

HSCWB34

Senedd Cymru | Welsh Parliament

Y Pwyllgor Iechyd a Gofal Cymdeithasol | Health and Social Care Committee

Bil Iechyd a Gofal Cymdeithasol (Cymru) | Health and Social Care (Wales) Bill

Ymateb gan Byrddau Partneriaeth Rhanbarthol Gwent | **Evidence from** Gwent Regional Partnership Board

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HEALTH AND SOCIAL CARE (WALES) BILL: Explanatory Memorandum (senedd.wales)

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You do not need to answer every question, only those on which you wish to share information or have a view

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)

We fully support the policy direction and intention of removing profit for the care of children looked after, however we are also aware of the significant challenges and risks that this will entail.

We recognise that to overcome the challenges and mitigate risks there will be a need for careful planning, management, and evaluation of the policy change. We believe that the Welsh Government and legislators must consider these matters during the Bill's passage through the Senedd. In particular, the funding, construction of not-for-profit provision, and the timescales for change, must be carefully considered.

We agree with providing the right support at the right time to families going through difficult times, ensuring children in care remain close to home, and supporting young people leaving care to live independently. This all aligns with the principles of strong voice, real control, safety, respect, recovery, restoration, and stability within the Social Service and Wellbeing (Wales) Act. However, the success of these principles will depend on their implementation, the resources allocated, and the ongoing commitment to these goals. It's also crucial to ensure that these services are indeed

locally based, designed, and accountable, as stated in the Bill. This will require robust mechanisms for local input, transparency, and accountability.

Although we understand that exemptions have been put in place to minimise disruption to the lives of children in existing residential and foster care placements, we do have concerns around the practicality of this and how this will be managed operationally.

Overall, the Bill seems to be a positive step towards improving health and social care in Wales, but its effectiveness will ultimately be determined by its execution and the outcomes it achieves for the people it serves.

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

Yes

No

Don't know.

Don't have a view.

Please outline your reasons for your answer to question 1

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

There is a need for legislation to deliver the Welsh Government's stated policy intention. Legislation ensures that these changes are not just policy statements but have the force of law behind them. It provides a clear mandate for the changes, sets out the responsibilities of different parties, and provides a mechanism for enforcement. Furthermore, legislation provides a degree of permanence and stability. While policies can change with each new government or even with new ministers, legislation is more enduring. This stability can be crucial in areas like health and social care, where long-term planning and consistency are important.

Regarding long term planning, it is important to highlight that small local businesses that employ local people are disadvantaged by large corporate companies, especially those that set up in business that take an 'arm's length' approach. Further consideration is also needed for social enterprises to provide long-term lasting innovative solutions around this programme of work.

Amendments to the Regulation and Inspection of Social Care (Wales) Act 2016

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)

The amendments to the Regulation and Inspection of Social Care (Wales) Act 2016 will require providers of restricted children's services to be not-for-profit entities, with restrictions on payments and surplus reinvestment. Transitional arrangements will allow existing for-profit providers to continue operating subject to conditions, until their registration is brought to an end, however, to change from a mixed market to a not-for-profit model will require substantial time, resources, and planning, as well as effective communication, consultation, and engagement with all the relevant stakeholders. It will also need to be carefully managed and monitored to ensure that the quality and continuity of care for children looked after, is not compromised, or disrupted during the process.

We support the aim of the Bill in relation to CHC Direct Payments, but it is vital that this change comes with a significant improvement in how CHC works in practice. CHC is currently not applied consistently across Wales, with variation of interpretation between health boards. The Government's RIA indicates that there will be a three-year transition period for those who get social care Direct Payments to switch to CHC Direct Payments, which means that CHC decisions will still affect council budgets negatively for some time. A central hub could ensure uniformity in how Direct Payments are delivered once CHC eligibility has been assessed and confirmed at a local level. However, this may not address the problems faced by councils who report that CHC only accepts responsibility for higher levels of health need than before, while the legal and policy standards have not changed, resulting in costs for services falling unfairly on councils.

The Bill states that Local Authorities will also be required to prepare an annual sufficiency plan setting out (among other matters) how they will be taking steps towards reducing and finally eliminating, where possible, dependence on for-profit providers. For local authorities to develop an annual sufficiency plan as highlighted; will there be support available to submit a plan? or a wider working group that could help support a regional approach to the elimination of profit?

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)

The policy principles outlined in sections 14-22 of the Bill aim to ensure fairness and equality for disabled and seriously ill individuals receiving continuing healthcare (CHC) by providing them with more voice and control over their care. The amendments proposed in the Bill also aim to improve the regulatory regime for regulated services and service providers to better achieve policy goals, resolve anomalies, and assist regulators in their processes. Additionally, the Bill includes amendments to the Social Services and Well-being (Wales) Act 2014 to ensure that current practice aligns with legislation and to improve the effectiveness of the act, particularly in relation to the boundaries of health and social care, the provision of direct payments, and fitness to practice cases. The amendments aim to provide greater flexibility for individuals to manage their care and support needs.

Overall, these amendments seem to be a step in the right direction towards ensuring that the 2014 and 2016 Acts can operate fully and effectively. However, the success of these changes will ultimately depend on their implementation and the ongoing engagement with stakeholders, including disabled people and people with lived experience.

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)

The amendments aim to provide greater flexibility for individuals to manage their care and support needs. This includes clarifying references to "child arrangement orders" in sections 76 and 81 of the Social Services and Well-being (Wales) Act 2014 to ensure they only cover orders specifying where a child should live. Additionally, the Welsh text of section 124(9) will be amended to ensure equivalence of meaning between the English and Welsh text of the Act in relation to assisting children to live outside of England.

