



Rhif: WG47837

Llywodraeth Cymru

Ymgynghoriad - Cynigion ar gyfer deddfwriaeth sylfaenol mewn perthynas â gofal cymdeithasol plant, Gofal Iechyd Parhaus, hysbysu gorfodol a rheoleiddio ac arolygu (WG45428)

Ymatebion i'r ymgynghoriad – 6 (126 i 150)

Nodwch y canlynol:

- Mae'r ymatebion yn y ddogfen hon yn cael eu cynnwys yn yr iaith neu'r ieithoedd y cawsant eu cyflwyno.
- Wrth ymateb i geisiadau, mae swyddogion Llywodraeth Cymru wedi golygu enwau, cyfeiriadau a manylion cyswllt unigolion.
- Mae Llywodraeth Cymru hefyd wedi golygu enwau, cyfeiriadau, manylion cyswllt a gwybodaeth arall yn ymwneud ag unigolion eraill, fel arfer i sicrhau preifatrwydd, neu mewn ymateb i gais penodol.
- Yn sawl un o'r ymatebion, mae adrannau lle nad yw ymatebwyr wedi cynnwys eu safbwyntiau i benodau neu gwestiynau.
- Mae'r ddogfen hon yn cynnwys 341 o dudalennau (gan gynnwys y tudalennau pennawd).



Number: WG47837

Welsh Government

Consultation - Proposals for primary legislation in relation to children's social care, Continuing Health Care, mandatory reporting and regulation and inspection (WG45428)

Consultation responses – 6 (126 to 150)

Please note the following:

- Responses contained within this document are presented in the language or languages in which they were submitted.
- In response to requests, Welsh Government officials have redacted individuals' names, addresses and contact details.
- Welsh Government officials have also redacted other individuals' names, addresses, contact details or other information, usually for reasons of privacy, or in response to a specific request.
- Within several responses, there are sections where respondents have not included their views to chapters or questions.
- This document contains 341 pages (including title pages).

Consultation Response Form

Your name: *Grace Coppock*

Organisation (if applicable): *All Wales Forum of Parents and Carers of People with Learning Disabilities*

Email / Telephone number: [REDACTED]

Your address: [REDACTED]

Responses to consultations may be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please place a tick in the box:

☐

Please tell us who you are responding on behalf of. For example is this your own response or is it sent on behalf of an organisation?

Responding on behalf of the All Wales Forum of Parents and Carers of People with Learning Disabilities

If you want to receive a receipt of your response, please confirm your email address, here:

Questions on Chapter 1: Eliminating profit from the care of children looked after

There are 12 questions about this chapter.

Question 1.1: Do you think that introducing provision in legislation that only allows 'not-for-profit' providers to register with CIW will support delivery of the Programme for Government commitment to eliminate profit from the care of children looked after?

Question 1.2: What in your view are the likely impacts of the proposal? You may wish to consider, for example:

- Benefits, and disbenefits;
- Costs (direct and indirect), and savings;
- Impacts upon individuals and groups with protected characteristics;
- Other practical matters such as cross-border issues.

Your views on how positive effects could be increased, or negative effects could be mitigated, would also be welcome.

Please explain your reasoning.

Question 1.3: One approach could be for the legislation to define 'not-for-profit' in terms of the types of organisation that would qualify. Do you consider that the restriction should also be expressed in terms of the way that any trading surplus is expended? What would be the effects and implications of this?

Question 1.4: Do you think the primary legislation should include a power for Welsh Ministers to amend the definition of 'not-for-profit' through subordinate legislation?

Question 1.5: What are your views on the proposed timings for the primary legislation to come into effect?

Question 1.6: Are there any issues in relation to transition for children looked after, local authorities and service providers you would like to draw our attention to?

Question 1.7: What are your views on the issuing of guidance to support the implementation of the primary legislation?

Question 1.8: What are your views on using legislation to place a restriction on local authorities to commission placements from 'not-for-profit' organisations only? In particular:

- Do you think it would support us to deliver the commitment to eliminate profit from the care of children looked after in Wales?
- What would be the benefits, disbenefits and other implications of such an approach?
- What would be an appropriate timescale for implementing such an approach, if it were to be adopted in Wales?

Question 1.9: What are your views on the possibility of approaches being taken in response to these legislative proposals which would undermine the intention to eliminate profit from the care of children looked after in Wales? Are there any actions which would guard against such activity?

Question 1.10: We would like to know your views on the effects that the legislative changes to eliminate profit from the care of children looked after will have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favorably than English. What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

Question 1.11: Please also explain how you believe the legislative changes to support delivery of eliminating profit from the care of children looked after could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

Question 1.12: This chapter has focused on how we can achieve the commitment to eliminate profit in the care of children looked after, and we have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

Questions on Chapter 2: Introducing direct payments for Continuing NHS healthcare

There are 8 questions about this chapter.

Question 2.1: We have outlined our proposals to introduce further voice and control for adults receiving Continuing Health Care (CHC) in Wales. Do you agree or disagree with these proposals? Please explain your reasoning.

In principle, we agree with introducing direct payments to those receiving CHC to be able to choose the support they receive. Everybody should have the option to access DP (direct payments) and make arrangements to access the support that best suits their needs. However, this cannot be relied upon to be somebody's only option but needs to be one of their choices.

During the pandemic, we have seen examples of where direct payments have been used creatively and flexibly when other services closed. For example, we heard of a family who used their direct payments to purchase a trampoline for their child to make use of in their garden as they couldn't access their usual daytime activity. With the continued closure of day centres, we know that many people with a learning disability and their families have used direct payments to access meaningful activities within the community.

Direct payments offer service users and carers a lot of flexibility to meet their needs. As in social care, we are aware of the huge crisis that health is facing. There is concern that a direct payment as part of CHC will not allow for huge flexibility unless this is addressed appropriately within guidance that will be co-produced with both service users and carers.

Question 2.2: What in your view are the likely impacts of the proposal?

You may wish to consider, for example:

- Benefits, and disbenefits;
- Costs (direct and indirect), and savings;
- Impacts upon individuals and groups with protected characteristics;
- Other practical matters such as cross-border issues or transition to the new arrangements.

Your views on how positive effects could be increased, or negative effects could be mitigated, would also be welcome.

Please explain your reasoning.

There has been a lot of work happening in Wales since the introduction of the *Social Services and Well-being (Wales) Act 2014* to better connect health and social care. This includes the creation of Regional Partnership Boards. However, there are often still issues around responsibility and

accountability. One parent carer we spoke to about this consultation stated *“this would seem to me to be an area of possible contention and a potential ping pong between departments”*-It needs to be clear in guidance how healthcare staff will be supported to have conversations about direct payments and appropriate training. With cuts to budgets and resourcing at a stretch, it needs to be clear where the responsibility is in order to create a seamless service and relationship between health and social care.

There is often a power imbalance between health and social care staff. In 2021, the All Wales Forum published a report to Welsh Government on Carer Engagement at a Regional Level. This explored how each RPB is engaging with carers in the wider region and what could be improved. One of our recommendations was for the role of the Carer Representative to have a more equitable voice around the table. Clear responsibilities would need to be set out in guidance of the role of direct payments within CHC and how these differ to social care arrangements and who is in charge.

People with learning disabilities often experience unequal access to healthcare than the general population. Accessible resources will need to be created and co-produced with service users to fully explain to somebody what their options are with direct payments when choosing their own healthcare. Reasonable adjustments will need to be made and training amongst healthcare staff to have these conversations. This includes easy read materials for people with a learning disability and autism.

It is mentioned that these proposed changes will increase recognition of the role of unpaid carers. The Welsh Government recently published a Charter for Unpaid Carers which includes information about carers rights and what they are entitled to. Will health boards be signing up to something similar to ensure these proposed changes will both increase recognition and ensure proper involvement from unpaid carers?

<https://gov.wales/charter-unpaid-carers>

Question 2.3: What lessons can we learn from other countries' practice in this area?

England introduced the personalised budget agenda long before this which enabled people to see their budget in its entirety to choose their own support. Whilst we recognise this model of personalised budgets in England hasn't always been entirely successful, it is important any lessons learnt be fed into this consultation so we can learn from good practice and changes they have made along the way.

There are many families in Wales that live in border areas like Powys where they access their healthcare in England but social care packages in Wales. We need to ensure both models work collaboratively between England and Wales for those that straddle services with their postcode to ensure and deliver consistency.

Question 2.4: Do you believe there are any other or complementary approaches we should be considering to achieve the same effect? If so, please outline below.

As mentioned above, there are similar models in operation across parts of the UK. It would be responsible of us to be aware of what those are and the possibilities and opportunities they afford to families in Wales.

Question 2.5: We will work to ensure that any legislative change is supported by robust guidance to help both payment recipients and practitioners understand how the system will operate. Can you identify anything that it would be helpful to include in this guidance? What other support should be provided?

There are many lessons to be learnt from the recent *Direct Payments for Adult Social Care Audit*. To highlight a few key points, it was found that there were large inconsistencies in the way in which direct payments are promoted and managed by local authorities. This means that services are not always equitable which raises concerns as to how this will work between different health boards. The audit highlighted the need to address the 'post-code lottery' to ensure people are being treated fairly and have equal access to services. There were several recommendations put forward by this report to both local authorities and the Welsh Government. It is important these are also considered when looking at introducing direct payments into CHC:

- ***Review public information in discussion with service users and carers to ensure it is clear and concise and fully explains what they need to know about direct payments.***
- ***Local authorities and Welsh Government to clarify policy expectations in plain accessible language and set out what direct payments can be used for, how monitoring and paperwork works, how to administer and manage pooled budgets.*** Information needs to be clear and accessible for people to fully understand what they can expect from Direct Payments. Information needs to be universal between each of the 7 health boards to avoid any 'post-code lottery'. Myth busting exercises with service users and carers can help to highlight common misconceptions about Direct Payments and their use. Within this consultation, it is stated that "guidance will be co-produced with service users, those with lived experience of direct payments/CHC" our families would welcome being involved in this.
- ***Many local authority officers we spoke to acknowledge that they do not always have the capacity to work co-productively and identify creative solutions using direct payments. Co-produced approaches requires time.***
- ***Strong leadership on direct payments is key to making progress and it is important that senior managers set the tone from the top-*** Everybody in all positions within health boards will need to have a proper understanding of Direct Payments and be involved in the co-production of the guidance.
- ***Social workers need to feel both confident in being able to promote the benefits of direct payments and empowered to make this offer. To make this work requires effective leadership and a whole-system approach.***
- ***Carers are generally more dissatisfied than service users with the quality of the direct payments services their local authority provides to help meet their needs. – Working co-***

productively with Carers would help to alleviate any anxieties that come with the use of direct payments. It needs to be fully explained how they can meet their needs and what they can be used for.

- ***People in areas where support services to help manage direct payments are directly provided by local authorities have more positive overall experience than those using a 'commissioned' service.***

<https://www.audit.wales/publication/direct-payments-adult-social-care>

Whilst these recommendations are for the local authority, a lot of these points and the principles that underpin them will have to apply to health board structures, finances, staff and culture in order for direct payments to be successful in CHC.

Question 2.6: We would like to know your views on the effects that introducing direct payments for continuing NHS healthcare would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English. What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

If you give people the option to choose a service in the language of their choice, you will increase recognition of said language. Introducing direct payments through health to people whose first language is Welsh will allow them to access health care in a more flexible way. People are then more likely to choose Welsh speaking services where there will be more demand on those services. The Welsh language will also become a more integral part of the community, further strengthening the role of the Welsh language in Wales.

It is also important to acknowledge the other languages and cultures that exist within Wales. Historically, there has been distrust between many BAME communities from engaging with health services. The pandemic is an example that really highlighted this and the initial low uptake of the COVID vaccination. Once it was agreed that some religious buildings would be used to roll out the vaccines, the uptake increased massively. Offering services in the communities where people are and communicating in a way that they choose will help to further the health prevention agenda and improve partnership working.

Question 2.7: Please also explain how you believe our proposals for introducing direct payments for continuing NHS healthcare could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

As mentioned above.

Question 2.8: We have asked a number of specific questions in this chapter. If you have any related issues which we have not specifically addressed, please use this space to report them.

We wanted to highlight here the importance of trusting families and individuals to manage something like a care & support package. Often, families are left to manage the support package of somebody they care for where they lack the mental capacity to do so for themselves. There is often a prejudice towards families as a group by professionals in some institutional settings and not trusting that they are doing this in the best interest of the direct payment recipient. There are already well-established models of support that exist within social care where many families are providing the care and support diligently on behalf of their loved ones. Therefore, risk assessment and this conversation needs to be had across all sectors and within health when looking at introducing direct payments and self-managed care into CHC.

Alongside the commissioned direct payments service that will support users to manage their budget, families will also be the ones providing support. It is important everybody involved promotes the values and principles of choice and trust that underpin the ethos of a direct payment. Health boards need to work together with families to ensure the person in receipt of the direct payment is having their needs met regardless of who is supporting the person to achieve it.

This consultation response has been submitted by the All Wales Forum of Parents and Carers of People with Learning Disabilities. We represent the views and voices of family carers across Wales working to improve the rights and recognition of parents and carers of people with learning disabilities. We continue to respond to consultations such as this one to raise awareness of unpaid family carers and to assist in the future planning of services that our families access.

Questions on Chapter 3: Mandatory reporting of children and adults at risk

There are 11 questions about this chapter.

Question 3.1: What are your views on the principle of imposing a duty to report a child at risk (as defined in section 130(4) of the Social Services and Well-being (Wales) Act 2014 directly on individuals within relevant bodies?

Question 3.2: What are your views on the principle of imposing a duty to report an adult at risk (as defined in section 126(1) of the 2014 Act) directly on individuals within relevant bodies?

Question 3.3: What in your view would be the likely benefits, disbenefits, risks, costs, savings and equality impacts of such an approach?

Please explain your reasoning.

Question 3.4: What lessons can we learn from the duties to report in other countries?

Question 3.5: If individual reporting duties were to be introduced – for children and adults at risk – should these sit alongside, or replace, the existing duties on organisations under the 2014 Act?

Question 3.6: If individual reporting duties were to be introduced, should they apply to the workforce of current 'relevant partners' under section 162 of the 2014 Act (including youth offending teams in relation to children), or more widely, for example to those working in religious or sports settings, etc., and in particular:

- (a) What are your views on this in respect of children (under the age of 18)?
- (b) What are your views on this in respect of adults?

Question 3.7: If individual reporting duties were to be introduced, which occupation types or roles should be subject to any duty (e.g. members of regulated professions; employed staff, even if they are not regulated; volunteers), and in particular:

- (a) What are your views on this in respect of children (under the age of 18)?
- (b) What are your views on this in respect of adults?

Question 3.8: What sanctions do you think would be proportionate or appropriate for failure to comply with an individual reporting duty?

Question 3.9: We would like to know your views on the effects that introducing individual reporting duties would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English. What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

Question 3.10: Please also explain how you believe proposals for introducing individual reporting duties could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

Question 3.11: We have asked a number of specific questions in this chapter. If you have any related issues which we have not specifically addressed, please use this space to report them.

Questions on Chapter 4: Amendments to regulation of service providers and responsible individuals

Part 2 and Schedule 1 of the Regulation and Inspection of Social Care (Wales) Act 2016 ('the 2016 Act') provides the basis on which Care Inspectorate Wales ('CIW') – on behalf of the Welsh Ministers – undertakes functions relating to the registration, regulation and inspection of 'regulated services'.

This chapter of the consultation focuses on proposed amendments to the regulatory regime for regulated services, service providers and their designated responsible individuals. These relate to a range of matters provided for within the 2016 Act, including:

- a) Identifying unregistered services
- b) Publication of annual returns
- c) Publication of inspection reports
- d) Improvement notices and cancellation of registration
- e) Responsible individuals
- f) Definition of 'Care' for children and young people

Questions on proposed amendments relating to each of these matters follow.

There are 21 questions about this chapter.

Question 4.1: *(a) Identifying unregistered services - power to obtain information:* Do you agree with the proposal to amend the 2016 Act to enable the Welsh Ministers (CIW) to require information from any person where there is reasonable cause to believe that they are providing a service which should be regulated?

Question 4.2: *(a) Identifying unregistered services - power to obtain information:* Do you agree with the proposal to extend the offence of failing to provide information when required to do so, to include these persons?

Question 4.3: *(a) Identifying unregistered services - power of entry:* Do you agree with the proposal to amend the 2016 Act to remove ambiguity and make it clear that the Welsh Ministers (CIW) have the power to enter and inspect any premises which they have reasonable cause to believe is (or has been) used as a place at or from

which a service is (or has been) provided, or which is (or has been) used in connection with the provision of a regulated service?

Question 4.4: *(a) Identifying unregistered services - power of entry:* Do you agree with the proposal to extend the offence of obstructing an inspector or failing to comply with a requirement imposed by an inspector, to include these circumstances?

Question 4.5: *(b) Publication of annual returns:* Do you agree with the proposal to amend the 2016 Act to require service providers to publish their annual returns?

Question 4.6: *(b) Publication of annual returns:* Do you agree with the proposal to create a related offence of failing to publish an annual return?

Question 4.7: *(c) Publication of inspection reports:* Do you agree with the proposal to amend the 2016 Act to provide additional flexibility for the Welsh Ministers (CIW) to recognise circumstances where it may not be appropriate, relevant, or proportionate to prepare and/or publish an inspection report?

Question 4.8: *(d) Improvement notices and cancellation of registration – variation of registration as a service provider:* Do you agree with the proposal to amend the 2016 Act to remove the requirement for the Welsh Ministers (CIW) to issue an improvement notice to a provider in circumstances where the provider is no longer providing that service or using that place to provide a service?

Question 4.9: *(d) Improvement notices and cancellation of registration - removal of a condition on a service provider's registration:* Do you agree with the proposal to amend the 2016 Act to enable the Welsh Ministers (CIW) to remove a condition on a service provider's registration without giving a notice of proposal (section 18) and notice of decision following notice of proposal (section 19), when the circumstances which led to the imposition of the condition no longer apply?

Question 4.10: *(d) Improvement notices and cancellation of registration – power to cancel a service provider's registration:* Do you agree with the proposal to amend the

2016 Act to remove the requirement for the Welsh Ministers (CIW) to follow the improvement notice process to cancel the registration of a service provider in circumstances when the provider has already ceased to provide a regulated service?

Question 4.11: *(d) Improvement notices and cancellation of registration – information from providers who are cancelling their registration:* Do you agree with the proposal to create a regulation-making power under Section 14 of the 2016 Act to enable the Welsh Ministers (CIW) to require information from a service provider who is cancelling their registration and exiting the market?

Question 4.12: *(d) Improvement notices and cancellation of registration – power to extend the timescale within an Improvement Notice:* Do you agree with the proposal to amend the 2016 Act to give the Welsh Ministers (CIW) the power to extend the timescale for information to be provided when improvement notices are issued?

Question 4.13: *(d) Improvement notices and cancellation of registration – power to cancel a service provider's registration in prescribed circumstances:* Do you agree with the proposal to amend the 2016 Act to enable the Welsh Ministers (CIW) to disapply the section 16(3)(b) requirement within the improvement notice – to take particular action or provide information – in prescribed circumstances, when it would be futile to apply the requirement?

Question 4.14: *(e) Responsible individuals – making representations:* Do you agree with the proposal to amend the 2016 Act to give Responsible Individuals the right to make representations to the Welsh Ministers (CIW), against any improvement notice or cancellation of their designation, provided the representations are made within the time limit specified within the notice?

Question 4.15: *(e) Responsible individuals – sending the improvement notice to the service provider:* Do you agree with the proposal to amend the 2016 Act to require that any improvement notice served to a Responsible Individual must also be sent to the service provider?

Question 4.16: *(e) Responsible individuals - Removing a Responsible Individual without making an application to designate a new Responsible Individual:* Do you

agree with the proposal to amend the 2016 Act to allow a service provider to apply to the Welsh Ministers (CIW) for a variation of the conditions of their registration to remove a Responsible Individual when they are not designating a replacement Responsible Individual as part of the same application?

Question 4.17: *(f) Definition of ‘Care’ for children and young people:* Do you agree with the proposal to adjust the definition of ‘care’ in section 3 of the 2016 Act in order to place beyond doubt that the provision of parental-type care is recognised as being ‘care’ within the meaning of the 2016 Act?

Question 4.18: What in your view would be the likely impacts of the proposals in this chapter? You may wish to consider, for example:

- Benefits, and disbenefits;
- Costs (direct and indirect), and savings;
- Impacts upon individuals and groups with protected characteristics;
- Other practical issues.

Your views on how positive effects could be increased, or negative effects could be mitigated, would also be welcome.

Please explain your reasoning, either here or, if easier, please feel free to note any impacts specific to an individual proposal under the appropriate question above.

Question 4.19: We would like to know your views on the effects that the proposals in this chapter would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English. What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

Question 4.20: Please also explain how you believe the proposals in this chapter could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

Question 4.21: We have asked a number of specific questions in this chapter. If you have any related issues which we have not specifically addressed, please use this space to report them.

Questions on Chapter 5: Amendments to regulation of the social care workforce

There are 9 questions about this chapter.

Question 5.1: Do you agree with the proposal to amend the 2016 Act to provide that a person who has held office as a member of Social Care Wales may be reappointed once? Please explain your reasoning.

Question 5.2: Do you agree with the proposal to amend the 2016 Act to provide Social Care Wales with the power to grant a conditional registration for a person, when they are renewing their registration, in certain circumstances? Please explain your reasoning.

Question 5.3: Do you agree with the proposal to amend the 2016 Act to allow a panel to review and extend interim orders as appropriate, up to the maximum of 18 months? Please explain your reasoning.

Question 5.4: Do you agree with the proposal to amend the 2016 Act to provide a Fitness to Practise panel with the ability to revoke an interim order, during review proceedings, where it is necessary and appropriate? Please explain your reasoning.

Question 5.5: What, in your view, would make it necessary and appropriate for a Fitness to Practise panel to revoke an interim order?

Question 5.6: What in your view would be the likely impacts of the proposals in this chapter? You may wish to consider, for example:

- Benefits, and disbenefits;
- Costs (direct and indirect), and savings;
- Impacts upon individuals and groups with protected characteristics;
- Other practical issues.

Your views on how positive effects could be increased, or negative effects could be mitigated, would also be welcome.

Please explain your reasoning.

