

General principles of the Bill

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

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

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

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

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

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

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

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 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

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

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

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?

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

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?

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

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?)

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

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

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?

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

(final part of Q3)

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.