The amendments to the NHS (Wales) Act 2006 which will enable Direct Payments to be accessed by those who are eligible for CHC is welcomed. This will provide some reassurance to many individuals who have refused CHC assessments for fear of losing their Personal Assistants, who have been employed staff via Direct Payments from social care. It should enable the individual to maintain some autonomy, control with how their care and support is delivered, by who, when and how and for them to continue to remain as independent as possible.

How Direct Payments for healthcare is to be implemented and supported is keenly awaited. Local Authorities and Direct Payment Recipients will be key to the smooth transition of existing Direct Payments arrangements.

Whilst it would appear the figures indicate a two-year transition plan; some may believe this is underestimated and there are concerns regarding the numbers transferring to CHC in that time and the potential HR implications of support staff in existing Direct Payments services. Therefore, it is critical that Local Authorities are included in the early discussions on how the new Direct Payments for health teams will work.

The operational mechanisms to implement are very much key to the successful transition and implementation.

Overall, the changes are welcomed but the expectant challenges, learning and change will bring benefits and carriers for all involved, and the individual themselves and their Personal Assistants must not be overlooked during this time.

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)

The transition from a mixed market to a not-for-profit model will require substantial time, resources, and planning, as well as effective communication, consultation, and engagement with all the relevant stakeholders. It will also need to be carefully managed and monitored to ensure that the quality and continuity of care for children looked after is not compromised or disrupted during the process.

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)

The transition from a mixed market to a not-for-profit model will require substantial time, resources, and planning, as well as effective communication, consultation, and engagement with all the relevant stakeholders. It will also need to be carefully managed and monitored to ensure that the quality and continuity of care for children looked after is not compromised or disrupted during the process.

We have set out in broad terms, what we perceive to be the resource implications regarding the implementation of this section of the legislation in a Revenue Impact Assessment document, which was a commissioned piece of work by the Welsh Government.

The responsibility and accountability for developing and providing care for children looked after will shift largely to local authorities, who will face increased pressures and expectations to ensure a sufficiency and sustainability of care provision. This will require significant investment and support from the Welsh Government and other partners, particularly at the transition phase, as well as a clear and consistent framework of guidance, regulation, and inspection.

The not-for-profit model may limit the scope and potential for innovation and partnerships in the care sector, as some for-profit providers may have more resources, expertise, and incentives to develop new and effective ways of delivering care. It may also discourage collaboration and cooperation between not-for-profit and for-profit organisations, which may have complementary strengths and assets that could benefit children looked after.

The not-for-profit model may introduce some additional administrative and regulatory complexity and burden for local authorities and care providers, as they will have to comply with different rules and requirements for their legal and financial status, governance, and accountability. It may also create some confusion and inconsistency in the application and interpretation of the not-for-profit criteria and definition.

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 removal of profit may have unintended and adverse consequences on the diversity and quality of care provision for children looked after, in the short to medium term. Some for-profit providers may decide to exit the market (some have already) or reduce their services, leading to a loss of skilled and experienced staff, a reduction in the availability and suitability of care placements and an increase in the costs and complexity of commissioning and contracting arrangements.

Despite the challenges and risks, we believe that the removal of profit for the care of children looked after is the right thing to do. The direction and policy intent align with our vision and values to improve the outcomes and well-being of children and young people who are in the care system.

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)

We welcome Welsh Ministers being given the powers to make subordinate legislation to support this programme of work, such as prescribing details around requirements for registration applications and the powers to determine the end of the transition period. However, decisions must be made and coproduced with local authority leads and partners in a timely manner to help support full implementation of this programme and limit disruption to the care and support of children and young people.

It is difficult to provide further views, as proposals have not been formalised and it seems further consultation will take place once decided around the subordinate legislation.

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)

There are concerns regarding resource allocation, as although we fully support the not-for-profit model of care, there will be financial barriers. To develop and progress this work both Capital and Revenue funding needs to be prioritised and allocated, as lack of investment into the proposed changes, will cause huge barriers for effective implementation.

The Welsh Government's assessment of the financial and other impacts of the Bill appears to be comprehensive, considering a wide range of costs and benefits. It considers direct costs to the Welsh Government, local authorities, and health boards, as well as indirect costs such as compliance costs for service providers and the impact on businesses currently profiting from the care of looked after children.

The assessment also identifies cost savings, such as administrative savings for CIW and Social Care Wales, and benefits like the residual value of children's residential care homes and savings from switching to CHC Direct Payments.

However, it's important to note that some costs, such as those associated with service providers exiting the market, have not been fully quantified due to uncertainties in the number of providers that will be affected. This could potentially lead to underestimations in the overall cost of implementing the Bill.

Furthermore, the assessment acknowledges that the estimated cost of lost profit for businesses could be an overestimate, as some businesses operating in Wales are foreign owned. This suggests a level of uncertainty in the figures presented, which should be taken into account when considering the overall financial impact of the Bill.

Overall, while the assessment provides a detailed overview of the potential financial impacts, it also highlights areas where further research or data may be needed to provide a more accurate estimate. This transparency is commendable and allows for a more informed discussion on the Bill's implications.

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)

It is important that the impact assessments have been documented within the Bill proposals and potential risks highlighted.

The proposed changes should have a positive impact on the lives of children and young people through the aim of developing a range of good-quality stable placements that meet a child's needs close to home, it is acknowledged there is a risk to placement sufficiency and stability as we build resilience across the region. It has been acknowledged that there is the potential for this to have a negative impact on children's rights and their outcomes in the short term.

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 welcome the approach of engagement and consultation with all stakeholders and welcome continuous engagement across our region on this programme. It is also very important that the voice of children and young people is being heard and they are consulted with.

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)