Question 5.7: We would like to know your views on the effects that the proposals in this chapter would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English. What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

Question 5.8: Please also explain how you believe the proposals in this chapter could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

Question 5.9: We have asked a number of specific questions in this chapter. If you have any related issues which we have not specifically addressed, please use this space to report them.

Questions on Chapter 6: Extending the definition of social care worker to include childcare and play workers

There are 5 questions about this chapter.

Question 6.1: We would like to know your views on the proposal to extend the definition of 'social care worker' to include both childcare and play workers. In particular, are you in favour of extending the role of Social Care Wales to cover childcare and play workers working in the childcare sector?

Please explain your reasoning.

Question 6.2: What in your view would be the likely impacts of the proposal? You may wish to consider, for example:

- Benefits, and disbenefits;
- Costs (direct and indirect), and savings;
- Impacts upon individuals and groups with protected characteristics;
- Other practical issues.

Your views on how positive effects could be increased, or negative effects could be mitigated, would also be welcome.

Please explain your reasoning.

Question 6.3: We would like to know your views on the effects that the proposal would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English. What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

Question 6.4: Please also explain how you believe the proposal could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

Question 6.5: We have asked a number of specific questions in this chapter. If you have any related issues which we have not specifically addressed, please use this space to report them.

Proposed changes to legislation on social care and continuing health care

Q1. Question 1.1: Do you think that introducing provision in legislation that only allows 'not-for-profit' providers to register with CIW will support delivery of the Programme for Government commitment to eliminate profit from the care of children looked after?

Please note that I am only responding to Questions in Chapter 3 and some thereafter, as this is the only area in which I have direct experience and have been directly impacted. Any answers left blank are because I do not feel qualified to answer them.

Q2. Question 1.2: What in your view are the likely impacts of the proposal? You may wish to consider, for example: Benefits, and disbenefits Costs (direct and indirect), and savings Impacts upon individuals and groups with protected characteristics Other practical matters such as cross-border issues Your views on how positive effects could be increased, or negative effects could be mitigated, would also be welcome.

Please explain your reasoning.

No Response

Q3. Question 1.3: One approach could be for the legislation to define 'not-for-profit' in terms of the types of organisation that would qualify.

Do you consider that the restriction should also be expressed in terms of the way that any trading surplus is expended?

What would be the effects and implications of this?

No Response

Q4. Question 1.4: Do you think the primary legislation should include a power for Welsh Ministers to amend the definition of 'not-for-profit' through subordinate legislation?

No Response

Q5. Question 1.5: What are your views on the proposed timings for the primary legislation to come into effect?

No Response

Q6. Question 1.6: Are there any issues in relation to transition for children looked after, local authorities and service providers you would like to draw our attention to?

No Response

Q7. Question 1.7: What are your views on the issuing of guidance to support the implementation of the primary legislation?

No Response

Q8. Question 1.8: What are your views on using legislation to place a restriction on local authorities to commission placements from 'not-for-profit' organisations only?

In particular: Do you think it would support us to deliver the commitment to eliminate profit from the care of children looked after in Wales? What would be the benefits, disbenefits and other implications of such an approach? What would be an appropriate timescale for implementing such an approach, if it were to be adopted in Wales?

No Response

Q9. Question 1.9: What are your views on the possibility of approaches being taken in response to these legislative proposals which would undermine the intention to eliminate profit from the care of children looked after in Wales?

Are there any actions which would guard against such activity?

No Response

Q10. Question 1.10: We would like to know your views on the effects that the legislative changes to eliminate profit from the care of children looked after will have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favorably than English.

What effects do you think there would be?

How could positive effects be increased, or negative effects be mitigated?

No Response

Q11. Question 1.11: Please also explain how you believe the legislative changes to support delivery of eliminating profit from the care of children looked after could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

No Response

Q12. Question 1.12: This chapter has focused on how we can achieve the commitment to eliminate profit in the care of children looked after, and we have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

No Response

Q13. Question 2.1: We have outlined our proposals to introduce further voice and control for adults receiving Continuing Health Care (CHC) in Wales.

Do you agree or disagree with these proposals?

Please explain your reasoning.

No Response

Q14. Question 2.2: What in your view are the likely impacts of the proposal?

You may wish to consider, for example: Benefits, and disbenefits Costs (direct and indirect), and savings Impacts upon individuals and groups with protected characteristics Other practical matters such as cross-border issues or transition to the new arrangements Your views on how positive effects could be increased, or negative effects could be mitigated, would also be welcome.

Please explain your reasoning.

No Response

Q15. Question 2.3: What lessons can we learn from other countries' practice in this area?

No Response

Q16. Question 2.4: Do you believe there are any other or complementary approaches we should be considering to achieve the same effect?

If so, please outline below.

No Response

Q17. Question 2.5: We will work to ensure that any legislative change is supported by robust guidance to help both payment recipients and practitioners understand how the system will operate.

Can you identify anything that it would be helpful to include in this guidance?

What other support should be provided?

No Response

Q18. Question 2.6: We would like to know your views on the effects that introducing direct payments for continuing NHS healthcare would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.

What effects do you think there would be?

How could positive effects be increased, or negative effects be mitigated?

No Response

Q19. Question 2.7: Please also explain how you believe our proposals for introducing direct payments for continuing NHS healthcare could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

No Response

Q20. Question 2.8: We have asked a number of specific questions in this chapter. If you have any related issues which we have not specifically addressed, please use this space to report them.

No Response

Q21. Question 3.1: What are your views on the principle of imposing a duty to report a child at risk (as defined in section 130(4) of the Social Services and Well-being (Wales) Act 2014 directly on individuals within relevant bodies?

I very strongly believe in the principle of imposing a duty to report a child at risk, not only as defined in the Social Services and Well-Being (Wales) Act 2014 but also the overarching Children's Act and associated human rights, on individuals within relevant bodies and have them accountable for errors, omissions, false narratives and failure to act in accordance with statutory obligations.

Q22. Question 3.2: What are your views on the principle of imposing a duty to report an adult at risk (as defined in section 126 (1) of the 2014 Act) directly on individuals within relevant bodies?

I believe the same should apply.

Q23. Question 3.3: What in your view would be the likely benefits, disbenefits, risks, costs, savings and equality impacts of such an approach?

Please explain your reasoning.

Equality is key; that the child or vulnerable adult has the best targeted and statutory support possible. The benefits that cannot be costed are to have the best outcome for child or adult. If individuals can be held accountable this is a driver to act with the best possible outcome for the child or adult and not cut corners. Good outcomes mean that there is less ongoing negative impact and this may potentially have a cost-benefit.

Q24. Question 3.4: What lessons can we learn from the duties to report in other countries?

I do not know the duties to report in other countries. However, English charities proffer advice to children at risk but limit their advice to English residents only. It suggests that children in Wales may have lesser statutory protection, which should absolutely not be the case (eg Children's Act).

Q25. Question 3.5: If individual reporting duties were to be introduced – for children and adults at risk – should these sit alongside, or replace, the existing duties on organisations under the 2014 Act?

Sit alongside. There must no weakening of existing duties and statutory protocols.

Q26. Question 3.6: If individual reporting duties were to be introduced, should they apply to the workforce of current 'relevant partners' under section 162 of the 2014 Act (including youth offending teams in relation to children), or more widely, for example to those working in religious or sports settings, etc., and in particular:

(a) What are your views on this in respect of children (under the age of 18)?

(b) What are your views on this in respect of adults?

Individual reporting duties, should they be introduced, should definitely apply to the workforce of 'current relevant partners' and with strong penalties for those who are remiss in their duty. It could be that lesser penalties apply to those working in religious or sports settings although the duty of care should remain the same.

Q27. Question 3.7: If individual reporting duties were to be introduced, which occupation types or roles should be subject to any duty (e.g. members of regulated professions; employed staff, even if they are not regulated; volunteers), and in particular:

(a) What are your views on this in respect of children (under the age of 18)?

(b) What are your views on this in respect of adults?

- a. Individual reporting duties should be introduced to any members of regulated professions, particularly school child protection staff, employed staff even if they are unregulated, police officers dealing with children and duty officers embedded with child care assessment teams of councils.
- b. I do not see why it should be different in respect of vulnerable adults.

Q28. Question 3.8: What sanctions do you think would be proportionate or appropriate for failure to comply with an individual reporting duty?

Failing to comply with an individual reporting duty which leads to a failure of child protection should mean that person is not permitted to work with children again.

Q29. Question 3.9: We would like to know your views on the effects that introducing individual reporting duties would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.

What effects do you think there would be?

How could positive effects be increased, or negative effects be mitigated?

As long as duties are followed in whichever language is the preferred choice for the child or adult to be served, there can be opportunities to use Welsh.

Q30. Question 3.10: Please also explain how you believe proposals for introducing individual reporting duties could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

As long as the law is upheld and children's needs met, then there is no discernable difference between using Welsh or English in my eyes.

Q31. Question 3.11: We have asked a number of specific questions in this chapter. If you have any related issues which we have not specifically addressed, please use this space to report them.

[REDACTED]

[REDACTED]. At the very least, I believe that duty officers embedded with child care assessment teams should be registered with Social Care Wales and therefore subject to Fitness to Practice procedures. This could also apply to those within schools responsible for child protection as well as police officers involved in child protection procedures.

Q32. Question 4.1: (a) Identifying unregistered services - power to obtain information: Do you agree with the proposal to amend the 2016 Act to enable the Welsh Ministers (CIW) to require information from any person where there is reasonable cause to believe that they are providing a service which should be regulated?

Yes

Q33. Question 4.2: (a) Identifying unregistered services - power to obtain information: Do you agree with the proposal to extend the offence of failing to provide information when required to do so, to include these persons?

Yes

Q34. Question 4.3: (a) Identifying unregistered services - power of entry: Do you agree with the proposal to amend the 2016 Act to remove ambiguity and make it clear that the Welsh Ministers (CIW) have the power to enter and inspect any premises which they have reasonable cause to believe is (or has been) used as a place at or from which a service is (or has been) provided, or which is (or has been) used in connection with the provision of a regulated service?

Yes

Q35. Question 4.4: (a) Identifying unregistered services - power of entry: Do you agree with the proposal to extend the offence of obstructing an inspector or failing to comply with a requirement imposed by an inspector, to include these circumstances?

Yes

Q36. Question 4.4: (a) Identifying unregistered services - power of entry: Do you agree with the proposal to extend the offence of obstructing an inspector or failing to comply with a requirement imposed by an inspector, to include these circumstances?

Yes

Q37. Question 4.5: (b) Publication of annual returns: Do you agree with the proposal to amend the 2016 Act to require service providers to publish their annual returns?

Yes

Q38. Question 4.6: (b) Publication of annual returns: Do you agree with the proposal to create a related offence of failing to publish an annual return?

Yes

Q39. Question 4.7: (c) Publication of inspection reports: Do you agree with the proposal to amend the 2016 Act to provide additional flexibility for the Welsh Ministers (CIW) to recognise circumstances where it may not be appropriate, relevant, or proportionate to prepare and/or publish an inspection report?

No.

Q40. Question 4.8: (d) Improvement notices and cancellation of registration – variation of registration as a service provider: Do you agree with the proposal to amend the 2016 Act to remove the requirement for the Welsh Ministers (CIW) to issue an improvement notice to a provider in circumstances where the provider is no longer providing that service or using that place to provide a service?

No Response

Q41. Question 4.9: (d) Improvement notices and cancellation of registration - removal of a condition on a service provider's registration: Do you agree with the proposal to amend the 2016 Act to enable the Welsh Ministers (CIW) to remove a condition on a service provider's registration without giving a notice of proposal (section 18) and notice of decision following notice of proposal (section 19), when the circumstances which led to the imposition of the condition no longer apply?

No Response

Q42. Question 4.10: (d) Improvement notices and cancellation of registration – power to cancel a service provider's registration: Do you agree with the proposal to amend the 2016 Act to remove the requirement for the Welsh Ministers (CIW) to follow the improvement notice process to cancel the registration of a service provider in circumstances when the provider has already ceased to provide a regulated service?

No Response

Q43. Question 4.11: (d) Improvement notices and cancellation of registration – information from providers who are cancelling their registration: Do you agree with the proposal to create a regulation-making power under Section 14 of the 2016 Act to enable the Welsh Ministers (CIW) to require information from a service provider who is cancelling their registration and exiting the market?

No Response

Q44. Question 4.12: (d) Improvement notices and cancellation of registration – power to extend the timescale within an Improvement Notice: Do you agree with the proposal to amend the 2016 Act to give the Welsh Ministers (CIW) the power to extend the timescale for information to be provided when improvement notices are issued?

No Response

Q45. Question 4.13: (d) Improvement notices and cancellation of registration – power to cancel a service provider’s registration in prescribed circumstances: Do you agree with the proposal to amend the 2016 Act to enable the Welsh Ministers (CIW) to disapply the section 16(3)(b) requirement within the improvement notice – to take particular action or provide information – in prescribed circumstances, when it would be futile to apply the requirement?

No Response

Q46. Question 4.14: (e) Responsible individuals – making representations: Do you agree with the proposal to amend the 2016 Act to give Responsible Individuals the right to make representations to the Welsh Ministers (CIW), against any improvement notice or cancellation of their designation, provided the representations are made within the time limit specified within the notice?

No Response

Q47. Question 4.15: (e) Responsible individuals – sending the improvement notice to the service provider: Do you agree with the proposal to amend the 2016 Act to require that any improvement notice served to a Responsible Individual must also be sent to the service provider?

No Response

Q48. Question 4.16: (e) Responsible individuals - Removing a Responsible Individual without making an application to designate a new Responsible Individual: Do you agree with the proposal to amend the 2016 Act to allow a service provider to apply to the Welsh Ministers (CIW) for a variation of the conditions of their registration to remove a Responsible Individual when they are not designating a replacement Responsible Individual as part of the same application?

No Response

Q49. Question 4.17: (f) Definition of ‘Care’ for children and young people: Do you agree with the proposal to adjust the definition of ‘care’ in section 3 of the 2016 Act in order to place beyond doubt that the provision of parental-type care is recognised as being ‘care’ within the meaning of the 2016 Act?

No Response

Q50. Question 4.18: What in your view would be the likely impacts of the proposals in this chapter? You may wish to consider, for example: Benefits, and disbenefits Costs (direct and indirect), and savings Impacts upon individuals and groups with protected characteristics Other practical issues Your views on how positive effects could be increased, or negative effects could be mitigated, would also be welcome.

Please explain your reasoning, either here or, if easier, please feel free to note any impacts specific to an individual proposal under the appropriate question above.

No Response

Q51. Question 4.19: We would like to know your views on the effects that the proposals in this chapter would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.

What effects do you think there would be?

How could positive effects be increased, or negative effects be mitigated?

No Response

Q52. Question 4.20: Please also explain how you believe the proposals in this chapter could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

No Response

Q53. Question 4.21: We have asked a number of specific questions in this chapter. If you have any related issues which we have not specifically addressed, please use this space to report them.

No Response

Q54. Question 5.1: Do you agree with the proposal to amend the 2016 Act to provide that a person who has held office as a member of Social Care Wales may be reappointed once?

Please explain your reasoning.

No Response

Q55. Question 5.2: Do you agree with the proposal to amend the 2016 Act to provide Social Care Wales with the power to grant a conditional registration for a person, when they are renewing their registration, in certain circumstances?

Please explain your reasoning.

No Response

Q56. Question 5.3: Do you agree with the proposal to amend the 2016 Act to allow a panel to review and extend interim orders as appropriate, up to the maximum of 18 months?

Please explain your reasoning.

No Response

Q57. Question 5.4: Do you agree with the proposal to amend the 2016 Act to provide a Fitness to Practise panel with the ability to revoke an interim order, during review proceedings, where it is necessary and appropriate?

Please explain your reasoning.

No Response

Q58. Question 5.5: What, in your view, would make it necessary and appropriate for a 'fitness to practise' panel to revoke an interim order?

No Response

Q59. Question 5.6: What in your view would be the likely impacts of the proposals in this chapter? You may wish to consider, for example: Benefits, and disbenefits Costs (direct and indirect), and savings Impacts upon individuals and groups with protected characteristics Other practical issues Your views on how positive effects could be increased, or negative effects could be mitigated, would also be welcome.

Please explain your reasoning.

No Response

Q60. Question 5.7: We would like to know your views on the effects that the proposals in this chapter would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.

What effects do you think there would be?

How could positive effects be increased, or negative effects be mitigated?

No Response

Q61. Question 5.8: Please also explain how you believe the proposals in this chapter could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

No Response

Q62. Question 5.9: We have asked a number of specific questions in this chapter. If you have any related issues which we have not specifically addressed, please use this space to report them.

No Response

Q63. Question 6.1: We would like to know your views on the proposal to extend the definition of 'social care worker' to include both childcare and play workers. In particular, are you in favour of extending the role of Social Care Wales to cover childcare and play workers working in the childcare sector?

Please explain your reasoning.

Extend the definition of social care worker to include duty officers who are enmeshed with child care assessment teams within councils. This ensures they must be registered with Social Care Wales and commits them to certain standards.

Q64. Question 6.2: What in your view would be the likely impacts of the proposal? You may wish to consider, for example: Benefits, and disbenefits Costs (direct and indirect), and savings Impacts upon individuals and groups with protected characteristics Other practical issues Your views on how positive effects could be increased, or negative effects could be mitigated, would also be welcome.

Please explain your reasoning.

No Response

Q65. Question 6.3: We would like to know your views on the effects that the proposal would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.

What effects do you think there would be?

How could positive effects be increased, or negative effects be mitigated?

No Response

Q66. Question 6.4: Please also explain how you believe the proposal could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language

No Response

Q67. Question 6.5: We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:

No Response

Submit your response

Q68. You are about to submit your response. Please ensure you are satisfied with the answers you have provided before sending.

Name: Sue Warner

Organisation (if applicable): -

E:mail: [REDACTED]

Telephone: [REDACTED]

Your address: [REDACTED]

Q69. If you want to receive a receipt of your response, please provide an email address.

Email address

[REDACTED]

Q70. Responses to consultations may be made public. To keep your response anonymous (including email addresses) tick the box.

No Response

Proposed changes to legislation on social care and continuing health care

Q1. Question 1.1: Do you think that introducing provision in legislation that only allows 'not-for-profit' providers to register with CIW will support delivery of the Programme for Government commitment to eliminate profit from the care of children looked after?

It is imperative that we eliminate profit hungry providers from the care sector as a whole. Centres for Independent Living are ideally placed to act as support organisations to empower children in the care sector.

Q2. Question 1.2: What in your view are the likely impacts of the proposal? You may wish to consider, for example: Benefits, and disbenefits Costs (direct and indirect), and savings Impacts upon individuals and groups with protected characteristics Other practical matters such as cross-border issues Your views on how positive effects could be increased, or negative effects could be mitigated, would also be welcome.

Please explain your reasoning.

Any legislation that empowers people to make informed choices with minimum statutory agency involvement must be welcome. The elimination of an organisations ability to make profit from looking after children can only seek to provide better value and better quality to the provision of the services to children. Organisations promoting equality and diversity are therefore ideally placed to remove the barriers in this area and empower the wellbeing of children and young people. This should then break down the barriers faced by minority groups due to their clear understanding of the genuine barriers faced by people with such protected characteristics. For example, disabled children should be supported and empowered by a Centre for Independent Living through effective advocacy services.

Q3. Question 1.3: One approach could be for the legislation to define 'not-for-profit' in terms of the types of organisation that would qualify.

Do you consider that the restriction should also be expressed in terms of the way that any trading surplus is expended?

What would be the effects and implications of this?

Such services should always be delivered by non-for-profit organisations so that any effective surplus can be reinvested in supporting those who are eligible for services within the legislation.

Q4. Question 1.4: Do you think the primary legislation should include a power for Welsh Ministers to amend the definition of 'not-for-profit' through subordinate legislation?

No, non-for-profit organisations should be established charities or centres whose sole function is to empower and support those it serves.

Q5. Question 1.5: What are your views on the proposed timings for the primary legislation to come into effect?

Legislation should be introduced as quickly as possible, but with due diligence so that we do not create "bad legislation".

Q6. Question 1.6: Are there any issues in relation to transition for children looked after, local authorities and service providers you would like to draw our attention to?

No

Q7. Question 1.7: What are your views on the issuing of guidance to support the implementation of the primary legislation?

Any guidance issued should only have the sole purpose of supporting and underpinning the regulations for which it serves.

Q8. Question 1.8: What are your views on using legislation to place a restriction on local authorities to commission placements from 'not-for-profit' organisations only?

In particular: Do you think it would support us to deliver the commitment to eliminate profit from the care of children looked after in Wales? What would be the benefits, disbenefits and other implications of such an approach? What would be an appropriate timescale for implementing such an approach, if it were to be adopted in Wales?

I support any provision that invests in children being looked after rather than profit hungry organisations who currently commission services.

Q9. Question 1.9: What are your views on the possibility of approaches being taken in response to these legislative proposals which would undermine the intention to eliminate profit from the care of children looked after in Wales?

Are there any actions which would guard against such activity?

As previously stated, such services should only be delivered by not-for-profit organisations that protect and empower the children for which the legislation would serve.

Q10. Question 1.10: We would like to know your views on the effects that the legislative changes to eliminate profit from the care of children looked after will have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favorably than English.

What effects do you think there would be?

How could positive effects be increased, or negative effects be mitigated?

The Welsh Government could save a small fortune by asking individuals which language they wish to receive information in and therefore not doubling the cost of everything they produce. This should happen across all documents within Welsh Government, not just this proposed legislations and outcomes.

Q11. Question 1.11: Please also explain how you believe the legislative changes to support delivery of eliminating profit from the care of children looked after could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

As above.

Q12. Question 1.12: This chapter has focused on how we can achieve the commitment to eliminate profit in the care of children looked after, and we have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

N/A

Q13. Question 2.1: We have outlined our proposals to introduce further voice and control for adults receiving Continuing Health Care (CHC) in Wales.

Do you agree or disagree with these proposals?

Please explain your reasoning.

I wholeheartedly agree with the proposed changes to legislation in this area. As somebody who has worked within the social care sector, supporting disabled people through direct payments for nearly 25 years I witness on an almost daily basis the continual arguments between the NHS and Social Care over who will fund the support desperately needed by disabled people. The net results of this is that the person at the centre of the care is used as a pawn whilst such funders make arbitrary decisions about their welfare. This has to stop, and we need to move forward in a positive way allowing disabled people to feel empowered and supported throughout their care provision which will naturally cross the borders between NHS and Social Care on a daily basis. It is time the Welsh Government began to lead on such issues instead of just following England all the time. What is the point of a Welsh parliament if all we are going to do is follow England like sheep?!

