway and is being done in conjunction with representatives from all health boards.

The group has identified that the solutions required to deliver on these opportunities would be best delivered on an all-Wales basis. Next steps have included the proposal to facilitate the use of a standardised reporting system across all health boards in Wales potentially using one software platform to collect performance data, instead of the different platforms and systems currently used. This proposal is still under consideration at present, and any decision made on this is clearly relevant to any proposal to create an updated CHC Performance Framework.

As the CHC Performance Framework has been raised by health board representatives as part of their discussions with the Committee, my officials will revisit this area, including working with the Value and Sustainability subgroup to establish the best way forward to create an integrated all-Wales approach to data collection. We will be working with our partners to scope out and develop an implementation plan for a new performance framework over the autumn and winter months.