Q14. Question 2.2: What in your view are the likely impacts of the proposal?

You may wish to consider, for example: Benefits, and disbenefits Costs (direct and indirect), and savings Impacts upon individuals and groups with protected characteristics Other practical matters such as cross-border issues or transition to the new arrangements Your views on how positive effects could be increased, or negative effects could be mitigated, would also be welcome.

Please explain your reasoning.

The likely impacts of the proposal is that disabled people needing care in either the social services sector or NHS or both will at last feel empowered. This will give job security to personal assistants who will be able to continue to provide essential and high-quality care to their employers, whilst at the same time relieving pressure on NHS staff who do not have the time or resources to give one to one care to the disabled person needing support within the NHS system. It will also save further money because personal assistants provide a more flexible approach to care delivery.

Q15. Question 2.3: What lessons can we learn from other countries' practice in this area?

This kind of service delivery has been in place in England for many years. As a Direct Payments Advisor, I have worked in England and Wales and struggled to understand why we continue to languish way behind England in many areas of care such as this. The Welsh Government claims to have a commitment to the social model of disability. Without the introduction of this legislation, it would only reinforce the argument that it is still committed to medicalising disabled people and supporting the medical model of disability.

Q16. Question 2.4: Do you believe there are any other or complementary approaches we should be considering to achieve the same effect?

If so, please outline below.

Whilst the use of independent user trusts can sometimes be a workaround, it does not empower disabled people and merely seeks to provide uncertainty to personal assistants who can suddenly find themselves without pay when their employer is forced to make them redundant because of outdated NHS and Social Care legislation which only seeks to continue the arguments between NHS and Social Care in Wales.

Q17. Question 2.5: We will work to ensure that any legislative change is supported by robust guidance to help both payment recipients and practitioners understand how the system will operate.

Can you identify anything that it would be helpful to include in this guidance?

What other support should be provided?

Within the guidance, it should state that local authorities must work effectively with non-for-profit organisations and a Welsh centre of independent living to ensure that there is effective partnership between the NHS and Social Care. This will then empower the disabled person to receive effective services to support their funding as well as advocating for them when they need it most. It will also ensure that the gatekeepers of the funding do not hold so much control. As a disabled person receiving direct payments myself, I have first-hand experience of the need for statutory agencies to work effectively with a CIL to ensure the best possible care for the disabled person needing support. Services such as advocacy, payroll, employment law and direct payment advice would be under one roof without the advisor effectively being gagged by statutory organisations wishing to save money as the disabled person's expense, or indeed that of any personal assistant the disabled person employs.

Q18. Question 2.6: We would like to know your views on the effects that introducing direct payments for continuing NHS healthcare would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.

What effects do you think there would be?

How could positive effects be increased, or negative effects be mitigated?

The Welsh Government could save a small fortune by asking individuals which language they wish to receive information in and therefore not doubling the cost of everything they produce. This should happen across all documents within Welsh Government, not just this proposed legislation and outcomes.

Q19. Question 2.7: Please also explain how you believe our proposals for introducing direct payments for continuing NHS healthcare could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

Please see above.

Q20. Question 2.8: We have asked a number of specific questions in this chapter. If you have any related issues which we have not specifically addressed, please use this space to report them.

There are those within the NHS who stupidly believe that disabled people are going to want their personal assistants to deliver critical medical care. Nothing could be further from the truth. As a disabled person who has been failed by the NHS in the past through their lack of care during the pandemic, I still recognise that certain medical tasks need to be delivered by individuals who genuinely specialise in this area of care. However, I also recognise that there is nobody who knows how to support me on a day-to-day basis than my personal assistants that I have employed for many years. Let's see this proposed change in legislation as the beginning of a marriage between health and social care with a Centre for Independent Living at the heart of that support for Wales ensuring the disabled person has the best possible care that public funds can provide. Surely that is what both the NHS and Social Care should want. Those opposing this legislation would soon change their mind if their loved ones were in the same situation.

Q21. Question 3.1: What are your views on the principle of imposing a duty to report a child at risk (as defined in section 130(4) of the Social Services and Well-being (Wales) Act 2014 directly on individuals within relevant bodies?

It is essential that individuals are called to account for failure to report any alleged risk or abuse. The tragic and unnecessary death of "Baby P" and other associated high-profile cases only seek to show that this kind of reporting is essential in order to protect individuals.

Q22. Question 3.2: What are your views on the principle of imposing a duty to report an adult at risk (as defined in section 126 (1) of the 2014 Act) directly on individuals within relevant bodies?

All individuals have a duty to protect adults at risk, but in assessing this risk we should always put the adults views at the centre of any discussion making. It is important that an adult is empowered to make discussions at the right time rather than so called professionals bulldozing their way into a situation destroying an adults self confidence in the process.

Q23. Question 3.3: What in your view would be the likely benefits, disbenefits, risks, costs, savings and equality impacts of such an approach?

Please explain your reasoning.

I do not have further expertise in this area.

Q24. Question 3.4: What lessons can we learn from the duties to report in other countries?

I do not have further expertise in this area.

Q25. Question 3.5: If individual reporting duties were to be introduced – for children and adults at risk – should these sit alongside, or replace, the existing duties on organisations under the 2014 Act?

I do not have further expertise in this area.

Q26. Question 3.6: If individual reporting duties were to be introduced, should they apply to the workforce of current 'relevant partners' under section 162 of the 2014 Act (including youth offending teams in relation to children), or more widely, for example to those working in religious or sports settings, etc., and in particular:

(a) What are your views on this in respect of children (under the age of 18)?

(b) What are your views on this in respect of adults?

I do not have further expertise in this area.

Q27. Question 3.7: If individual reporting duties were to be introduced, which occupation types or roles should be subject to any duty (e.g. members of regulated professions; employed staff, even if they are not regulated; volunteers), and in particular:

(a) What are your views on this in respect of children (under the age of 18)?

(b) What are your views on this in respect of adults?

I do not have further expertise in this area.

Q28. Question 3.8: What sanctions do you think would be proportionate or appropriate for failure to comply with an individual reporting duty?

I do not have further expertise in this area.

Q29. Question 3.9: We would like to know your views on the effects that introducing individual reporting duties would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.

What effects do you think there would be?

How could positive effects be increased, or negative effects be mitigated?

The Welsh Government could save a small fortune by asking individuals which language they wish to receive information in and therefore not doubling the cost of everything they produce. This should happen across all documents within Welsh Government, not just this proposed legislations and outcomes.

Q30. Question 3.10: Please also explain how you believe proposals for introducing individual reporting duties could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

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I do not have further expertise in this area.

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Please see previous answer.

Q67. Question 6.5: We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:

No Response

Submit your response

Q68. You are about to submit your response. Please ensure you are satisfied with the answers you have provided before sending.

Name: BRETT ALAN BIGNALL

Organisation (if applicable): Health Care - Private

E:mail: [REDACTED]

Telephone: [REDACTED]

Your address: [REDACTED]

Q69. If you want to receive a receipt of your response, please provide an email address.

Email address

[REDACTED]

Q70. Responses to consultations may be made public. To keep your response anonymous (including email addresses) tick the box.

No Response

Proposed changes to legislation on social care and continuing health care

Q1. Question 1.1: Do you think that introducing provision in legislation that only allows 'not-for-profit' providers to register with CIW will support delivery of the Programme for Government commitment to eliminate profit from the care of children looked after?

Yes, however with the current shortage of residential placements throughout the UK bringing in a measure that will further reduce these in Wales seems baffling. The whole 'Eliminate profit.....' proposal seems like a political ideal with no thought given to the young people, staff and local economies that this will affect.

Q2. Question 1.2: What in your view are the likely impacts of the proposal? You may wish to consider, for example: Benefits, and disbenefits Costs (direct and indirect), and savings Impacts upon individuals and groups with protected characteristics Other practical matters such as cross-border issues Your views on how positive effects could be increased, or negative effects could be mitigated, would also be welcome.

Please explain your reasoning.

Having recently come out of a global pandemic and now the cost of living crisis, the Welsh Government should focus on supporting us (the Welsh population) in time of extreme need - Not pushing some political ideal which may sound great to voters who will be unaware of the many negative consequences.

Residential placements will disappear in Wales, already we are hearing of providers pausing any investments in Welsh homes. Commissioning teams in Wales will be forced to use unregulated provisions. We all hear of the eye watering fees being charged by unregulated placements, with no significant alternative in place Welsh LA's will be forced into increased usage of this market. The loss of quality and some highly specialized provisions in Wales will not only affect young people, but also result in significant job losses and have a knock on impact to local economies.

Q3. Question 1.3: One approach could be for the legislation to define 'not-for-profit' in terms of the types of organisation that would qualify.

Do you consider that the restriction should also be expressed in terms of the way that any trading surplus is expended?

What would be the effects and implications of this?

No Response

Q4. Question 1.4: Do you think the primary legislation should include a power for Welsh Ministers to amend the definition of 'not-for-profit' through subordinate legislation?

No Response

Q5. Question 1.5: What are your views on the proposed timings for the primary legislation to come into effect?

From the feedback that I have heard, there seems to be a determination in WG to press ahead with this without any thought as to negative consequences. If the WG had invested millions in setting up alternative provisions then timings would be a key issue.

Q6. Question 1.6: Are there any issues in relation to transition for children looked after, local authorities and service providers you would like to draw our attention to?

Many children will lose their homes as a result of this policy and despite the negative media coverage of residential childcare many children are very happy where they live.

Q7. Question 1.7: What are your views on the issuing of guidance to support the implementation of the primary legislation?

No Response

Q8. Question 1.8: What are your views on using legislation to place a restriction on local authorities to commission placements from 'not-for-profit' organisations only?

In particular: Do you think it would support us to deliver the commitment to eliminate profit from the care of children looked after in Wales? What would be the benefits, disbenefits and other implications of such an approach? What would be an appropriate timescale for implementing such an approach, if it were to be adopted in Wales?

Welsh commissioning teams already find it extremely challenging to find residential placements. This legislation will make it even more difficult. Where are these children going to live??

Q9. Question 1.9: What are your views on the possibility of approaches being taken in response to these legislative proposals which would undermine the intention to eliminate profit from the care of children looked after in Wales?

Are there any actions which would guard against such activity?

No Response

Q10. Question 1.10: We would like to know your views on the effects that the legislative changes to eliminate profit from the care of children looked after will have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favorably than English.

What effects do you think there would be?

How could positive effects be increased, or negative effects be mitigated?

As current provisions in Wales are regulated by CIW care standards ensure that the Welsh language is used and promoted. The fact that many of these homes will no longer exist and there being no regulated alternative, the Welsh language will become irrelevant among the unregulated homes.

Q11. Question 1.11: Please also explain how you believe the legislative changes to support delivery of eliminating profit from the care of children looked after could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

No Response

Q12. Question 1.12: This chapter has focused on how we can achieve the commitment to eliminate profit in the care of children looked after, and we have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

No Response

Q13. Question 2.1: We have outlined our proposals to introduce further voice and control for adults receiving Continuing Health Care (CHC) in Wales.

Do you agree or disagree with these proposals?

Please explain your reasoning.

No Response

Q14. Question 2.2: What in your view are the likely impacts of the proposal?

You may wish to consider, for example: Benefits, and disbenefits Costs (direct and indirect), and savings Impacts upon individuals and groups with protected characteristics Other practical matters such as cross-border issues or transition to the new arrangements Your views on how positive effects could be increased, or negative effects could be mitigated, would also be welcome.

Please explain your reasoning.

No Response

Q15. Question 2.3: What lessons can we learn from other countries' practice in this area?

No Response

Q16. Question 2.4: Do you believe there are any other or complementary approaches we should be considering to achieve the same effect?

If so, please outline below.

No Response

Q17. Question 2.5: We will work to ensure that any legislative change is supported by robust guidance to help both payment recipients and practitioners understand how the system will operate.

Can you identify anything that it would be helpful to include in this guidance?

What other support should be provided?

No Response

Q18. Question 2.6: We would like to know your views on the effects that introducing direct payments for continuing NHS healthcare would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.

What effects do you think there would be?

How could positive effects be increased, or negative effects be mitigated?

No Response

Q19. Question 2.7: Please also explain how you believe our proposals for introducing direct payments for continuing NHS healthcare could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

No Response

Q20. Question 2.8: We have asked a number of specific questions in this chapter. If you have any related issues which we have not specifically addressed, please use this space to report them.

No Response

Q21. Question 3.1: What are your views on the principle of imposing a duty to report a child at risk (as defined in section 130(4) of the Social Services and Well-being (Wales) Act 2014 directly on individuals within relevant bodies?

No Response

Q22. Question 3.2: What are your views on the principle of imposing a duty to report an adult at risk (as defined in section 126 (1) of the 2014 Act) directly on individuals within relevant bodies?

No Response

Q23. Question 3.3: What in your view would be the likely benefits, disbenefits, risks, costs, savings and equality impacts of such an approach?

Please explain your reasoning.

No Response

Q24. Question 3.4: What lessons can we learn from the duties to report in other countries?

No Response

Q25. Question 3.5: If individual reporting duties were to be introduced – for children and adults at risk – should these sit alongside, or replace, the existing duties on organisations under the 2014 Act?

No Response

Q26. Question 3.6: If individual reporting duties were to be introduced, should they apply to the workforce of current 'relevant partners' under section 162 of the 2014 Act (including youth offending teams in relation to children), or more widely, for example to those working in religious or sports settings, etc., and in particular:

(a) What are your views on this in respect of children (under the age of 18)?

(b) What are your views on this in respect of adults?

No Response

Q27. Question 3.7: If individual reporting duties were to be introduced, which occupation types or roles should be subject to any duty (e.g. members of regulated professions; employed staff, even if they are not regulated; volunteers), and in particular:

(a) What are your views on this in respect of children (under the age of 18)?

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No Response

Q28. Question 3.8: What sanctions do you think would be proportionate or appropriate for failure to comply with an individual reporting duty?

No Response

Q29. Question 3.9: We would like to know your views on the effects that introducing individual reporting duties would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.

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Please explain your reasoning.

No Response

Q65. Question 6.3: We would like to know your views on the effects that the proposal would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.

What effects do you think there would be?

How could positive effects be increased, or negative effects be mitigated?

No Response

Q66. Question 6.4: Please also explain how you believe the proposal could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language

No Response

Q67. Question 6.5: We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:

No Response

Submit your response

Q68. You are about to submit your response. Please ensure you are satisfied with the answers you have provided before sending.

Name: [REDACTED]
 Organisation (if applicable): [REDACTED]
 E:mail: [REDACTED]
 Telephone: -
 Your address: -

Q69. If you want to receive a receipt of your response, please provide an email address.

Email address

[REDACTED]

Q70. Responses to consultations may be made public. To keep your response anonymous (including email addresses) tick the box.

Keep my response anonymous

Proposed changes to legislation on social care and continuing health care

Q1. Question 1.1: Do you think that introducing provision in legislation that only allows 'not-for-profit' providers to register with CIW will support delivery of the Programme for Government commitment to eliminate profit from the care of children looked after?

I'm not convinced legislating in this way will achieve the desired Outcome without serious repercussions - big corporations/hedge funds can always find a way around this kind of legislation. I have no confidence that this ideology is worth the time and money as I very much doubt it will achieve its goals without substantial harm to an already fragile system.

The legislation will mainly affect small to medium businesses - family run often by Welsh residents - they are caught up in an aspiration to target the big profit driven providers - this is so unfair.

The sector is generally vilified in the press and this agenda is ramping this up - this isn't good for children in care, the people working with in residential and foster care and this won't change with this legislation. Does the Welsh Government really hate good local people, doing good work in a really toxic climate?

Q2. Question 1.2: What in your view are the likely impacts of the proposal? You may wish to consider, for example: Benefits, and disbenefits Costs (direct and indirect), and savings Impacts upon individuals and groups with protected characteristics Other practical matters such as cross-border issues Your views on how positive effects could be increased, or negative effects could be mitigated, would also be welcome.

Please explain your reasoning.

It's a virtuous aspiration - which will be hugely expensive and very disruptive at a time when there is less and less money available and a major staffing crisis unfolding.

Not for profit/LA provision is not cheaper - there is also no guarantee it will be safer or more effective.

I can't find any Impact assessment documentation to support this proposal - is there any? I understand that the Welsh Government should have taken this into consideration before now?

This will have a huge impact on provision - providers have closed or mothballed homes, there are plans for many to close to close further, move to England and change business models to mitigate the risk to their businesses. I understand Local Authorities are broadly unsupportive of this as a strategy - but given the adversarial approach taken by the Welsh Government that are publicly staying quiet.

Is there a plan to compensate those people who have invested their life savings/pensions into small business type provision in converting to NFP?

There are some children who cannot be placed in their local area - what's the provision for them? Is there a risk assessment of this?

Most worryingly is the impact on the children currently accommodated or will be in the looming 4 years in system which is being dismantled around them - this has not been considered (Impact assessment?)

Considerable investment has been made in the current commissioning framework - it has its flaws but works - what happens to this?

When systems are remodelled (I have experience of this) - even if it done well - there is generally an exodus of the most experienced staff (from the whole system) - this is highly risky right now given the challenges of recruitment currently.

There are no way current plans will be able to keep up with increasing demand - I understand there are few/no children's homes slated to open this year and several have closed - the politics is already biting

This will mean more unregulated placements - these are much riskier and move children further away from their home areas and experiencing therapeutic, trauma informed childcare in high quality regulated places. CIW/current legislation is way behind on addressing this.

What happened to the exploratory work around residential provision for highly complex step down cases? The joint CAMHS LA area idea?

Q3. Question 1.3: One approach could be for the legislation to define 'not-for-profit' in terms of the types of organisation that would qualify.

Do you consider that the restriction should also be expressed in terms of the way that any trading surplus is expended?

What would be the effects and implications of this?

You have not defined Profit - so unable to comment
 This has been an outstanding concern for over a year
 You want me to say yes - but this question is too simplistic given there are no outlines
 I'm not sure that a national consultation is the way to make a decision about this question.

Q4. Question 1.4: Do you think the primary legislation should include a power for Welsh Ministers to amend the definition of 'not-for-profit' through subordinate legislation?

Plain English - what does this mean??
 How can you claim you have consulted fairly if the questions are so hard to understand!!!

Q5. Question 1.5: What are your views on the proposed timings for the primary legislation to come into effect?

This is a big task and the process so far is unclear
 The system is under severe pressure due to Covid, financial crisis etc - and increasing number of children needing care and the complexities of cases is also increasing.

I think its pretty poor timing and is likely to be very detrimental to children and families in Wales

Q6. Question 1.6: Are there any issues in relation to transition for children looked after, local authorities and service providers you would like to draw our attention to?

Yes - lots but the question doesn't make sense - in regard to the Eliminate agenda?
 Re Transitions - Insufficient in the system already - investing in high quality post 18 provision would make a really big difference to young people leaving care (currently options are severely limited and pretty awful)
 Local Authorities are noticeably quiet in the conversation - wondering why this is? Discretely they are not supportive of it.
 How ethical or indeed socialist is it to expect small private providers to load their company with debt to recoup their investment in order to meet the demands of this programme (I'm a Labour supporter/voter - and I think it isnt moral to do this to people who are genuinely committed to improving outcomes for children in care)
 I also think this will drive out any innovative practice for quite some time (approx. 10 years) until the system stabilises.
 I don't hear to see much about this agenda having any impact on improved Outcomes.
 Local Authorities are busy setting up their own internal inspection processes for their new homes - we will be heading for a less independent scrutiny territory again.

Q7. Question 1.7: What are your views on the issuing of guidance to support the implementation of the primary legislation?

Again a question which is really hard to understand or answer - I do challenge the accessibility of this document.
 I have googled this subject and its pretty hard to understand

Q8. Question 1.8: What are your views on using legislation to place a restriction on local authorities to commission placements from 'not-for-profit' organisations only?

In particular: Do you think it would support us to deliver the commitment to eliminate profit from the care of children looked after in Wales? What would be the benefits, disbenefits and other implications of such an approach? What would be an appropriate timescale for implementing such an approach, if it were to be adopted in Wales?

It seems like quite a naive way to get the outcome

However might not meet the needs of specific children - those with specific complex needs or where a specific response is required - It limits choice?

Is it legal?

Does the Welsh Government really want to put a large number of its own small businesses out of business in 2027? These are Welsh residents, taxpayers and employers. Is there an impact assessment for this?

Q9. Question 1.9: What are your views on the possibility of approaches being taken in response to these legislative proposals which would undermine the intention to eliminate profit from the care of children looked after in Wales?

Are there any actions which would guard against such activity?

You can't blame people who are passionate and committed to working in this rewarding but challenging environment from questioning the rationale of this action - people stand to lose their life work and pensions - whilst hedge funders and large companies will have the finances and agility to work around this legislation eg move to England whereas SME providers are highly unlikely to move to England and set up a new business - they are however more likely to close - why do you not just go after the big boys? Or cap profit - cheaper/easier to legislate against

I have worked for large NFP - who accrue huge reserves but look good on paper, they pay their CEO's high wages and very big bonuses (but not their staff) and can move their reserves to projects in England if they wish (can you legislate about where a company spends its money in the UK?)

Your description of undermining the legislation is incorrect - many providers are waiting and asking for clear indications/definitions in order to assess the risk to their businesses - discussions about consequences is not undermining.

The whole process has been one of bullish intent based on limited information and assessment rather than collaborative system change (the Welsh Government has attacked its own people with this process)

I'm sure that in meetings with providers this has been discussed at length - with limited information, definition and time frames it would be hard to circumvent this intention at this time - maybe that's the plan?

Q10. Question 1.10: We would like to know your views on the effects that the legislative changes to eliminate profit from the care of children looked after will have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favorably than English.

What effects do you think there would be?

How could positive effects be increased, or negative effects be mitigated?

Perhaps legislation is the answer?

This looks very tokenistic

Q11. Question 1.11: Please also explain how you believe the legislative changes to support delivery of eliminating profit from the care of children looked after could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

You don't need to legislate there is good legislation in place already - there is enough good will but no framework for this - would be better sitting with CIW

Q12. Question 1.12: This chapter has focused on how we can achieve the commitment to eliminate profit in the care of children looked after, and we have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

Sadly there seems to be little point in completing this box
Concerns have been raised, requests have been made for definitions, information, risk assessments etc but there has been little forthcoming
The Welsh Government have chosen to make this process highly adversarial rather than collaborative which is really saddening
A focus on Quality, Improvements and Outcomes would have been far easier to accomplish and a more virtuous objective.
This agenda does not meet the Wellbeing objectives for Wales especially in the short term
Capping large profits at energy companies might have been an easier goal and would have affected the large providers proportionally, but this wasn't the chosen path - which is such a shame as it would have supported Welsh SME's which I think is also an objective of the Welsh Government?
This consultation doesn't reflect the complex work undertaken by care homes there is so much more than the placement provision working providing therapeutic placements in a trauma informed way is much more than providing accommodation and 24 hour staffing.
Particularly concerning the fundamentally poor access to CAMHS for children in care - in all of the Welsh Governments documentation the poor relationship between CAMHS and other providers is not being addressed adequately - the attention on not-for-profit seems at odds with the need for systemic improvement which could save lives. There could be an argument that this agenda will address this concern but there isn't much evidence this would be the case.
The robust (confrontational) approach taken in the Eliminate agenda by the Welsh Government does not seem to be replicated in discussions with health and children's social care about risk reduction/performance/accessibility - this seems to be a discrepancy.
The subsequent questions in this consultation also apply to the Eliminate agenda but not transparently eg changes to CIW legislation - is there a reason these questions were first and the CIW ones are at the end? Are they not connected?

Q13. Question 2.1: We have outlined our proposals to introduce further voice and control for adults receiving Continuing Health Care (CHC) in Wales.

Do you agree or disagree with these proposals?

Please explain your reasoning.

No Response

Q14. Question 2.2: What in your view are the likely impacts of the proposal?

You may wish to consider, for example: Benefits, and disbenefits Costs (direct and indirect), and savings Impacts upon individuals and groups with protected characteristics Other practical matters such as cross-border issues or transition to the new arrangements Your views on how positive effects could be increased, or negative effects could be mitigated, would also be welcome.

Please explain your reasoning.

No Response

Q15. Question 2.3: What lessons can we learn from other countries' practice in this area?

No Response

Q16. Question 2.4: Do you believe there are any other or complementary approaches we should be considering to achieve the same effect?

If so, please outline below.

No Response

Q17. Question 2.5: We will work to ensure that any legislative change is supported by robust guidance to help both payment recipients and practitioners understand how the system will operate.

Can you identify anything that it would be helpful to include in this guidance?

What other support should be provided?

No Response

Q18. Question 2.6: We would like to know your views on the effects that introducing direct payments for continuing NHS healthcare would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.

What effects do you think there would be?

How could positive effects be increased, or negative effects be mitigated?

No Response

Q19. Question 2.7: Please also explain how you believe our proposals for introducing direct payments for continuing NHS healthcare could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

No Response

Q20. Question 2.8: We have asked a number of specific questions in this chapter. If you have any related issues which we have not specifically addressed, please use this space to report them.

No Response

Q21. Question 3.1: What are your views on the principle of imposing a duty to report a child at risk (as defined in section 130(4) of the Social Services and Well-being (Wales) Act 2014 directly on individuals within relevant bodies?

No Response

Q22. Question 3.2: What are your views on the principle of imposing a duty to report an adult at risk (as defined in section 126 (1) of the 2014 Act) directly on individuals within relevant bodies?

No Response

Q23. Question 3.3: What in your view would be the likely benefits, disbenefits, risks, costs, savings and equality impacts of such an approach?

Please explain your reasoning.

No Response

Q24. Question 3.4: What lessons can we learn from the duties to report in other countries?

No Response

Q25. Question 3.5: If individual reporting duties were to be introduced – for children and adults at risk – should these sit alongside, or replace, the existing duties on organisations under the 2014 Act?

No Response

Q26. Question 3.6: If individual reporting duties were to be introduced, should they apply to the workforce of current 'relevant partners' under section 162 of the 2014 Act (including youth offending teams in relation to children), or more widely, for example to those working in religious or sports settings, etc., and in particular:

(a) What are your views on this in respect of children (under the age of 18)?

(b) What are your views on this in respect of adults?

No Response

Q27. Question 3.7: If individual reporting duties were to be introduced, which occupation types or roles should be subject to any duty (e.g. members of regulated professions; employed staff, even if they are not regulated; volunteers), and in particular:

(a) What are your views on this in respect of children (under the age of 18)?

(b) What are your views on this in respect of adults?

No Response

Q28. Question 3.8: What sanctions do you think would be proportionate or appropriate for failure to comply with an individual reporting duty?

No Response

Q29. Question 3.9: We would like to know your views on the effects that introducing individual reporting duties would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.

What effects do you think there would be?

How could positive effects be increased, or negative effects be mitigated?

No Response

Q30. Question 3.10: Please also explain how you believe proposals for introducing individual reporting duties could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

No Response

Q31. Question 3.11: We have asked a number of specific questions in this chapter. If you have any related issues which we have not specifically addressed, please use this space to report them.

No Response

Q32. Question 4.1: (a) Identifying unregistered services - power to obtain information: Do you agree with the proposal to amend the 2016 Act to enable the Welsh Ministers (CIW) to require information from any person where there is reasonable cause to believe that they are providing a service which should be regulated?

This has completely got away from the Welsh Government
Would this cover services in England or Scotland too?

Q33. Question 4.2: (a) Identifying unregistered services - power to obtain information: Do you agree with the proposal to extend the offence of failing to provide information when required to do so, to include these persons?

No Response

Q34. Question 4.3: (a) Identifying unregistered services - power of entry: Do you agree with the proposal to amend the 2016 Act to remove ambiguity and make it clear that the Welsh Ministers (CIW) have the power to enter and inspect any premises which they have reasonable cause to believe is (or has been) used as a place at or from which a service is (or has been) provided, or which is (or has been) used in connection with the provision of a regulated service?

Just in Wales?

Q35. Question 4.4: (a) Identifying unregistered services - power of entry: Do you agree with the proposal to extend the offence of obstructing an inspector or failing to comply with a requirement imposed by an inspector, to include these circumstances?

Would this include outside Wales?

Q36. Question 4.4: (a) Identifying unregistered services - power of entry: Do you agree with the proposal to extend the offence of obstructing an inspector or failing to comply with a requirement imposed by an inspector, to include these circumstances?

No Response

Q37. Question 4.5: (b) Publication of annual returns: Do you agree with the proposal to amend the 2016 Act to require service providers to publish their annual returns?

No Response

Q38. Question 4.6: (b) Publication of annual returns: Do you agree with the proposal to create a related offence of failing to publish an annual return?

No Response

Q39. Question 4.7: (c) Publication of inspection reports: Do you agree with the proposal to amend the 2016 Act to provide additional flexibility for the Welsh Ministers (CIW) to recognise circumstances where it may not be appropriate, relevant, or proportionate to prepare and/or publish an inspection report?

How does this connect to the Eliminate agenda - I am suspicious this is being suggested at this time and not in the same consultation

Q40. Question 4.8: (d) Improvement notices and cancellation of registration – variation of registration as a service provider: Do you agree with the proposal to amend the 2016 Act to remove the requirement for the Welsh Ministers (CIW) to issue an improvement notice to a provider in circumstances where the provider is no longer providing that service or using that place to provide a service?

No Response

Q41. Question 4.9: (d) Improvement notices and cancellation of registration - removal of a condition on a service provider's registration: Do you agree with the proposal to amend the 2016 Act to enable the Welsh Ministers (CIW) to remove a condition on a service provider's registration without giving a notice of proposal (section 18) and notice of decision following notice of proposal (section 19), when the circumstances which led to the imposition of the condition no longer apply?

No Response

Q42. Question 4.10: (d) Improvement notices and cancellation of registration – power to cancel a service provider's registration: Do you agree with the proposal to amend the 2016 Act to remove the requirement for the Welsh Ministers (CIW) to follow the improvement notice process to cancel the registration of a service provider in circumstances when the provider has already ceased to provide a regulated service?

No Response

Q43. Question 4.11: (d) Improvement notices and cancellation of registration – information from providers who are cancelling their registration: Do you agree with the proposal to create a regulation-making power under Section 14 of the 2016 Act to enable the Welsh Ministers (CIW) to require information from a service provider who is cancelling their registration and exiting the market?

Needs far more definition/Information
So as such NO

Q44. Question 4.12: (d) Improvement notices and cancellation of registration – power to extend the timescale within an Improvement Notice: Do you agree with the proposal to amend the 2016 Act to give the Welsh Ministers (CIW) the power to extend the timescale for information to be provided when improvement notices are issued?

No Response

Q45. Question 4.13: (d) Improvement notices and cancellation of registration – power to cancel a service provider's registration in prescribed circumstances: Do you agree with the proposal to amend the 2016 Act to enable the Welsh Ministers (CIW) to disapply the section 16(3)(b) requirement within the improvement notice – to take particular action or provide information – in prescribed circumstances, when it would be futile to apply the requirement?

No Response

Q46. Question 4.14: (e) Responsible individuals – making representations: Do you agree with the proposal to amend the 2016 Act to give Responsible Individuals the right to make representations to the Welsh Ministers (CIW), against any improvement notice or cancellation of their designation, provided the representations are made within the time limit specified within the notice?

Yes

Q47. Question 4.15: (e) Responsible individuals – sending the improvement notice to the service provider: Do you agree with the proposal to amend the 2016 Act to require that any improvement notice served to a Responsible Individual must also be sent to the service provider?

Yes

Q48. Question 4.16: (e) Responsible individuals - Removing a Responsible Individual without making an application to designate a new Responsible Individual: Do you agree with the proposal to amend the 2016 Act to allow a service provider to apply to the Welsh Ministers (CIW) for a variation of the conditions of their registration to remove a Responsible Individual when they are not designating a replacement Responsible Individual as part of the same application?

No Response

Q49. Question 4.17: (f) Definition of 'Care' for children and young people: Do you agree with the proposal to adjust the definition of 'care' in section 3 of the 2016 Act in order to place beyond doubt that the provision of parental-type care is recognised as being 'care' within the meaning of the 2016 Act?

Yes

But Residential Care is so much more than this.....

Q50. Question 4.18: What in your view would be the likely impacts of the proposals in this chapter? You may wish to consider, for example: Benefits, and disbenefits Costs (direct and indirect), and savings Impacts upon individuals and groups with protected characteristics Other practical issues Your views on how positive effects could be increased, or negative effects could be mitigated, would also be welcome.

Please explain your reasoning, either here or, if easier, please feel free to note any impacts specific to an individual proposal under the appropriate question above.

No Response

Q51. Question 4.19: We would like to know your views on the effects that the proposals in this chapter would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.

What effects do you think there would be?

How could positive effects be increased, or negative effects be mitigated?

No Response

Q52. Question 4.20: Please also explain how you believe the proposals in this chapter could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

No Response

Q53. Question 4.21: We have asked a number of specific questions in this chapter. If you have any related issues which we have not specifically addressed, please use this space to report them.

No Response

Q54. Question 5.1: Do you agree with the proposal to amend the 2016 Act to provide that a person who has held office as a member of Social Care Wales may be reappointed once?

Please explain your reasoning.

No Response

Q55. Question 5.2: Do you agree with the proposal to amend the 2016 Act to provide Social Care Wales with the power to grant a conditional registration for a person, when they are renewing their registration, in certain circumstances?

Please explain your reasoning.

No Response

Q56. Question 5.3: Do you agree with the proposal to amend the 2016 Act to allow a panel to review and extend interim orders as appropriate, up to the maximum of 18 months?

Please explain your reasoning.

No Response

Q57. Question 5.4: Do you agree with the proposal to amend the 2016 Act to provide a Fitness to Practise panel with the ability to revoke an interim order, during review proceedings, where it is necessary and appropriate?

Please explain your reasoning.

No Response

Q58. Question 5.5: What, in your view, would make it necessary and appropriate for a 'fitness to practise' panel to revoke an interim order?

No Response

Q59. Question 5.6: What in your view would be the likely impacts of the proposals in this chapter? You may wish to consider, for example: Benefits, and disbenefits Costs (direct and indirect), and savings Impacts upon individuals and groups with protected characteristics Other practical issues Your views on how positive effects could be increased, or negative effects could be mitigated, would also be welcome.

Please explain your reasoning.

No Response

Q60. Question 5.7: We would like to know your views on the effects that the proposals in this chapter would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.

What effects do you think there would be?

How could positive effects be increased, or negative effects be mitigated?

No Response

Q61. Question 5.8: Please also explain how you believe the proposals in this chapter could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

No Response

Q62. Question 5.9: We have asked a number of specific questions in this chapter. If you have any related issues which we have not specifically addressed, please use this space to report them.

No Response

Q63. Question 6.1: We would like to know your views on the proposal to extend the definition of 'social care worker' to include both childcare and play workers. In particular, are you in favour of extending the role of Social Care Wales to cover childcare and play workers working in the childcare sector?

Please explain your reasoning.

No Response

Q64. Question 6.2: What in your view would be the likely impacts of the proposal? You may wish to consider, for example: Benefits, and disbenefits Costs (direct and indirect), and savings Impacts upon individuals and groups with protected characteristics Other practical issues Your views on how positive effects could be increased, or negative effects could be mitigated, would also be welcome.

Please explain your reasoning.

No Response

Q65. Question 6.3: We would like to know your views on the effects that the proposal would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.

What effects do you think there would be?

How could positive effects be increased, or negative effects be mitigated?

No Response

Q66. Question 6.4: Please also explain how you believe the proposal could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language

No Response

Q67. Question 6.5: We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:

No Response

Submit your response

Q68. You are about to submit your response. Please ensure you are satisfied with the answers you have provided before sending.

Name: [REDACTED]

Organisation (if applicable): -

E:mail: [REDACTED]

Telephone: -

Your address: -

Q69. If you want to receive a receipt of your response, please provide an email address.

Email address

[REDACTED]

Q70. Responses to consultations may be made public. To keep your response anonymous (including email addresses) tick the box.

Keep my response anonymous

Proposed changes to legislation on social care and continuing health care

Q1. Question 1.1: Do you think that introducing provision in legislation that only allows 'not-for-profit' providers to register with CIW will support delivery of the Programme for Government commitment to eliminate profit from the care of children looked after?

Our service does not care for children - so this is not relevant to our service. However, I can understand the outcome you are aiming for here - and think this is a sensible way forward - but there is likely to be a lot of issues with that. Most basic stuff - practical issues, are you asking for new companies to be formed (that seems unreasonable), are you asking for directors to change the structure of the company or just changing Company Articles only.

Q2. Question 1.2: What in your view are the likely impacts of the proposal? You may wish to consider, for example: Benefits, and disbenefits Costs (direct and indirect), and savings Impacts upon individuals and groups with protected characteristics Other practical matters such as cross-border issues Your views on how positive effects could be increased, or negative effects could be mitigated, would also be welcome.

Please explain your reasoning.

Our experience in adult residential care (we are a very small provider - 2 homes only) - profit is not a driver for actions nor a target. If we make a small profit as a provider (that's a good thing) - and allows us to reinvest that money. The provision should consider how service providers can maintain appropriate reserves as well as surpluses to reinvest in the provision and how an appropriate reward for investment of time and money and reasonable accounting for the risk involved.

Q3. Question 1.3: One approach could be for the legislation to define 'not-for-profit' in terms of the types of organisation that would qualify.

Do you consider that the restriction should also be expressed in terms of the way that any trading surplus is expended?

What would be the effects and implications of this?

Again - we are not a service providing for children, so appreciate this response is of limited use to you. But I wonder how this will actually work in practice. I don't see how this works with the Companies Act in terms of any restrictions on how trading surplus is used.

Q4. Question 1.4: Do you think the primary legislation should include a power for Welsh Ministers to amend the definition of 'not-for-profit' through subordinate legislation?

Maybe (I was a bit surprised to see this was a power for the Senedd)

Q5. Question 1.5: What are your views on the proposed timings for the primary legislation to come into effect?

No Response

Q6. Question 1.6: Are there any issues in relation to transition for children looked after, local authorities and service providers you would like to draw our attention to?

No Response

Q7. Question 1.7: What are your views on the issuing of guidance to support the implementation of the primary legislation?

No Response

Q8. Question 1.8: What are your views on using legislation to place a restriction on local authorities to commission placements from 'not-for-profit' organisations only?

In particular: Do you think it would support us to deliver the commitment to eliminate profit from the care of children looked after in Wales? What would be the benefits, disbenefits and other implications of such an approach? What would be an appropriate timescale for implementing such an approach, if it were to be adopted in Wales?

See above comments generally.

Q9. Question 1.9: What are your views on the possibility of approaches being taken in response to these legislative proposals which would undermine the intention to eliminate profit from the care of children looked after in Wales?

Are there any actions which would guard against such activity?

No Response

Q10. Question 1.10: We would like to know your views on the effects that the legislative changes to eliminate profit from the care of children looked after will have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favorably than English.

What effects do you think there would be?

How could positive effects be increased, or negative effects be mitigated?

No Response

Q11. Question 1.11: Please also explain how you believe the legislative changes to support delivery of eliminating profit from the care of children looked after could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

No Response

Q12. Question 1.12: This chapter has focused on how we can achieve the commitment to eliminate profit in the care of children looked after, and we have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

No Response

Q13. Question 2.1: We have outlined our proposals to introduce further voice and control for adults receiving Continuing Health Care (CHC) in Wales.

Do you agree or disagree with these proposals?

Please explain your reasoning.

No Response

Q14. Question 2.2: What in your view are the likely impacts of the proposal?

You may wish to consider, for example: Benefits, and disbenefits Costs (direct and indirect), and savings Impacts upon individuals and groups with protected characteristics Other practical matters such as cross-border issues or transition to the new arrangements Your views on how positive effects could be increased, or negative effects could be mitigated, would also be welcome.

Please explain your reasoning.

It concerns me a bit that personal assistants and micro service providers - how do they have the ability to meet the service levels and knowledge/skills/positive outcomes that heavily regulated care homes and domiciliary providers must meet.

Q15. Question 2.3: What lessons can we learn from other countries' practice in this area?

No Response

Q16. Question 2.4: Do you believe there are any other or complementary approaches we should be considering to achieve the same effect?

If so, please outline below.

No Response

Q17. Question 2.5: We will work to ensure that any legislative change is supported by robust guidance to help both payment recipients and practitioners understand how the system will operate.

Can you identify anything that it would be helpful to include in this guidance?

What other support should be provided?

No Response

Q18. Question 2.6: We would like to know your views on the effects that introducing direct payments for continuing NHS healthcare would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.

What effects do you think there would be?

How could positive effects be increased, or negative effects be mitigated?

No Response

Q19. Question 2.7: Please also explain how you believe our proposals for introducing direct payments for continuing NHS healthcare could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

No Response

Q20. Question 2.8: We have asked a number of specific questions in this chapter. If you have any related issues which we have not specifically addressed, please use this space to report them.

No Response

Q21. Question 3.1: What are your views on the principle of imposing a duty to report a child at risk (as defined in section 130(4) of the Social Services and Well-being (Wales) Act 2014 directly on individuals within relevant bodies?

I'm not sure why this change is required, whether there has been evidence that this is a problem.

Q22. Question 3.2: What are your views on the principle of imposing a duty to report an adult at risk (as defined in section 126 (1) of the 2014 Act) directly on individuals within relevant bodies?

There is a potential burden on those individuals - but as above, if there is evidence that duties are not being carried out (non-mandatory duties) - then this is fair enough. As an RI in Adult service - I do find the pressures very heavy already.

Q23. Question 3.3: What in your view would be the likely benefits, disbenefits, risks, costs, savings and equality impacts of such an approach?

Please explain your reasoning.

No Response

Q24. Question 3.4: What lessons can we learn from the duties to report in other countries?

No Response

Q25. Question 3.5: If individual reporting duties were to be introduced – for children and adults at risk – should these sit alongside, or replace, the existing duties on organisations under the 2014 Act?

No Response

Q26. Question 3.6: If individual reporting duties were to be introduced, should they apply to the workforce of current 'relevant partners' under section 162 of the 2014 Act (including youth offending teams in relation to children), or more widely, for example to those working in religious or sports settings, etc., and in particular:

(a) What are your views on this in respect of children (under the age of 18)?

(b) What are your views on this in respect of adults?

No Response

Q27. Question 3.7: If individual reporting duties were to be introduced, which occupation types or roles should be subject to any duty (e.g. members of regulated professions; employed staff, even if they are not regulated; volunteers), and in particular:

(a) What are your views on this in respect of children (under the age of 18)?

(b) What are your views on this in respect of adults?

See 3.2 also, pressures are heavy already.

Q28. Question 3.8: What sanctions do you think would be proportionate or appropriate for failure to comply with an individual reporting duty?

No Response

Q29. Question 3.9: We would like to know your views on the effects that introducing individual reporting duties would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.

What effects do you think there would be?

How could positive effects be increased, or negative effects be mitigated?

No Response

Q30. Question 3.10: Please also explain how you believe proposals for introducing individual reporting duties could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

No Response

Q31. Question 3.11: We have asked a number of specific questions in this chapter. If you have any related issues which we have not specifically addressed, please use this space to report them.

No Response

Q32. Question 4.1: (a) Identifying unregistered services - power to obtain information: Do you agree with the proposal to amend the 2016 Act to enable the Welsh Ministers (CIW) to require information from any person where there is reasonable cause to believe that they are providing a service which should be regulated?

Yes

Q33. Question 4.2: (a) Identifying unregistered services - power to obtain information: Do you agree with the proposal to extend the offence of failing to provide information when required to do so, to include these persons?

Yes

Q34. Question 4.3: (a) Identifying unregistered services - power of entry: Do you agree with the proposal to amend the 2016 Act to remove ambiguity and make it clear that the Welsh Ministers (CIW) have the power to enter and inspect any premises which they have reasonable cause to believe is (or has been) used as a place at or from which a service is (or has been) provided, or which is (or has been) used in connection with the provision of a regulated service?

Yes

Q35. Question 4.4: (a) Identifying unregistered services - power of entry: Do you agree with the proposal to extend the offence of obstructing an inspector or failing to comply with a requirement imposed by an inspector, to include these circumstances?

Yes

Q36. Question 4.4: (a) Identifying unregistered services - power of entry: Do you agree with the proposal to extend the offence of obstructing an inspector or failing to comply with a requirement imposed by an inspector, to include these circumstances?

Yes

Q37. Question 4.5: (b) Publication of annual returns: Do you agree with the proposal to amend the 2016 Act to require service providers to publish their annual returns?

Not really sure why this would be required - why CIW can't do that

Q38. Question 4.6: (b) Publication of annual returns: Do you agree with the proposal to create a related offence of failing to publish an annual return?

As above - not sure why this change is required?

Q39. Question 4.7: (c) Publication of inspection reports: Do you agree with the proposal to amend the 2016 Act to provide additional flexibility for the Welsh Ministers (CIW) to recognise circumstances where it may not be appropriate, relevant, or proportionate to prepare and/or publish an inspection report?

Possibly - not sure how this would be determined, how much flexibility CIW would have etc. - would need to see the wording

Q40. Question 4.8: (d) Improvement notices and cancellation of registration – variation of registration as a service provider: Do you agree with the proposal to amend the 2016 Act to remove the requirement for the Welsh Ministers (CIW) to issue an improvement notice to a provider in circumstances where the provider is no longer providing that service or using that place to provide a service?

Yes

Q41. Question 4.9: (d) Improvement notices and cancellation of registration - removal of a condition on a service provider's registration: Do you agree with the proposal to amend the 2016 Act to enable the Welsh Ministers (CIW) to remove a condition on a service provider's registration without giving a notice of proposal (section 18) and notice of decision following notice of proposal (section 19), when the circumstances which led to the imposition of the condition no longer apply?

Yes

Q42. Question 4.10: (d) Improvement notices and cancellation of registration – power to cancel a service provider's registration: Do you agree with the proposal to amend the 2016 Act to remove the requirement for the Welsh Ministers (CIW) to follow the improvement notice process to cancel the registration of a service provider in circumstances when the provider has already ceased to provide a regulated service?

Yes

Q43. Question 4.11: (d) Improvement notices and cancellation of registration – information from providers who are cancelling their registration: Do you agree with the proposal to create a regulation-making power under Section 14 of the 2016 Act to enable the Welsh Ministers (CIW) to require information from a service provider who is cancelling their registration and exiting the market?

Yes

Q44. Question 4.12: (d) Improvement notices and cancellation of registration – power to extend the timescale within an Improvement Notice: Do you agree with the proposal to amend the 2016 Act to give the Welsh Ministers (CIW) the power to extend the timescale for information to be provided when improvement notices are issued?

Yes

Q45. Question 4.13: (d) Improvement notices and cancellation of registration – power to cancel a service provider's registration in prescribed circumstances: Do you agree with the proposal to amend the 2016 Act to enable the Welsh Ministers (CIW) to disapply the section 16(3)(b) requirement within the improvement notice – to take particular action or provide information – in prescribed circumstances, when it would be futile to apply the requirement?

Yes

Q46. Question 4.14: (e) Responsible individuals – making representations: Do you agree with the proposal to amend the 2016 Act to give Responsible Individuals the right to make representations to the Welsh Ministers (CIW), against any improvement notice or cancellation of their designation, provided the representations are made within the time limit specified within the notice?

Yes

Q47. Question 4.15: (e) Responsible individuals – sending the improvement notice to the service provider: Do you agree with the proposal to amend the 2016 Act to require that any improvement notice served to a Responsible Individual must also be sent to the service provider?

Yes

Q48. Question 4.16: (e) Responsible individuals - Removing a Responsible Individual without making an application to designate a new Responsible Individual: Do you agree with the proposal to amend the 2016 Act to allow a service provider to apply to the Welsh Ministers (CIW) for a variation of the conditions of their registration to remove a Responsible Individual when they are not designating a replacement Responsible Individual as part of the same application?

Yes. But I suppose that puts that service at major risk without an RI.

Q49. Question 4.17: (f) Definition of 'Care' for children and young people: Do you agree with the proposal to adjust the definition of 'care' in section 3 of the 2016 Act in order to place beyond doubt that the provision of parental-type care is recognised as being 'care' within the meaning of the 2016 Act?

No Response

Q50. Question 4.18: What in your view would be the likely impacts of the proposals in this chapter? You may wish to consider, for example: Benefits, and disbenefits Costs (direct and indirect), and savings Impacts upon individuals and groups with protected characteristics Other practical issues Your views on how positive effects could be increased, or negative effects could be mitigated, would also be welcome.

Please explain your reasoning, either here or, if easier, please feel free to note any impacts specific to an individual proposal under the appropriate question above.

No Response

Q51. Question 4.19: We would like to know your views on the effects that the proposals in this chapter would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.

What effects do you think there would be?

How could positive effects be increased, or negative effects be mitigated?

No Response

Q52. Question 4.20: Please also explain how you believe the proposals in this chapter could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

No Response

Q53. Question 4.21: We have asked a number of specific questions in this chapter. If you have any related issues which we have not specifically addressed, please use this space to report them.

Regulation and Inspection of Social Care (Wales) Act 2016, Section 21: I have a query about the designation of RI in a ltd company (and in light of the changes being consulted on above). It would be helpful to have guidance or maybe clarification on section 21(2)(c)(i) - what is 'similar officer'. Generally, the sector's understanding is 'you must be a Company Director to be an RI' - it would be helpful to have further guidance on that, especially if there is some consideration on the above.

Q54. Question 5.1: Do you agree with the proposal to amend the 2016 Act to provide that a person who has held office as a member of Social Care Wales may be reappointed once?

Please explain your reasoning.

No Response

Q55. Question 5.2: Do you agree with the proposal to amend the 2016 Act to provide Social Care Wales with the power to grant a conditional registration for a person, when they are renewing their registration, in certain circumstances?

Please explain your reasoning.

No Response

Q56. Question 5.3: Do you agree with the proposal to amend the 2016 Act to allow a panel to review and extend interim orders as appropriate, up to the maximum of 18 months?

Please explain your reasoning.

No Response

Q57. Question 5.4: Do you agree with the proposal to amend the 2016 Act to provide a Fitness to Practise panel with the ability to revoke an interim order, during review proceedings, where it is necessary and appropriate?

Please explain your reasoning.

No Response

Q58. Question 5.5: What, in your view, would make it necessary and appropriate for a 'fitness to practise' panel to revoke an interim order?

No Response

Q59. Question 5.6: What in your view would be the likely impacts of the proposals in this chapter? You may wish to consider, for example: Benefits, and disbenefits Costs (direct and indirect), and savings Impacts upon individuals and groups with protected characteristics Other practical issues Your views on how positive effects could be increased, or negative effects could be mitigated, would also be welcome.

Please explain your reasoning.

No Response

Q60. Question 5.7: We would like to know your views on the effects that the proposals in this chapter would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.

What effects do you think there would be?

How could positive effects be increased, or negative effects be mitigated?

No Response

Q61. Question 5.8: Please also explain how you believe the proposals in this chapter could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

No Response

Q62. Question 5.9: We have asked a number of specific questions in this chapter. If you have any related issues which we have not specifically addressed, please use this space to report them.

No Response

Q63. Question 6.1: We would like to know your views on the proposal to extend the definition of 'social care worker' to include both childcare and play workers. In particular, are you in favour of extending the role of Social Care Wales to cover childcare and play workers working in the childcare sector?

Please explain your reasoning.

Overall - professionalising workforce is a good thing.

Q64. Question 6.2: What in your view would be the likely impacts of the proposal? You may wish to consider, for example: Benefits, and disbenefits Costs (direct and indirect), and savings Impacts upon individuals and groups with protected characteristics Other practical issues Your views on how positive effects could be increased, or negative effects could be mitigated, would also be welcome.

Please explain your reasoning.

Registration of workers in Care Home sector has put pressure on the sector generally in terms of recruitment, so this should be considered if there is a general recruitment issue. As a care home - we had a lot of costs in this - such as paying all staff their SCW fees, spending many hours with staff on various training, support, qualifications etc. As a small (but not tiny) service provider we were able to manage this and take the costs hit - but I'm sure this would really put off some providers.

Q65. Question 6.3: We would like to know your views on the effects that the proposal would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.

What effects do you think there would be?

How could positive effects be increased, or negative effects be mitigated?

No Response

Q66. Question 6.4: Please also explain how you believe the proposal could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language

No Response

Q67. Question 6.5: We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:

No Response

Submit your response

Q68. You are about to submit your response. Please ensure you are satisfied with the answers you have provided before sending.

Name: Rachael Drew

Organisation (if applicable): Sapphire Streams Ltd

E:mail:

Telephone:

Your address: Sapphire Streams Ltd, The Old Surgery, The Old Surgery

Q69. If you want to receive a receipt of your response, please provide an email address.

Email address

[REDACTED]

Q70. Responses to consultations may be made public. To keep your response anonymous (including email addresses) tick the box.

No Response

Consultation Response Form

Your name: [REDACTED]

Organisation (if applicable): Caron Group

Email / Telephone number: [REDACTED]

Your address: Caron Group Uxbridge Support Office, First Floor, The Charter Building, Charter Place, Uxbridge UB8 1JG

Responses to consultations may be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please place a tick in the box:



Please tell us who you are Responding on behalf of. For example is this your own response or is it sent on behalf of an organisation?

On behalf of Caron Group, which operates adult residential and nursing homes across South Wales

If you want to receive a receipt of your response, please confirm your email address, here: [REDACTED]

Questions on Chapter 1: Eliminating profit from the care of children looked after

There are 12 questions about this chapter.

Question 1.1: Do you think that introducing provision in legislation that only allows 'not-for-profit' providers to register with CIW will support delivery of the Programme for Government commitment to eliminate profit from the care of children looked after?

'Caron Group does not provide services to look after children. However, the potential for this policy to spread to adult social care has caused concern and question the value of making further investments in our provision. A clear statement that this policy will not be implemented in adult social care would be helpful.

Fundamentally, the implementation of this policy will come down to the definition of profit. All organisations, in whatever sector, need to balance the books. Indeed, under RISCA, registered care providers are required to be financially sustainable or notify Care Inspectorate Wales. This means maintaining appropriate reserves as well as surpluses to reinvest in the provision and an appropriate reward for investment of time and money and reasonable accounting for the risk involved. If these things are excluded from the definition of 'profit' we do not see a problem. However, if they are not we do not see how the necessary supply of places for vulnerable children can be maintained.

Question 1.2: What in your view are the likely impacts of the proposal? You may wish to consider, for example:

- Benefits, and disbenefits;
- Costs (direct and indirect), and savings;
- Impacts upon individuals and groups with protected characteristics;
- Other practical matters such as cross-border issues.

Your views on how positive effects could be increased, or negative effects could be mitigated, would also be welcome.

Please explain your reasoning.

We cannot see how this proposal will not reduce the supply of services.

Question 1.3: One approach could be for the legislation to define 'not-for-profit' in terms of the types of organisation that would qualify. Do you consider that the

restriction should also be expressed in terms of the way that any trading surplus is expended? What would be the effects and implications of this?

Our suggestion would be as in our answer to 1.1 above, that reserves, surpluses to reinvest in the provision and an appropriate reward for investment of time and money and reasonable accounting for the risk involved should be excluded from the definition of profit. We cannot see any reasonable objection to payment for work done or investment of time and money made. Indeed any organization providing services would have to pay for these. There is also a need to pay for risk and future investment. In order to borrow to invest in services organisations will be required to show a healthy balance sheet which reflects in their EBITDAR.

Question 1.4: Do you think the primary legislation should include a power for Welsh Ministers to amend the definition of 'not-for-profit' through subordinate legislation?

No. We think the definition is fundamental to the policy and therefore should be in primary legislation and subject to appropriate scrutiny for a matter this fundamental.

Question 1.5: What are your views on the proposed timings for the primary legislation to come into effect?

We fail to see how the switch from what is set out in the consultation document – Over 80% of care homes for children and young people in Wales are run by the private sector – can possibly be achieved in the timescales envisaged without leaving vulnerable children in Wales without registered placements.

Question 1.6: Are there any issues in relation to transition for children looked after, local authorities and service providers you would like to draw our attention to?

Inevitably those private providers who currently work across the children and adult sectors and are therefore able to provide continuity of care for young people transitioning to adult services will no longer be able to do so.

Question 1.7: What are your views on the issuing of guidance to support the implementation of the primary legislation?

We would suggest instead that the policy is reviewed.

Question 1.8: What are your views on using legislation to place a restriction on local authorities to commission placements from 'not-for-profit' organisations only? In particular:

- Do you think it would support us to deliver the commitment to eliminate profit from the care of children looked after in Wales?
- What would be the benefits, disbenefits and other implications of such an approach?

- What would be an appropriate timescale for implementing such an approach, if it were to be adopted in Wales?

We would reiterate our concerns in relation to sufficient supply of services.

Question 1.9: What are your views on the possibility of approaches being taken in response to these legislative proposals which would undermine the intention to eliminate profit from the care of children looked after in Wales? Are there any actions which would guard against such activity?

We believe the top priority should be to ensure appropriate care for our most vulnerable children.

As indicated above, we oppose the attempt to remove 'profit' from the provision of any health and social care. An exploration of excess or super profits is a different matter altogether. The Welsh Government commissioned "Let's Agree to Agree" (in the context of adult social care) demonstrates that a reasonable costs model can be devised and implemented: there appears to be no good reason why such an approach cannot be adapted and adopted in relation to children's accommodation and care.

Question 1.10: We would like to know your views on the effects that the legislative changes to eliminate profit from the care of children looked after will have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favorably than English. What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

The current reduction in Welsh SMEs providing services and increase in larger UK wide organisations may well have a detrimental effect on the Welsh language.

Question 1.11: Please also explain how you believe the legislative changes to support delivery of eliminating profit from the care of children looked after could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

We don't think they can.

Question 1.12: This chapter has focused on how we can achieve the commitment to eliminate profit in the care of children looked after, and we have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

We do not understand the rationale for this change which at best we view to be misguided and undermining the excellent provision provided by some services in the for profit sector as well as some in other sectors. We cannot see an evidence base for this change either in terms of cost savings, quality or priorities in terms of limited current capacity in the social care sector. We are concerned that this agenda is diverting money from other areas of social care where it would be better spent e.g. improving the terms and conditions of the workforce in order to deliver a better service.

Questions on Chapter 2: Introducing direct payments for Continuing NHS healthcare

There are 8 questions about this chapter.

Question 2.1: We have outlined our proposals to introduce further voice and control for adults receiving Continuing Health Care (CHC) in Wales. Do you agree or disagree with these proposals? Please explain your reasoning.

We think the proposal to extend direct payments to those receiving CHC makes sense. However, we are concerned about a two tier system in care provision with a heavily regulated and registered workforce in domiciliary care agencies and care homes and a parallel unregistered and unregulated workforce of personal assistants and micro carers undertaking very similar roles.

Question 2.2: What in your view are the likely impacts of the proposal?

You may wish to consider, for example:

- Benefits, and disbenefits;
- Costs (direct and indirect), and savings;
- Impacts upon individuals and groups with protected characteristics;
- Other practical matters such as cross-border issues or transition to the new arrangements.

Your views on how positive effects could be increased, or negative effects could be mitigated, would also be welcome.

Please explain your reasoning.

Question 2.3: What lessons can we learn from other countries' practice in this area?

Question 2.4: Do you believe there are any other or complementary approaches we should be considering to achieve the same effect? If so, please outline below.

Question 2.5: We will work to ensure that any legislative change is supported by robust guidance to help both payment recipients and practitioners understand how the system will operate. Can you identify anything that it would be helpful to include in this guidance? What other support should be provided?

As indicated in 2.1, we would like to see a level playing field in registering and regulating those providing care.

Question 2.6: We would like to know your views on the effects that introducing direct payments for continuing NHS healthcare would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English. What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

Without a significant increase in incentive for Welsh citizens to enter (or remain in) health and social care, we see only an increase in overseas staff being recruited to fill the many vacancies. Such staff, whilst often good linguists, rarely have the time and inclination to become Welsh speakers.

Question 2.7: Please also explain how you believe our proposals for introducing direct payments for continuing NHS healthcare could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

Question 2.8: We have asked a number of specific questions in this chapter. If you have any related issues which we have not specifically addressed, please use this space to report them.

Questions on Chapter 3: Mandatory reporting of children and adults at risk

There are 11 questions about this chapter.

Question 3.1: What are your views on the principle of imposing a duty to report a child at risk (as defined in section 130(4) of the Social Services and Well-being (Wales) Act 2014 directly on individuals within relevant bodies?

See 3.2 – our work is mainly with adults but similar issues apply for children

Question 3.2: What are your views on the principle of imposing a duty to report an adult at risk (as defined in section 126(1) of the 2014 Act) directly on individuals within relevant bodies?

We recognise the consultation says evidence of the efficacy of implementing such a proposal is mixed. Before a decision to implement any such change was made we would therefore like to see further analysis. We would want any analysis to include consideration of whether the likely additional burden of responding to a likely increase in reporting would outweigh any benefits. If such a duty were to be introduced would like to see a clear pro-active education campaign to ensure all relevant people were aware of their duty.

Question 3.3: What in your view would be the likely benefits, disbenefits, risks, costs, savings and equality impacts of such an approach?

Please explain your reasoning.

The consultation says the evidence is unclear. We would expect such a duty to lead to an increase in reporting “to be on the safe side” by those who were law abiding. However, we are unsure how many of those cases reported would turn out to merit reporting and there is potentially a significant burden in responding to them. Conversely those who currently chose not to report might still chose not to do so. Therefore there is a danger of increasing bureaucracy for little or no result.

Question 3.4: What lessons can we learn from the duties to report in other countries?

Question 3.5: If individual reporting duties were to be introduced – for children and adults at risk – should these sit alongside, or replace, the existing duties on organisations under the 2014 Act?

Any new and old duties should be streamlined to minimise duplicate reporting and therefore bureaucracy

Question 3.6: If individual reporting duties were to be introduced, should they apply to the workforce of current 'relevant partners' under section 162 of the 2014 Act (including youth offending teams in relation to children), or more widely, for example to those working in religious or sports settings, etc., and in particular:

- (a) What are your views on this in respect of children (under the age of 18)?
- (b) What are your views on this in respect of adults?

The answer to this question will depend on the evidence of the efficacy of such an introduction.

Question 3.7: If individual reporting duties were to be introduced, which occupation types or roles should be subject to any duty (e.g. members of regulated professions; employed staff, even if they are not regulated; volunteers), and in particular:

- (a) What are your views on this in respect of children (under the age of 18)?
- (b) What are your views on this in respect of adults?

If such a duty were to be introduced there is an argument to introduce gradually for different categories to judge efficacy. Alternatively publicity and informing relevant people would be easier to manage if a number of categories were introduced at the same time.

Question 3.8: What sanctions do you think would be proportionate or appropriate for failure to comply with an individual reporting duty?

Question 3.9: We would like to know your views on the effects that introducing individual reporting duties would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English. What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

Question 3.10: Please also explain how you believe proposals for introducing individual reporting duties could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

Question 3.11: We have asked a number of specific questions in this chapter. If you have any related issues which we have not specifically addressed, please use this space to report them.

Questions on Chapter 4: Amendments to regulation of service providers and responsible individuals

Part 2 and Schedule 1 of the Regulation and Inspection of Social Care (Wales) Act 2016 ('the 2016 Act') provides the basis on which Care Inspectorate Wales ('CIW') – on behalf of the Welsh Ministers – undertakes functions relating to the registration, regulation and inspection of 'regulated services'.

This chapter of the consultation focuses on proposed amendments to the regulatory regime for regulated services, service providers and their designated responsible individuals. These relate to a range of matters provided for within the 2016 Act, including:

- a) Identifying unregistered services
- b) Publication of annual returns
- c) Publication of inspection reports
- d) Improvement notices and cancellation of registration
- e) Responsible individuals
- f) Definition of 'Care' for children and young people

Questions on proposed amendments relating to each of these matters follow.

There are 21 questions about this chapter.

Question 4.1: *(a) Identifying unregistered services - power to obtain information:* Do you agree with the proposal to amend the 2016 Act to enable the Welsh Ministers (CIW) to require information from any person where there is reasonable cause to believe that they are providing a service which should be regulated?

Yes

Question 4.2: *(a) Identifying unregistered services - power to obtain information:* Do you agree with the proposal to extend the offence of failing to provide information when required to do so, to include these persons?

Yes

Question 4.3: *(a) Identifying unregistered services - power of entry:* Do you agree with the proposal to amend the 2016 Act to remove ambiguity and make it clear that the Welsh Ministers (CIW) have the power to enter and inspect any premises which they have reasonable cause to believe is (or has been) used as a place at or from

which a service is (or has been) provided, or which is (or has been) used in connection with the provision of a regulated service?

Yes

Question 4.4: *(a) Identifying unregistered services - power of entry:* Do you agree with the proposal to extend the offence of obstructing an inspector or failing to comply with a requirement imposed by an inspector, to include these circumstances?

Yes

Question 4.5: *(b) Publication of annual returns:* Do you agree with the proposal to amend the 2016 Act to require service providers to publish their annual returns?

We are concerned about the burden this would place on providers – particularly SMEs such as ourselves. In addition, we have concerns about the current wording of the annual return ‘compliance’ question which, in conjunction with the definition of ‘non-compliance’, makes it almost impossible to answer that an uninspected service considers itself to have been fully compliant. This would put us in the position of requiring us to publish e.g. on our website, that we consider our services to be non-compliant, except in any year when we have had a ‘clean’ CIW report. The current arrangement is that CIW will publish the annual returns on the CIW website, which is not objectionable.

Question 4.6: *(b) Publication of annual returns:* Do you agree with the proposal to create a related offence of failing to publish an annual return?

No, linked to the answer to 4.5 above.

Question 4.7: *(c) Publication of inspection reports:* Do you agree with the proposal to amend the 2016 Act to provide additional flexibility for the Welsh Ministers (CIW) to recognise circumstances where it may not be appropriate, relevant, or proportionate to prepare and/or publish an inspection report?

Yes

Question 4.8: *(d) Improvement notices and cancellation of registration – variation of registration as a service provider:* Do you agree with the proposal to amend the 2016 Act to remove the requirement for the Welsh Ministers (CIW) to issue an improvement notice to a provider in circumstances where the provider is no longer providing that service or using that place to provide a service?

Yes

Question 4.9: *(d) Improvement notices and cancellation of registration - removal of a condition on a service provider’s registration:* Do you agree with the proposal to amend the 2016 Act to enable the Welsh Ministers (CIW) to remove a condition on a

service provider's registration without giving a notice of proposal (section 18) and notice of decision following notice of proposal (section 19), when the circumstances which led to the imposition of the condition no longer apply?

Yes

Question 4.10: *(d) Improvement notices and cancellation of registration – power to cancel a service provider's registration:* Do you agree with the proposal to amend the 2016 Act to remove the requirement for the Welsh Ministers (CIW) to follow the improvement notice process to cancel the registration of a service provider in circumstances when the provider has already ceased to provide a regulated service?

Yes

Question 4.11: *(d) Improvement notices and cancellation of registration – information from providers who are cancelling their registration:* Do you agree with the proposal to create a regulation-making power under Section 14 of the 2016 Act to enable the Welsh Ministers (CIW) to require information from a service provider who is cancelling their registration and exiting the market?

Yes

Question 4.12: *(d) Improvement notices and cancellation of registration – power to extend the timescale within an Improvement Notice:* Do you agree with the proposal to amend the 2016 Act to give the Welsh Ministers (CIW) the power to extend the timescale for information to be provided when improvement notices are issued?

Yes

Question 4.13: *(d) Improvement notices and cancellation of registration – power to cancel a service provider's registration in prescribed circumstances:* Do you agree with the proposal to amend the 2016 Act to enable the Welsh Ministers (CIW) to disapply the section 16(3)(b) requirement within the improvement notice – to take particular action or provide information – in prescribed circumstances, when it would be futile to apply the requirement?

Yes

Question 4.14: *(e) Responsible individuals – making representations:* Do you agree with the proposal to amend the 2016 Act to give Responsible Individuals the right to make representations to the Welsh Ministers (CIW), against any improvement notice or cancellation of their designation, provided the representations are made within the time limit specified within the notice?

Yes

Question 4.15: *(e) Responsible individuals – sending the improvement notice to the service provider:* Do you agree with the proposal to amend the 2016 Act to require that any improvement notice served to a Responsible Individual must also be sent to the service provider?

Yes

Question 4.16: *(e) Responsible individuals - Removing a Responsible Individual without making an application to designate a new Responsible Individual:* Do you agree with the proposal to amend the 2016 Act to allow a service provider to apply to the Welsh Ministers (CIW) for a variation of the conditions of their registration to remove a Responsible Individual when they are not designating a replacement Responsible Individual as part of the same application?

Yes

Question 4.17: *(f) Definition of ‘Care’ for children and young people:* Do you agree with the proposal to adjust the definition of ‘care’ in section 3 of the 2016 Act in order to place beyond doubt that the provision of parental-type care is recognised as being ‘care’ within the meaning of the 2016 Act?

Yes

Question 4.18: What in your view would be the likely impacts of the proposals in this chapter? You may wish to consider, for example:

- Benefits, and disbenefits;
- Costs (direct and indirect), and savings;
- Impacts upon individuals and groups with protected characteristics;
- Other practical issues.

Your views on how positive effects could be increased, or negative effects could be mitigated, would also be welcome.

Please explain your reasoning, either here or, if easier, please feel free to note any impacts specific to an individual proposal under the appropriate question above.

As set out in the consultation, other than our points made at 4.5-4.6 above

Question 4.19: We would like to know your views on the effects that the proposals in this chapter would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English. What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

Question 4.20: Please also explain how you believe the proposals in this chapter could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

Question 4.21: We have asked a number of specific questions in this chapter. If you have any related issues which we have not specifically addressed, please use this space to report them.

Questions on Chapter 5: Amendments to regulation of the social care workforce

There are 9 questions about this chapter.

Question 5.1: Do you agree with the proposal to amend the 2016 Act to provide that a person who has held office as a member of Social Care Wales may be reappointed once? Please explain your reasoning.

Yes

Question 5.2: Do you agree with the proposal to amend the 2016 Act to provide Social Care Wales with the power to grant a conditional registration for a person, when they are renewing their registration, in certain circumstances? Please explain your reasoning.

Yes – this would make sense. If someone is currently registered but has not quite completed the requirements to re-register it does not make sense to de-register them while waiting for them to do so.

Question 5.3: Do you agree with the proposal to amend the 2016 Act to allow a panel to review and extend interim orders as appropriate, up to the maximum of 18 months? Please explain your reasoning.

Yes

Question 5.4: Do you agree with the proposal to amend the 2016 Act to provide a Fitness to Practise panel with the ability to revoke an interim order, during review proceedings, where it is necessary and appropriate? Please explain your reasoning.

Yes

Question 5.5: What, in your view, would make it necessary and appropriate for a Fitness to Practise panel to revoke an interim order?

If the issues for which it was imposed have now been dealt with

Question 5.6: What in your view would be the likely impacts of the proposals in this chapter? You may wish to consider, for example:

- Benefits, and disbenefits;
- Costs (direct and indirect), and savings;
- Impacts upon individuals and groups with protected characteristics;
- Other practical issues.

Your views on how positive effects could be increased, or negative effects could be mitigated, would also be welcome.

Please explain your reasoning.

These proposals seem a sensible streamlining of current processes

Question 5.7: We would like to know your views on the effects that the proposals in this chapter would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English. What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

Question 5.8: Please also explain how you believe the proposals in this chapter could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

Question 5.9: We have asked a number of specific questions in this chapter. If you have any related issues which we have not specifically addressed, please use this space to report them.

In general we are concerned about the effect registration is having on the ability to retain and recruit a social care workforce. This is an additional pressure right across the sector for a workforce that is still not appropriately rewarded for undertaking a professional role. Given the proportion of the current workforce that is part-time we would like to see part-timers given longer to satisfy registration requirements. We would also like to see the ability for workers to continue with their initial registration rather than complete the full qualification after three years.

Questions on Chapter 6: Extending the definition of social care worker to include childcare and play workers

There are 5 questions about this chapter.

Question 6.1: We would like to know your views on the proposal to extend the definition of 'social care worker' to include both childcare and play workers. In particular, are you in favour of extending the role of Social Care Wales to cover childcare and play workers working in the childcare sector?

Please explain your reasoning.

Question 6.2: What in your view would be the likely impacts of the proposal? You may wish to consider, for example:

- Benefits, and disbenefits;
- Costs (direct and indirect), and savings;
- Impacts upon individuals and groups with protected characteristics;
- Other practical issues.

Your views on how positive effects could be increased, or negative effects could be mitigated, would also be welcome.

Please explain your reasoning.

Question 6.3: We would like to know your views on the effects that the proposal would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English. What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

Question 6.4: Please also explain how you believe the proposal could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

Question 6.5: We have asked a number of specific questions in this chapter. If you have any related issues which we have not specifically addressed, please use this space to report them.

Consultation Response Form

Your name: Harvey Gallagher
Organisation: Nationwide Association of Fostering Providers
Email: contactus@nafp.co.uk
Tel: [REDACTED]

Your address: Unit 2A, The Old Bakery Yard, Princes Street, Corbridge,
Northumberland NE45 5AD

Responses to consultations may be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please place a tick in the box:

☐

Please tell us who you are responding on behalf of. For example is this your own response or is it sent on behalf of an organisation?

This response is provided on behalf of the members of the Nationwide Association of Fostering Providers (NAFP). We have consulted with independent fostering agencies (IFA) across Wales who have provided us with their views to inform this response.

If you want to receive a receipt of your response, please confirm your email address, here:
contactus@nafp.co.uk

Questions on Chapter 1: Eliminating profit from the care of children looked after

Question 1.1: Do you think that introducing provision in legislation that only allows 'not-for-profit' providers to register with CIW will support delivery of the Programme for Government commitment to eliminate profit from the care of children looked after?

This question is difficult to answer in its purest sense due to the lack of a definition of a 'not for profit' provider. Without this clarity it is impossible to confidently state whether or not any changes in the CIW role will enable the programme to deliver its intended outcomes. In fact, we believe there is a high likelihood that placement sufficiency would suffer and Welsh local authorities would inevitably commission a greater number of placements from English-based agencies.

Provision in legislation will not, in itself, be sufficient to support delivery of the programme due to the limitations of devolved responsibilities. The Welsh Government has no remit to legislate against providers creating structures outside of Wales. For example, for profit providers in England (93% good or outstanding in their Ofsted judgements) may not be prevented from operating a not-for-profit arm in Wales.

We see no evidence or indication that many existing 'for profit' providers will transfer to a 'not for profit' model. Therefore, even if the Welsh Government were able to prevent providers from creating structures outside of Wales, there would still be a number of providers that would cease their operations. Our discussions with IFAs suggest that a significant number of foster carers would be unwilling to transfer to local authorities (or other agencies) and so there would be a net loss of foster carers from the workforce. Whilst this may reduce the level of 'profit' made (the definition of which remains unclear), it will likely lead to reduced sufficiency, increased costs and poorer outcomes for children. Therefore, we do not believe that some of the aims of the programme "to deliver better experiences and outcomes for children and young people" will be achieved. On the contrary, we believe there is every likelihood that experiences and outcomes will become worse for children.

Question 1.2: What in your view are the likely impacts of the proposal?

- **The impact on sufficiency**

Our members tell us that they are already seeing an increase in the numbers of referrals for children needing a foster care placement. On average our members manage around 100 referrals for every available vacancy (based on NAFP's own study) and this ratio is growing. There has been an accelerated increase in referrals since spring 2022. This is believed to be largely due to the impact the pandemic had on families but also the cost of living crisis as well as other socio-economic factors. Our IFA members in England are also informing us that they are seeing an increase in referrals for Welsh children from Welsh authorities. Anecdotally we hear that more children are already being placed in England due to growing numbers of children in care alongside the declining sufficiency in Wales. The eliminate profit programme seems to be only exacerbating this and this trend may well continue.

If a for profit IFA were to transfer to a 'not for profit' model, the majority of their carers would be likely to remain fostering for them. We do not, however, believe that there

is much, if any, appetite for IFAs to transfer to a not for profit model at the current time. This being largely due to the lack of information available on the 'not for profit' models they will be able to transfer their fostering service into, or due to the risks that will be incurred by those who have invested heavily in their businesses. IFAs that are unwilling or unable to transfer to a 'not for profit' model will have no option but to look at ways of exiting the sector. We heard a strong message from IFAs that there should not be an assumption that affected carers in for profit IFAs will transfer to local authorities or 'not for profit' agencies. The majority of foster carers are loyal to the service they foster for, and may not be prepared to foster for any other service, regardless of the terms and conditions offered. The irreplaceable and long developed relationships that agencies have with their carers can be the unique glue that enables and supports carers to continue fostering.

IFAs told us that if an agency does not transfer to a not for profit model and chooses to cease operating, there must be a priority placed on ensuring children in current placements do not experience unnecessary disruption. In most cases, these IFA foster carers may opt to transfer to another fostering service on an interim basis, until the placement comes to its natural end. Thereafter, some of these foster carers are likely to choose to end their fostering careers. This may partly be due to not receiving the same service and supportive culture that they receive in IFAs (we know this as our members frequently receive enquiries from local authority foster carers looking to transfer due to dissatisfaction over terms and conditions in a local authority). For those carers who choose to transfer, albeit for a short period of time. they will need a genuine choice regarding which local authority or 'not for profit' IFA they may choose to transfer to. Some carers will transfer on the same pay and this may create inequality in the receiving fostering services which will create unrest. There will be a need for the foster carer transfer protocol to be reviewed and for this to be adopted by all fostering services. The capacity that may be needed to undertake assessments for transferring carers will also need to be considered. The timescales for undertaking these assessments will also need to be considered as, if a provider ceases to operate before a carer has transferred, the child in their care will effectively be placed in an unregulated placement. It is undeniable that to force a settled and attached child to move to new carers in these circumstances, would not only be poor practice, but would likely cause harm to the child.

It also needs to be recognised that some IFA carers may opt to transfer to foster for the local authority in which they are based whilst caring for a child from a different local authority. Inter-authority arrangements to manage this will be needed. However, many foster carers have chosen to foster for an IFA, rather than a local authority. Our discussions with IFAs indicate that many carers would prefer to give up fostering than foster for their local authority.

Staff working for IFAs (supervising social workers, registered managers, referral coordinators etc), on the whole, are unlikely to transfer to local authority services and our intelligence informs us that this is mostly due to the working culture in the public sector. These individuals are more likely to transfer to the not for profit sector, to work in other 'for profit' organisations in social care (i.e adult services) or they may choose to leave the social care sector altogether.

IFAs provide some of the most specialist services for children in care. With a loss of experienced providers, their staff and carers, the sector will witness a loss in specialism, knowledge and expertise which will take several years, even decades to replace. Our members have shared with us how it takes high levels of investment to set up and run specialist services and how there needs to be appetite and willingness to manage some uncomfortable and unpredictable risks. This is perhaps something that only exists, understandably, outside of public sector services. This kind of investment only comes from the private sector.

Our IFA members predict there will be a negative impact on child and adolescent mental health services (CAMHS). Currently IFAs are providing some therapeutic packages of care with IFAs providing some of the work that would typically be delivered by CAMHS (this is not commissioned in all circumstances). With some of these providers exiting the sector, there will be increased demand for already stretched CAMHS services. The cost and risk of this will need to be acknowledged and considered.

We are in no doubt that the eliminate profit programme will have a significant impact on sufficiency in the foster care sector and that it will take many years, even decades, to recover from this. Most importantly it will result in immediate and potentially long term disruption to children's lives. The reduced sufficiency in foster care will have a knock on effect on other services and contribute to reduced sufficiency and availability in children's homes, supported accommodation and other services supporting children in care.

- ***The impact on costs***

Where any service is in high demand yet in low supply, the more expensive that service will be, due to the willingness and/or need of the purchaser to spend more to secure the service and the ability for those providing the service to demand a higher fee. The evidence that exists on relative costs of local authority and private sector fostering, when considered like-for-like suggests there is little difference between costs. Reduced sufficiency will almost definitely lead to a much higher spend for local authorities due to these natural consequences of supply and demand. This was recognised by the Competition and Market Authority (CMA) social care market study (2021) and it will continue until local authority and not for profit provision can develop to fill the gap left by the 'for profit' sector, if that may ever be possible.

For profit providers currently operating in the sector are having to consider how to offset the risks they will incur due to the impact of the eliminate profit programme. If providers are unable or unwilling to transfer to a not for profit model (whatever this may be), it is entirely understandable that they will need to consider how they can best protect their livelihoods. Most IFAs are small in size - many are small business owners - and founders have developed their IFAs to offer something above and beyond existing services. A number of 'for profit' fostering services have been established by ex local authority staff who left the public sector to set up services that they felt were much needed to meet the needs of children in Wales. They did so, having experienced that it had not been possible to develop these services within the public sector. They have created jobs in their local communities and brought investment. Members have told us that without certainty about future alternatives and with investors lacking confidence, the future value of their businesses is

unknown. To counteract this and to ensure that they have some provision for their retirement, some providers may have little option but to increase their fees in the interim period.

Providers have shared with us how they are concerned about the cost of transferring to a not for profit model. There has been little information shared about the support that might be available from the Welsh Government for providers who may be considering a move to a 'not for profit' model. Without this, providers who may be considering a transfer to a not for profit model may need to consider if they need to start to build the cost of this transition into the fees for current and/or new placements.

If providers feel they have no option but to increase their prices, this may mean that some will opt to leave the national foster care framework contract (coordinated by the Children's Commissioning Consortium Cymru - 4Cs) so that they are not bound by current prices.

With regards to the likely increase of placements made outside of Wales (due to reducing sufficiency within Wales), not only is this likely to be detrimental for most of these children who will find themselves placed far from their families, but local authorities will have to incur the continued cost of supporting these placements at a distance. The costs of social worker travel and accommodation will need to be funded. In addition, the costs of facilitating family time (contact) will increase substantially. Some of these placements will continue for long periods of time either because there will be no provision to return children to, or because children will have formed attachments and a move back to Wales may not be in their best interests or in accordance with their wishes.

Our members are already seeing the impact of the eliminate profit policy on local authorities' ability to secure care placements for children. The impact on sufficiency is already having a knock on effect and contributing to the increase in the use of high cost crisis intervention services, some of these being unregulated and located elsewhere in the UK. These services are largely uncommissioned and are often not an approved provider on a framework contract. However, left with no choice, local authorities have to pay the high prices charged by these providers who have funding models designed around an ability to maintain vacant, but staffed, placements that can accept a child in a crisis situation. Due to the eliminate profit programme impacting on sufficiency in Wales, we anticipate that local authorities will find themselves having to place more children in these high cost, crisis responsive and often distant and sometimes unregistered, placements.

Due to a lack of sufficiency, there is an increasing likelihood that local authorities will struggle to find any placement at all for some young people (even if also looking across the whole of the UK). This may also necessitate the increased use of agency workers in the family home to ensure the child is safe. The cost of which will be far greater than the cost of maintaining a child in a 'for profit' foster placement.

Given that 'for profit' providers deliver services at a similar cost to both local authority and not for profit organisations, sometimes at an even lower cost and better value for money, there will be very few, if any, savings made. Any short term savings that are

made will be swallowed up by the significant costs that the eliminate profit programme is already incurring and will continue to incur for many years to come.

- **Impact on children**

In our view, foster care capacity in the sector will certainly reduce as a result of the eliminate profit programme. This will affect children in numerous ways:

- *Some carers may decide not to transfer to another service and this will mean disruption for the children currently living with with them.*
- *Without sufficient foster care provision, some children may need to remain at home in unsafe situations. This may necessitate greater use of agency social workers in the child's home, the nature of agency social work means there is likely to be a lack of consistent support for the child, or may result in children being placed much further away from home.*
- *Some children will be placed in residential care when this is not the right placement match for them. For some children, this can have devastating consequences.*
- *Whilst residential care suits some children very well, we are aware of the very low sufficiency in the residential care sector. To match children to practice models and alongside settled children, providers may have little option but to offer placements to children who present with lower risks meaning that there will be less provision available for children with the greatest need. This will inevitably mean that the most vulnerable children will be those for whom care cannot be sourced.*
- *The reduced availability of regulated placements will lead to an increase in the use of unregulated services. Whilst some unregulated providers do offer good care and support, there are some that fail to do so. There will be an increased likelihood of serious harm and child deaths.*

There is no evidence that this policy is going to improve outcomes for young people. On the contrary there is every indication that outcomes for children and young people will get worse. To introduce this legislation at a time when sufficiency is such a huge challenge is knowingly placing children and young people at risk of harm.

- **Impact upon individuals and groups with protected characteristics;**

For profit providers currently provide services for children with protected characteristics, for example disabled children. Should the provider delivering their services be unable or unwilling to transfer to a not for profit model, this places the child at risk of instability. Not all foster carers will be willing or able to transfer across to a local authority or not for profit service and may consider it necessary to serve notice on their foster care approval.

Many IFAs have staff and carers that are Welsh speaking, meaning they are well placed to support Welsh children and their families. Without these IFAs, these children may have to be placed in England to receive the specialist services they need. It is unlikely that this care will be delivered using the child's first language.

- **Impact on cross border issues**

IFAs located near the Wales-England border will be likely to register a new branch with Ofsted, who take a more flexible view about cross-border working than CIW, and will have little choice but to prioritise working with English local authorities.

English authorities are showing an appetite for this and are already taking steps to liaise with IFAs in Wales, encouraging them to join commissioning arrangements in England. Although carers of IFAs may be located in Wales, it is likely over the coming months and years that they will increasingly foster children from England, further reducing the availability of provision for Welsh children.

Some IFAs in Wales with carers in England, who would previously have offered carers to Welsh local authorities are now looking to register in England so that these and these carers will be made available to English local authorities. This would then further reduce the availability of carers for Welsh local authorities.

- ***The impact on independent fostering agencies***

IFAs are established out of a genuine altruistic desire to make a difference for some of Wales's most vulnerable children. Some of these directors and registered managers will have worked directly for local authorities for many years and will have decided to set up an independent service to offer a better and different service to children and the professionals working with them. Their families, their own personal well being and their personal finances may have been negatively affected over the years due to the long hours, effort and commitment to improving positive outcomes for children in care in Wales. Individuals have taken immense personal risk when local authorities have not been willing to do this themselves. To discount and discredit the level of investment, risk and personal commitment that has been made by individuals is unfair and unreasonable. The enormously negative and damaging impact this programme will have on the emotional and mental well-being of some individuals cannot go without mention. We urge the Welsh Government to take these concerns seriously.

- ***How positive effects could be increased or negative effects mitigated.***

As detailed above, some foster carers will transfer to local authority services, but we predict there will be an unknown number who will leave altogether due to them anticipating that the support offered by local authority fostering services will compare unfavourably to their current IFA.

There is a very real risk that the impact of this programme will lead to situations whereby local authorities will be unable to find any care placement for a child (whether for profit or not for profit) anywhere in the UK. A placement may be needed in an emergency situation and the child may have highly complex needs and be at immediate risk of harm. It will be imperative that the Welsh Government make it clear to local authorities what they are permitted to do in these circumstances.

Question 1.3: One approach could be for the legislation to define 'not-for-profit' in terms of the types of organisation that would qualify. Do you consider that the restriction should also be expressed in terms of the way that any trading surplus is expended? What would be the effects and implications of this?

There is currently a lack of detail with regards to the type of 'not for profit; organisation that would be permissible. This omission therefore made this a difficult question to answer. All organisations need to make and keep a level of profit or surplus in order to sustain their activity. The lack of definition of a not for profit provider in the consultation is problematic. Rather than 'eliminate profit', it would be preferable to see a focus on scrutinising how profit is used with an expectation that

an amount of surplus is reinvested into services benefiting children, as well as a reasonable return on investment.

There is a lack of clarity about whether structures such as community interest companies or social enterprises would qualify as a not for profit provider. Rather than emphasis on the structure of an organisation, there could be a focus on determining where surplus/profit should be directed.

Question 1.4: Do you think the primary legislation should include a power for Welsh Ministers to amend the definition of 'not-for-profit' through subordinate legislation?

No, this would seriously impact on any organisation considering making significant investment in Wales and would be unfair and unreasonable on existing providers who need to make substantial decisions at this time. This suggestion would put providers at significant risk which they would need to try and offset. This would contribute to increased costs for local authorities, even further loss of provision and have unintended and negative consequences for children.

It would go against democratic principles to place this level of power in the hands of Welsh ministers. If this was introduced it would need to be accompanied with a duty to ensure transparency of the process, and be open to scrutiny from a wider audience. It would need to have a leading period and consultation which is independently facilitated. There should be a requirement to have an impact risk assessment that is made publicly available for comment prior to any decision being made in relation to any amendment.

Providers are unable to plan if they know there is a risk that goalposts will change. Should the primary legislation include this power to amend legislation, it will need to be made clear as to the compensation arrangements that will be in place for those providers who are negatively affected by any changes.

Question 1.5: What are your views on the proposed timings for the primary legislation to come into effect?

This is difficult to answer without knowing how 'not for profit' is to be defined. However, our members unanimously agree that the proposed timings are far too short. At a time when there is an increasing number of children coming into care and a reducing supply of foster care provision, introducing this primary legislation such a short proposed timescales with no clarity at all about how it will work will, without doubt in our view, put children at increased risk of harm and result in significant additional costs for local authorities.

There is a need to develop more foster care capacity and reduce numbers of children entering care well before this legislation comes into force. There must be evidence of preventative services working and of both local authority services and not for profit services developing. Any implementation phase will need to be informed by regular risks assessment and reports and timescales adjusted if necessary. It will also be vital to make clear the timing in relation to how any compensation will be calculated. At which date will a provider's business be valued? There is a pressing need for providers to know this, as otherwise they have no choice but to

assume a level of financial risk and consider how best to offset this. The longer this uncertainty continues, the more likely that providers will opt to leave the 4C's national framework contract so that they can revise their prices to help manage the risk.

Question 1.6: Are there any issues in relation to transition for children looked after, local authorities and service providers you would like to draw our attention to?

Again, it is difficult to answer this without there being a clear definition of 'profit' and of 'not for profit provision. What happens to children placed on the 4Cs All Wales Framework contract? If a provider decides not to transition and its carers gradually start to leave or transition to foster for a local authority or other agency, there will come a point at which a fostering agency is no longer viable. The consequences and risks of this will need to be carefully considered and the necessary provision made to ensure a provider can continue to operate below their 'break even' point.

Question 1.7: What are your views on the issuing of guidance to support the implementation of the primary legislation?

Guidance will need to be published as soon as possible to enable all stakeholders to consider the variable risks and make any necessary arrangements to mitigate these. We are already seeing decreased investment and this is already leading to less provision for children. As well as being issued as early as possible, the guidance will need to be clear between the different services that will be affected (for example, issue separate guidance for children's homes and fostering services which have different challenges and complexities). The guidance will also need to recognise that there is a difference between large and small providers.

Question 1.8: What are your views on using legislation to place a restriction on local authorities to commission placements from 'not-for-profit' organisations only?

Once again, it is impossible to answer this with certainty due to the lack of a definition of 'not for profit'. Our primary concern is the impact that this will have on children. As explained earlier in this response, local authorities in Wales are already having to make referrals to both for profit and not for profit organisations in England. Providers in England with services close to the border are seeing increasing demand from Welsh authorities. At present, a Welsh local authority located along the border is able to place a child with a carer fostering for a for profit provider, yet living in England and within a short distance of the child's family, friends at school. This is not uncommon. Should local authorities be restricted from doing this (as a result of the proposed legislation), the lack of available placements could well result in a child being moved far away from their networks. This is a clear example of how this proposal will have a harmful impact on some of Wales's most vulnerable children. At a time when every effort should be being made to increase sufficiency and to better facilitate access to available provision, it makes little sense that the Welsh government is proposing to develop legislation which introduces barriers to enabling local authorities to find appropriate care placements for children and young people in their care. This will result in local authorities failing to meet their legal obligations under the Social Services and Well-being (Wales) Act 2014.

Finally, it is uncertain if the Welsh Government would be able to restrict the type of providers that can bid for some public sector contracts, but not others, as this may be a breach of the current and proposed public procurement regime (Public Contracts Regulations 2015, (SI 102 of 2015) and Procurement Bill 2022). So, would it be lawful to prevent a for-profit IFA bidding for a contract, whilst allowing a for-profit nursery or adult care service to bid?

Question 1.9: What are your views on the possibility of approaches being taken in response to these legislative proposals which would undermine the intention to eliminate profit from the care of children looked after in Wales? Are there any actions which would guard against such activity?

Once again, the absence of a definition of profit, of not for profit and of acceptable models makes it extremely difficult to provide a view on this.

Question 1.10: We would like to know your views on the effects that the legislative changes to eliminate profit from the care of children looked after will have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English. What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

Some IFAs employees and carers are first hand Welsh speakers and there is a risk that some of these will be lost due to the eliminate profit programme. All fostering services have been making efforts to recruit more Welsh speakers. The eliminate profit programme will certainly not attract more Welsh speaking people to consider becoming a foster carer. Given the impact that this programme will have on sufficiency, more children will be placed outside of Wales, meaning that their access to the Welsh language will reduce. Early work to develop guidance to foster carers based in England who may find themselves caring for Welsh children could be considered.

Question 1.11: Please also explain how you believe the legislative changes to support delivery of eliminating profit from the care of children looked after could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

It is difficult to see how the proposed legislative changes will positively affect opportunities to use the Welsh language. IFAs have a strong background in providing Welsh language services and some of this could be lost. If, as we believe, there will be fewer foster placements available in Wales as a result of this programme, more Welsh children will inevitably be placed with foster carers in England. This would have a net negative impact on children's access to services using the Welsh language.

Question 1.12: This chapter has focused on how we can achieve the commitment to eliminate profit in the care of children looked after, and we have asked a number of

specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

A fundamental flaw of this consultation is the failure to provide a definition of either 'profit' or 'not for profit'. It raises the question why the Welsh Government proposes to eliminate something it has been unable to define? The lack of a definition of 'not for profit' has also made it extremely difficult to answer any of the consultation questions that ask for views about this model. In our view, providing these definitions needs to be a priority as it is not possible to understand the impact on outcomes for children before we know which IFAs will no longer be providing services for children under the programme.

The consultation claims that a key driver for the eliminate profit programme has been the "strong feelings" of children and young people. Despite the working groups asking for clear evidence of this, this was not sufficiently provided and there was later admittance that there had not been adequate consultation with children to reach any conclusion that the removal of profit was a priority for them. It is therefore disappointing and arguably disingenuous that this claim has been repeated within official Welsh Government documentation. Our members and their carers work directly with children and young people on a day to day basis. We know that children are concerned about having a safe, stable, and loving home. They want to be able to maintain friendships and relationships with people most meaningful to them. They want access to education, training, sports and play. They want to know their rights and for these to be upheld. They want supportive transitions when the time comes for them to move on. They want to be healthy, have enough money and to have a happy life. Our members regularly consult with the children in their care, seeking feedback about the foster care they experience. Children never share concern about profit levels or about the structure or business of the organisation which provides this care for them. This approach by the Welsh Government is simply not child centred.

Foster carers need, and rightly deserve, for there to be a choice of fostering services in their area for them to consider fostering for. Having a choice of fostering services helps to drive up quality and ensures that services strive to continuously improve the support and offer that they make available to both their staff and foster carers. It is only through having a sufficient, valued and motivated fostering workforce that the Welsh government will be able to ensure that children in care in Wales experience stability, are well cared for and achieve their full potential. This is also the most effective way of spending the public purse and securing value for money.

With experienced, skilled and high quality providers exiting the sector, corporate parents will lose access to the expertise and knowledge of a sector that has accumulated it for several decades. This will bring about damaging outcomes for Wales's most vulnerable children and they may bring future challenges against Government and individuals for the damage to their lives that has been knowingly created. Private providers are confident in their abilities and operations, and more than willing to engage positively with the local authority purchasers and different ways of commissioning and risk sharing - as an alternative and positive way forward to ensure the public purse is better spent to deliver value alongside the best possible outcomes for Wales's most vulnerable children.

Many Welsh owned private providers with Welsh services, offices, staff and language are embedded in local Welsh communities and are contributing to local economies. These are likely to be lost as a result of this policy implementation.

In 2021 NAFFP responded, on behalf of its members, to the Welsh Government's white paper 'Rebalancing care and support - A consultation on improving social care arrangements and strengthening partnership working to better support people's well-being.' Many of the messages shared in our then response remain relevant to this consultation such as:

- *Across all areas of Wales there appears to be a shortage of foster carers. Without sufficient supply of foster carers in Wales, it is likely that gaps in provision will remain or increase for children with more challenging or specialist needs.*
- *"The deep suspicion about profit went right through the tender exercise. Independent providers don't feel like partners and constantly feel distrusted. The way local authorities are commissioning makes us feel that it's a bad thing to run a stable organisation that reinvests profit in service development."*
- *All parts of the commissioning cycle should be reflected in a national framework. However, more than this, is the need for commissioning culture to be transformed. Current failures are not down to failures in methodology and process, but due to an unhealthy culture and negative attitudes to providers which are formed from unwarranted distrust. A national framework will only be effective if it is overseen by leaders who truly understand the need for relational commissioning in social care and who invite providers and their representatives to engage at the highest level to design effective, trauma informed, commissioning solutions.*
- *A focus on fees without a discussion with us about value will only lead to costs further increasing as they have done so over recent years."*
- *A number of providers noted that the consultation paper presented the work of the 4Cs in a positive light. Providers said that whilst there were a number of positive things the 4Cs had done (such as providing helpful information related to the pandemic, helping improve some referral practice and designing a good consultation structure), they also did not feel that this was reflective of the whole picture. They said that it was of concern that there had never been an independent evaluation of the 4Cs and felt that it would be beneficial if this was commissioned by the Welsh Government.*
- *"The belief that the private sector has a priority on profit is a key reason why current commissioning methods are flawed. That won't change until we are genuinely invited to discussions which feel equal. Local authorities are being blinded by the profit issue and this is preventing them from seeing the opportunities of working together to get better outcomes for children. Local authorities also don't realise what happens to a lot of the profit. It gets used to reinvest in the business"*
- *"If local authorities really worked with us, they would have better services run at a lower cost. Improving local authority services has to be a bottom up approach. It will take time. It will take proper investment. Overall, it will take a culture change in local authority leadership"*
- *"IFAs are growing in Wales. It has sadly turned into a battle. We don't want that. We want to see partnerships."*

- *That through all parties having a greater overview and understanding of the commissioning activity, this would better enable local authorities and providers to support and trust one another. This would then lead to improved partnership working and providers and commissioners sharing risk and making decisions to keep children stable and promote their welfare. IFAs said that they would like to see the national office facilitating conversations around this.*

The full response to the 2021 Partnership consultation can be found [here](#).

Consultation Response Form

Your name: [Lee Bridgeman](#)

Organisation (if applicable): [Action for Children](#)

Email / Telephone number:

[REDACTED]

Your address: [Action for Children, St Davids Court, 68 Cowbridge Rd East, Cardiff CF11 9DN](#)

Responses to consultations may be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please place a tick in the box:

☐

Please tell us who you are responding on behalf of. For example is this your own response or is it sent on behalf of an organisation?

[Organisation](#)

If you want to receive a receipt of your response, please confirm your email address, here:

[REDACTED]

Questions on Chapter 1: Eliminating profit from the care of children looked after

There are 12 questions about this chapter.

Question 1.1: Do you think that introducing provision in legislation that only allows 'not-for-profit' providers to register with CIW will support delivery of the Programme for Government commitment to eliminate profit from the care of children looked after?

As an organisation we agree with the statement above YES

Question 1.2: What in your view are the likely impacts of the proposal? You may wish to consider, for example:

- Benefits, and disbenefits;
- Costs (direct and indirect), and savings;
- Impacts upon individuals and groups with protected characteristics;
- Other practical matters such as cross-border issues.

Your views on how positive effects could be increased, or negative effects could be mitigated, would also be welcome.

Please explain your reasoning.

We feel that in the short to medium term there is an extreme likelihood that there would be less providers and sufficiency of placements. This could also see a loss of specialism and flexibility which would leave less choice in the market, this could in turn have detrimental consequences driving the cost of placements and services up.

If sufficient time is given there will be opportunities for better partnerships especially with the 3rd sector, in the longer-term high-quality provision which would then produce improved outcomes and value could be developed.

Time is the key factor with the proposal being put forward by Welsh Government, if more time was allowed to implement this legislation alongside a strategic plan to increase not for profit sufficiency, the more likely we would be able to reduce market disruption, eliminate the potential risks to children and young people and a smoother transition would take place.

Question 1.3: One approach could be for the legislation to define 'not-for-profit' in terms of the types of organisation that would qualify. Do you consider that the restriction should also be expressed in terms of the way that any trading surplus is expended? What would be the effects and implications of this?

Limiting trading surplus would in no way be ideal for the 3rd sector charities or not for profits, focus on how the surplus is reinvested is the key, especially if the money is being aligned to services that support children and young people. If WG were to restrict the surplus, greater risk would arise, and this could then see 3rd sector charities and non for profits deterred from developing partnerships and innovative specialist provision.

Limiting surpluses would arguably deter growth within the sector.

Surpluses are also essential to ensure organisations have adequate infrastructures to enable the delivery of safe services, growth and support functions.

Question 1.4: Do you think the primary legislation should include a power for Welsh Ministers to amend the definition of 'not-for-profit' through subordinate legislation?

As an organisation we feel that this would not be necessary.

Question 1.5: What are your views on the proposed timings for the primary legislation to come into effect?

At Action for children, we feel that if the timings being used based around this political term are adhered to, the likelihood is that this will create a strategic bottleneck. This will make things a lot worse for children looked after in Wales. We wholeheartedly support this proposal but minimal disruption to children and young people must be the goal.

Transformational change can be hard and can take a long time to implement. WG should not be led by a manifesto promise, this is right thing to do so let's make sure that this legislation is given the time it needs to be successfully implemented.

A risk management strategy and longer timeframe would see this goal achieved. Aiming to get legislation in place this term, with a longer implementation period would allow for the not for profits to scale up and the for profit companies time to transition to not for profit or exit Wales in an orderly fashion.

Question 1.6: Are there any issues in relation to transition for children looked after, local authorities and service providers you would like to draw our attention to?

Support for families is critical, most local authorities have high caseloads and poor support structures in place for foster families. Many families that we have spoken to have chosen not to foster with the local authority because they feel that they will not get a good level of support.

If the quality of provision was of a higher standard, then families would be naturally drawn away from the profit sector. We believe there needs to be a much more collaborative and partnership approach in place, working with Local authorities and the 3rd sector charities, having a clearly defined strategy going forward would be a big step in the recruiting and numbers of placements required.

Children and young people must be at the forefront of any decision made or strategy developed. Every move for a child is a traumatic life event, caution is required to ensure that things are not made worse for them in the short and medium term. Adopting a natural attrition approach would be favorable if impractical. Allowing those children in existing for profit placements to remain in situ until they transition to adulthood/independent living/reunification with birth relatives and new placement arrangements for children and young people entering the care system should be not for profit.

We must also be mindful of sufficiency of placements, lack of resources and provision within local authorities. With the lack of the above mentioned there is a real danger that the transition of the child would become a traumatic experience.

Question 1.7: What are your views on the issuing of guidance to support the implementation of the primary legislation?

This is crucial and something that has to happen.

Question 1.8: What are your views on using legislation to place a restriction on local authorities to commission placements from 'not-for-profit' organisations only? In particular:

- Do you think it would support us to deliver the commitment to eliminate profit from the care of children looked after in Wales?
- What would be the benefits, disbenefits and other implications of such an approach?

- What would be an appropriate timescale for implementing such an approach, if it were to be adopted in Wales?

Restricting LAs to commission placements from not for profit organisations would definitely demonstrate commitment to the elimination of profit from the care of looked after children, however without the adequacy of not for profit placements in place it would create significant disruption for children and young people. And it could leave children in inappropriate placements. LAs should have the ability to commission placements that best meet the needs of children and young people, even if the option to place in a for profit organisation was the best option for the child and had to be justified.

It is important to remember that the current supply of profitable placements are not automatically poor, they are diverse and a lot of placements are excellent and meeting the needs of children.

At Action for Children, we would hope that removing profit from care would lead to better collaboration, less competition and improved practice that would in turn safeguard children and young people. However, the risk is reduced placement capacity, choice and specialisms, until not for profit placement sufficiency has grown in volume and type to meet need and demand.

The timescales for implementation need to be carefully considered to enable a sensible transition and adequate development opportunities are in place for existing organisations wishing to transition to a not for profit, not for profits to grow and new entrants to the market encouraged.

Developing legislation within a tight time frame feels achievable, implementing the legislation, increasing not for profit capacity and reducing for profit capacity should have a much longer timeframe of approximately 10 years.

Please also see Question 1.2

Question 1.9: What are your views on the possibility of approaches being taken in response to these legislative proposals which would undermine the intention to eliminate profit from the care of children looked after in Wales? Are there any actions which would guard against such activity?

We feel that looking at Scotland and the lessons learnt would be a good thing to do. Removing profit is a complex undertaking and we would rather it was done well, safely and in a timely manner than in haste to meet the political agenda.

Question 1.10: We would like to know your views on the effects that the legislative changes to eliminate profit from the care of children looked after will have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favorably than English. What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

None Identified

Question 1.11: Please also explain how you believe the legislative changes to support delivery of eliminating profit from the care of children looked after could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

None Identified

Question 1.12: This chapter has focused on how we can achieve the commitment to eliminate profit in the care of children looked after, and we have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

Questions on Chapter 2: Introducing direct payments for Continuing NHS healthcare

There are 8 questions about this chapter.

Question 2.1: We have outlined our proposals to introduce further voice and control for adults receiving Continuing Health Care (CHC) in Wales. Do you agree or disagree with these proposals? Please explain your reasoning.

Question 2.2: What in your view are the likely impacts of the proposal?

You may wish to consider, for example:

- Benefits, and disbenefits;
- Costs (direct and indirect), and savings;
- Impacts upon individuals and groups with protected characteristics;
- Other practical matters such as cross-border issues or transition to the new arrangements.

Your views on how positive effects could be increased, or negative effects could be mitigated, would also be welcome.

Please explain your reasoning.

Question 2.3: What lessons can we learn from other countries' practice in this area?

Question 2.4: Do you believe there are any other or complementary approaches we should be considering to achieve the same effect? If so, please outline below.

Question 2.5: We will work to ensure that any legislative change is supported by robust guidance to help both payment recipients and practitioners understand how the system will operate. Can you identify anything that it would be helpful to include in this guidance? What other support should be provided?

Question 2.6: We would like to know your views on the effects that introducing direct payments for continuing NHS healthcare would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English. What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

Question 2.7: Please also explain how you believe our proposals for introducing direct payments for continuing NHS healthcare could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

Question 2.8: We have asked a number of specific questions in this chapter. If you have any related issues which we have not specifically addressed, please use this space to report them.

Questions on Chapter 3: Mandatory reporting of children and adults at risk

There are 11 questions about this chapter.

Question 3.1: What are your views on the principle of imposing a duty to report a child at risk (as defined in section 130(4) of the Social Services and Well-being (Wales) Act 2014 directly on individuals within relevant bodies?

Question 3.2: What are your views on the principle of imposing a duty to report an adult at risk (as defined in section 126(1) of the 2014 Act) directly on individuals within relevant bodies?

Question 3.3: What in your view would be the likely benefits, disbenefits, risks, costs, savings and equality impacts of such an approach?

Please explain your reasoning.

Question 3.4: What lessons can we learn from the duties to report in other countries?

Question 3.5: If individual reporting duties were to be introduced – for children and adults at risk – should these sit alongside, or replace, the existing duties on organisations under the 2014 Act?

Question 3.6: If individual reporting duties were to be introduced, should they apply to the workforce of current 'relevant partners' under section 162 of the 2014 Act (including youth offending teams in relation to children), or more widely, for example to those working in religious or sports settings, etc., and in particular:

- (a) What are your views on this in respect of children (under the age of 18)?
- (b) What are your views on this in respect of adults?

Question 3.7: If individual reporting duties were to be introduced, which occupation types or roles should be subject to any duty (e.g. members of regulated professions; employed staff, even if they are not regulated; volunteers), and in particular:

- (a) What are your views on this in respect of children (under the age of 18)?
- (b) What are your views on this in respect of adults?

Question 3.8: What sanctions do you think would be proportionate or appropriate for failure to comply with an individual reporting duty?

Question 3.9: We would like to know your views on the effects that introducing individual reporting duties would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English. What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

Question 3.10: Please also explain how you believe proposals for introducing individual reporting duties could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

Question 3.11: We have asked a number of specific questions in this chapter. If you have any related issues which we have not specifically addressed, please use this space to report them.

Questions on Chapter 4: Amendments to regulation of service providers and responsible individuals

Part 2 and Schedule 1 of the Regulation and Inspection of Social Care (Wales) Act 2016 ('the 2016 Act') provides the basis on which Care Inspectorate Wales ('CIW') – on behalf of the Welsh Ministers – undertakes functions relating to the registration, regulation and inspection of 'regulated services'.

This chapter of the consultation focuses on proposed amendments to the regulatory regime for regulated services, service providers and their designated responsible individuals. These relate to a range of matters provided for within the 2016 Act, including:

- a) Identifying unregistered services
- b) Publication of annual returns
- c) Publication of inspection reports
- d) Improvement notices and cancellation of registration
- e) Responsible individuals
- f) Definition of 'Care' for children and young people

Questions on proposed amendments relating to each of these matters follow.

There are 21 questions about this chapter.

Question 4.1: *(a) Identifying unregistered services - power to obtain information:* Do you agree with the proposal to amend the 2016 Act to enable the Welsh Ministers (CIW) to require information from any person where there is reasonable cause to believe that they are providing a service which should be regulated?

Question 4.2: *(a) Identifying unregistered services - power to obtain information:* Do you agree with the proposal to extend the offence of failing to provide information when required to do so, to include these persons?

Question 4.3: *(a) Identifying unregistered services - power of entry:* Do you agree with the proposal to amend the 2016 Act to remove ambiguity and make it clear that the Welsh Ministers (CIW) have the power to enter and inspect any premises which they have reasonable cause to believe is (or has been) used as a place at or from

which a service is (or has been) provided, or which is (or has been) used in connection with the provision of a regulated service?

Question 4.4: *(a) Identifying unregistered services - power of entry:* Do you agree with the proposal to extend the offence of obstructing an inspector or failing to comply with a requirement imposed by an inspector, to include these circumstances?

Question 4.5: *(b) Publication of annual returns:* Do you agree with the proposal to amend the 2016 Act to require service providers to publish their annual returns?

Question 4.6: *(b) Publication of annual returns:* Do you agree with the proposal to create a related offence of failing to publish an annual return?

Question 4.7: *(c) Publication of inspection reports:* Do you agree with the proposal to amend the 2016 Act to provide additional flexibility for the Welsh Ministers (CIW) to recognise circumstances where it may not be appropriate, relevant, or proportionate to prepare and/or publish an inspection report?

Question 4.8: *(d) Improvement notices and cancellation of registration – variation of registration as a service provider:* Do you agree with the proposal to amend the 2016 Act to remove the requirement for the Welsh Ministers (CIW) to issue an improvement notice to a provider in circumstances where the provider is no longer providing that service or using that place to provide a service?

Question 4.9: *(d) Improvement notices and cancellation of registration - removal of a condition on a service provider's registration:* Do you agree with the proposal to amend the 2016 Act to enable the Welsh Ministers (CIW) to remove a condition on a service provider's registration without giving a notice of proposal (section 18) and notice of decision following notice of proposal (section 19), when the circumstances which led to the imposition of the condition no longer apply?

Question 4.10: *(d) Improvement notices and cancellation of registration – power to cancel a service provider's registration:* Do you agree with the proposal to amend the

2016 Act to remove the requirement for the Welsh Ministers (CIW) to follow the improvement notice process to cancel the registration of a service provider in circumstances when the provider has already ceased to provide a regulated service?

Question 4.11: *(d) Improvement notices and cancellation of registration – information from providers who are cancelling their registration:* Do you agree with the proposal to create a regulation-making power under Section 14 of the 2016 Act to enable the Welsh Ministers (CIW) to require information from a service provider who is cancelling their registration and exiting the market?

Question 4.12: *(d) Improvement notices and cancellation of registration – power to extend the timescale within an Improvement Notice:* Do you agree with the proposal to amend the 2016 Act to give the Welsh Ministers (CIW) the power to extend the timescale for information to be provided when improvement notices are issued?

Question 4.13: *(d) Improvement notices and cancellation of registration – power to cancel a service provider's registration in prescribed circumstances:* Do you agree with the proposal to amend the 2016 Act to enable the Welsh Ministers (CIW) to disapply the section 16(3)(b) requirement within the improvement notice – to take particular action or provide information – in prescribed circumstances, when it would be futile to apply the requirement?

Question 4.14: *(e) Responsible individuals – making representations:* Do you agree with the proposal to amend the 2016 Act to give Responsible Individuals the right to make representations to the Welsh Ministers (CIW), against any improvement notice or cancellation of their designation, provided the representations are made within the time limit specified within the notice?

Question 4.15: *(e) Responsible individuals – sending the improvement notice to the service provider:* Do you agree with the proposal to amend the 2016 Act to require that any improvement notice served to a Responsible Individual must also be sent to the service provider?

Question 4.16: *(e) Responsible individuals - Removing a Responsible Individual without making an application to designate a new Responsible Individual:* Do you

agree with the proposal to amend the 2016 Act to allow a service provider to apply to the Welsh Ministers (CIW) for a variation of the conditions of their registration to remove a Responsible Individual when they are not designating a replacement Responsible Individual as part of the same application?

Question 4.17: *(f) Definition of 'Care' for children and young people:* Do you agree with the proposal to adjust the definition of 'care' in section 3 of the 2016 Act in order to place beyond doubt that the provision of parental-type care is recognised as being 'care' within the meaning of the 2016 Act?

Question 4.18: What in your view would be the likely impacts of the proposals in this chapter? You may wish to consider, for example:

- Benefits, and disbenefits;
- Costs (direct and indirect), and savings;
- Impacts upon individuals and groups with protected characteristics;
- Other practical issues.

Your views on how positive effects could be increased, or negative effects could be mitigated, would also be welcome.

Please explain your reasoning, either here or, if easier, please feel free to note any impacts specific to an individual proposal under the appropriate question above.

Question 4.19: We would like to know your views on the effects that the proposals in this chapter would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English. What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

Question 4.20: Please also explain how you believe the proposals in this chapter could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

Question 4.21: We have asked a number of specific questions in this chapter. If you have any related issues which we have not specifically addressed, please use this space to report them.

Questions on Chapter 5: Amendments to regulation of the social care workforce

There are 9 questions about this chapter.

Question 5.1: Do you agree with the proposal to amend the 2016 Act to provide that a person who has held office as a member of Social Care Wales may be reappointed once? Please explain your reasoning.

Question 5.2: Do you agree with the proposal to amend the 2016 Act to provide Social Care Wales with the power to grant a conditional registration for a person, when they are renewing their registration, in certain circumstances? Please explain your reasoning.

Question 5.3: Do you agree with the proposal to amend the 2016 Act to allow a panel to review and extend interim orders as appropriate, up to the maximum of 18 months? Please explain your reasoning.

Question 5.4: Do you agree with the proposal to amend the 2016 Act to provide a Fitness to Practise panel with the ability to revoke an interim order, during review proceedings, where it is necessary and appropriate? Please explain your reasoning.

Question 5.5: What, in your view, would make it necessary and appropriate for a Fitness to Practise panel to revoke an interim order?

Question 5.6: What in your view would be the likely impacts of the proposals in this chapter? You may wish to consider, for example:

- Benefits, and disbenefits;
- Costs (direct and indirect), and savings;
- Impacts upon individuals and groups with protected characteristics;
- Other practical issues.

Your views on how positive effects could be increased, or negative effects could be mitigated, would also be welcome.

Please explain your reasoning.

Question 5.7: We would like to know your views on the effects that the proposals in this chapter would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English. What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

Question 5.8: Please also explain how you believe the proposals in this chapter could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

Question 5.9: We have asked a number of specific questions in this chapter. If you have any related issues which we have not specifically addressed, please use this space to report them.

Questions on Chapter 6: Extending the definition of social care worker to include childcare and play workers

There are 5 questions about this chapter.

Question 6.1: We would like to know your views on the proposal to extend the definition of 'social care worker' to include both childcare and play workers. In particular, are you in favour of extending the role of Social Care Wales to cover childcare and play workers working in the childcare sector?

Please explain your reasoning.

Question 6.2: What in your view would be the likely impacts of the proposal? You may wish to consider, for example:

- Benefits, and disbenefits;
- Costs (direct and indirect), and savings;
- Impacts upon individuals and groups with protected characteristics;
- Other practical issues.

Your views on how positive effects could be increased, or negative effects could be mitigated, would also be welcome.

Please explain your reasoning.

Question 6.3: We would like to know your views on the effects that the proposal would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English. What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

Question 6.4: Please also explain how you believe the proposal could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

Question 6.5: We have asked a number of specific questions in this chapter. If you have any related issues which we have not specifically addressed, please use this space to report them.

Programme and Legislative Implementation Team
Social Services and Integration Directorate
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

Marie Curie Cymru
Policy & Research Department
mariecurie.org.uk

7 November 2022

To whom it may concern,

Re: Proposed changes to legislation on social care and continuing health care

Marie Curie is the UK's leading end of life care charity providing care and support to families and their loved ones on matter relating to dying, death and bereavement. We deliver services to people throughout Wales, principally through our community based Marie Curie Nurses, who care for around 2,400 terminally ill people and their families in their homes each year across Wales, and through our Cardiff & Vale Hospice in Penarth. Marie Curie is a funder of research into end of life care, and we have recently awarded a further five-year grant to support the Marie Curie Research Centre based in Cardiff University.

Our response to this consultation is limited to the proposals set out under chapter two. Marie Curie Cymru in principle supports the approach set out under chapter two by Welsh Government, to introduce direct payments for CHC in order to give people at end of life more control over their care in the community or in a hospice setting.

There are three primary challenges that Welsh Government will need to consider in order to provide the best outcomes for people at end of life and their loved ones:

1. Equitable access across Wales to fast track CHC for palliative care at home
2. Flexible, person-centred, and cost effective care which suits individual needs
3. Supporting families with organising care and managing direct payments

Equitable access across Wales to fast track CHC for palliative care at home

The greatest proportion of delayed transfers of care from hospitals has been attributed to people waiting to return to their homes with packages of care. Fast track CHC is crucial to ensuring seriously ill and dying people receive the appropriate support they need to enable them to leave, or prevent admission to, hospital. Delays to this process can ultimately mean people dying in hospital before a package of care is put in place, causing significant distress for those at the end of their lives and their loved ones.

Guidance for health boards in Wales has recommended that fast track CHC packages should be put in place within two days of an application being made – this supports patients to be cared for at home or in the community and spend no more time in hospital at the end of life than they need to. Often this is what allows people to die in their place of choice, which to most individuals and their loved ones, is very important.

However, are aware of anecdotal evidence from the hospice sector and various health boards across Wales regarding current delays in getting fast track CHC packages of care to people at end of life as a serious challenge. This has partly been attributed to chronic shortages of carers and health support workers. Furthermore, discussions with teams across health boards in Wales have alluded to a major lack of consistency across Wales when it comes to which patients are successful in their fast track CHC requests. If we are to see people at the end of their lives benefitting from direct payments through CHC and receiving a more flexible and person-centred approach to palliative care at home, we must first see more equitable access and implementation of fast track CHC packages across Wales.

Flexible, person-centred, and cost effective care which suits individual needs

A direct payment route via CHC could be especially helpful and ease the process for those who have had CHC in place for a long term condition, where that condition has deteriorated and is now approaching end of life. Once a long term condition is considered terminal, the individual and/or loved ones may wish to maintain flexibility and choice around the provision of care, particularly around increasing hours of care from healthcare professionals while approaching their final weeks and days. This could be problematic and more complex than necessary under the usual fast track CHC route but would be more straightforward with a direct payment.

In more rural areas where there is less access to larger providers, it could be that care provision is more easily accessible via smaller providers. This would mean that care purchased via a direct payment could be more cost effective and care go further, because the provider is closer to home, and that the individual would have greater flexibility to suit their needs.

However, it must be considered that many terminal illnesses are also not simple in their prognosis or trajectory. Dementia for instance, does not follow a simple or predictable pathway and a question remains as to whether direct payments are flexible and responsive enough to ensure the individual receives the appropriate care. In addition, rapidly deteriorating conditions, like Motor Neurone Disease, mean care arrangements may need to adapt at pace. Welsh Government must be certain that direct payments are able to meet unpredictable care demands at home and in communities and ensure no one goes without the care they need.

Supporting families with organising care and managing direct payments

There will likely be significant challenges facing families and individuals in setting up and managing direct payments if they have not already put this in place. Personal health budget arrangements in England can be complex and will often require a family member/friend/accountant/third sector provider willing to take on this responsibility, often during a time when speed is of the essence and family are likely to be focusing on the individual in their final months, weeks, or days. The act of finding someone to manage direct payments is of increased importance for someone with cognitive impairment or rapidly degenerative conditions, such as Motor Neurone Disease.

In addition, there is some concern around ensuring that individuals at end of life are acquiring specialist palliative care services through direct payments, and not just domiciliary care agencies that will merely call 999 if an individual's condition deteriorates. There could potentially be instances where the NHS do not have sight on whether an individual in receipt of a fast track CHC package has the appropriate care in place. Before Welsh Government pursue any changes to direct payment arrangements, risks against this occurring need to be mitigated.

It is also important to consider the responsibilities facing recipients of direct payments, which may lead to significant stress and anxiety due to managing a new way of meeting their needs. During an already anxious and unsettling time, it is vital that individuals at end of life and their loved ones are able to spend their time how they wish and not worrying about managing payments.

The appropriate information and support with regards to managing direct payments and organising care needs to be available and accessible to anyone in Wales if needed. Local health boards must be in a position to provide timely advice and support to aid recipients through this process and educate individuals affected by terminal illness on their entitlements. Consistency and awareness of this information across Wales is key and Marie Curie would welcome a systematic approach to informing patients of the new direct payment scheme. Information must be easy to interpret, accessible and available in a range of formats, and consistently communicated irrespective of where they live in Wales. Resources should also be developed to assist healthcare professionals in easily communicating with families and recipients of the support that is available.

Should you wish to have a further conversation regarding the proposals set out under chapter 2, we would be willing to facilitate a roundtable discussion with other organisations responsible for providing support to people at the end of life.

Yours sincerely,

Jon Antoniazzi, Head of Policy & Public Affairs, Marie Curie Cymru
Bethan Edwards, Senior Policy Manager, Marie Curie Cymru

Proposed changes to legislation on social care and continuing health care

Q1. Question 1.1: Do you think that introducing provision in legislation that only allows 'not-for-profit' providers to register with CIW will support delivery of the Programme for Government commitment to eliminate profit from the care of children looked after?

No Response

Q2. Question 1.2: What in your view are the likely impacts of the proposal? You may wish to consider, for example: Benefits, and disbenefits Costs (direct and indirect), and savings Impacts upon individuals and groups with protected characteristics Other practical matters such as cross-border issues Your views on how positive effects could be increased, or negative effects could be mitigated, would also be welcome.

Please explain your reasoning.

No Response

Q3. Question 1.3: One approach could be for the legislation to define 'not-for-profit' in terms of the types of organisation that would qualify.

Do you consider that the restriction should also be expressed in terms of the way that any trading surplus is expended?

What would be the effects and implications of this?

No Response

Q4. Question 1.4: Do you think the primary legislation should include a power for Welsh Ministers to amend the definition of 'not-for-profit' through subordinate legislation?

No Response

Q5. Question 1.5: What are your views on the proposed timings for the primary legislation to come into effect?

No Response

Q6. Question 1.6: Are there any issues in relation to transition for children looked after, local authorities and service providers you would like to draw our attention to?

No Response

Q7. Question 1.7: What are your views on the issuing of guidance to support the implementation of the primary legislation?

No Response

Q8. Question 1.8: What are your views on using legislation to place a restriction on local authorities to commission placements from 'not-for-profit' organisations only?

In particular: Do you think it would support us to deliver the commitment to eliminate profit from the care of children looked after in Wales? What would be the benefits, disbenefits and other implications of such an approach? What would be an appropriate timescale for implementing such an approach, if it were to be adopted in Wales?

No Response

Q9. Question 1.9: What are your views on the possibility of approaches being taken in response to these legislative proposals which would undermine the intention to eliminate profit from the care of children looked after in Wales?

Are there any actions which would guard against such activity?

No Response

Q10. Question 1.10: We would like to know your views on the effects that the legislative changes to eliminate profit from the care of children looked after will have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favorably than English.

What effects do you think there would be?

How could positive effects be increased, or negative effects be mitigated?

No Response

Q11. Question 1.11: Please also explain how you believe the legislative changes to support delivery of eliminating profit from the care of children looked after could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

No Response

Q12. Question 1.12: This chapter has focused on how we can achieve the commitment to eliminate profit in the care of children looked after, and we have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

No Response

Q13. Question 2.1: We have outlined our proposals to introduce further voice and control for adults receiving Continuing Health Care (CHC) in Wales.

Do you agree or disagree with these proposals?

Please explain your reasoning.

No Response

Q14. Question 2.2: What in your view are the likely impacts of the proposal?

You may wish to consider, for example: Benefits, and disbenefits Costs (direct and indirect), and savings Impacts upon individuals and groups with protected characteristics Other practical matters such as cross-border issues or transition to the new arrangements Your views on how positive effects could be increased, or negative effects could be mitigated, would also be welcome.

Please explain your reasoning.

No Response

Q15. Question 2.3: What lessons can we learn from other countries' practice in this area?

No Response

Q16. Question 2.4: Do you believe there are any other or complementary approaches we should be considering to achieve the same effect?

If so, please outline below.

No Response

Q17. Question 2.5: We will work to ensure that any legislative change is supported by robust guidance to help both payment recipients and practitioners understand how the system will operate.

Can you identify anything that it would be helpful to include in this guidance?

What other support should be provided?

No Response

Q18. Question 2.6: We would like to know your views on the effects that introducing direct payments for continuing NHS healthcare would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.

What effects do you think there would be?

How could positive effects be increased, or negative effects be mitigated?

No Response

Q19. Question 2.7: Please also explain how you believe our proposals for introducing direct payments for continuing NHS healthcare could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

No Response

Q20. Question 2.8: We have asked a number of specific questions in this chapter. If you have any related issues which we have not specifically addressed, please use this space to report them.

No Response

Q21. Question 3.1: What are your views on the principle of imposing a duty to report a child at risk (as defined in section 130(4) of the Social Services and Well-being (Wales) Act 2014 directly on individuals within relevant bodies?

This will strengthen safeguarding within the play sector.

Q22. Question 3.2: What are your views on the principle of imposing a duty to report an adult at risk (as defined in section 126 (1) of the 2014 Act) directly on individuals within relevant bodies?

No Response

Q23. Question 3.3: What in your view would be the likely benefits, disbenefits, risks, costs, savings and equality impacts of such an approach?

Please explain your reasoning.

Reinforce safeguarding for children

Q24. Question 3.4: What lessons can we learn from the duties to report in other countries?

No Response

Q25. Question 3.5: If individual reporting duties were to be introduced – for children and adults at risk – should these sit alongside, or replace, the existing duties on organisations under the 2014 Act?

yes

Q26. Question 3.6: If individual reporting duties were to be introduced, should they apply to the workforce of current 'relevant partners' under section 162 of the 2014 Act (including youth offending teams in relation to children), or more widely, for example to those working in religious or sports settings, etc., and in particular:

(a) What are your views on this in respect of children (under the age of 18)?

(b) What are your views on this in respect of adults?

No Response

Q27. Question 3.7: If individual reporting duties were to be introduced, which occupation types or roles should be subject to any duty (e.g. members of regulated professions; employed staff, even if they are not regulated; volunteers), and in particular:

(a) What are your views on this in respect of children (under the age of 18)?

(b) What are your views on this in respect of adults?

No Response

Q28. Question 3.8: What sanctions do you think would be proportionate or appropriate for failure to comply with an individual reporting duty?

No Response

Q29. Question 3.9: We would like to know your views on the effects that introducing individual reporting duties would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.

What effects do you think there would be?

How could positive effects be increased, or negative effects be mitigated?

No Response

Q30. Question 3.10: Please also explain how you believe proposals for introducing individual reporting duties could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

No Response

Q31. Question 3.11: We have asked a number of specific questions in this chapter. If you have any related issues which we have not specifically addressed, please use this space to report them.

No Response

Q32. Question 4.1: (a) Identifying unregistered services - power to obtain information: Do you agree with the proposal to amend the 2016 Act to enable the Welsh Ministers (CIW) to require information from any person where there is reasonable cause to believe that they are providing a service which should be regulated?

yes

Q33. Question 4.2: (a) Identifying unregistered services - power to obtain information: Do you agree with the proposal to extend the offence of failing to provide information when required to do so, to include these persons?

yes

Q34. Question 4.3: (a) Identifying unregistered services - power of entry: Do you agree with the proposal to amend the 2016 Act to remove ambiguity and make it clear that the Welsh Ministers (CIW) have the power to enter and inspect any premises which they have reasonable cause to believe is (or has been) used as a place at or from which a service is (or has been) provided, or which is (or has been) used in connection with the provision of a regulated service?

yes

Q35. Question 4.4: (a) Identifying unregistered services - power of entry: Do you agree with the proposal to extend the offence of obstructing an inspector or failing to comply with a requirement imposed by an inspector, to include these circumstances?

yes

Q36. Question 4.4: (a) Identifying unregistered services - power of entry: Do you agree with the proposal to extend the offence of obstructing an inspector or failing to comply with a requirement imposed by an inspector, to include these circumstances?

yes

Q37. Question 4.5: (b) Publication of annual returns: Do you agree with the proposal to amend the 2016 Act to require service providers to publish their annual returns?

yes

Q38. Question 4.6: (b) Publication of annual returns: Do you agree with the proposal to create a related offence of failing to publish an annual return?

yes

Q39. Question 4.7: (c) Publication of inspection reports: Do you agree with the proposal to amend the 2016 Act to provide additional flexibility for the Welsh Ministers (CIW) to recognise circumstances where it may not be appropriate, relevant, or proportionate to prepare and/or publish an inspection report?

yes

Q40. Question 4.8: (d) Improvement notices and cancellation of registration – variation of registration as a service provider: Do you agree with the proposal to amend the 2016 Act to remove the requirement for the Welsh Ministers (CIW) to issue an improvement notice to a provider in circumstances where the provider is no longer providing that service or using that place to provide a service?

yes

Q41. Question 4.9: (d) Improvement notices and cancellation of registration - removal of a condition on a service provider's registration: Do you agree with the proposal to amend the 2016 Act to enable the Welsh Ministers (CIW) to remove a condition on a service provider's registration without giving a notice of proposal (section 18) and notice of decision following notice of proposal (section 19), when the circumstances which led to the imposition of the condition no longer apply?

yes

Q42. Question 4.10: (d) Improvement notices and cancellation of registration – power to cancel a service provider's registration: Do you agree with the proposal to amend the 2016 Act to remove the requirement for the Welsh Ministers (CIW) to follow the improvement notice process to cancel the registration of a service provider in circumstances when the provider has already ceased to provide a regulated service?

yes

Q43. Question 4.11: (d) Improvement notices and cancellation of registration – information from providers who are cancelling their registration: Do you agree with the proposal to create a regulation-making power under Section 14 of the 2016 Act to enable the Welsh Ministers (CIW) to require information from a service provider who is cancelling their registration and exiting the market?

yes

Q44. Question 4.12: (d) Improvement notices and cancellation of registration – power to extend the timescale within an Improvement Notice: Do you agree with the proposal to amend the 2016 Act to give the Welsh Ministers (CIW) the power to extend the timescale for information to be provided when improvement notices are issued?

yes

Q45. Question 4.13: (d) Improvement notices and cancellation of registration – power to cancel a service provider's registration in prescribed circumstances: Do you agree with the proposal to amend the 2016 Act to enable the Welsh Ministers (CIW) to disapply the section 16(3)(b) requirement within the improvement notice – to take particular action or provide information – in prescribed circumstances, when it would be futile to apply the requirement?

yes

Q46. Question 4.14: (e) Responsible individuals – making representations: Do you agree with the proposal to amend the 2016 Act to give Responsible Individuals the right to make representations to the Welsh Ministers (CIW), against any improvement notice or cancellation of their designation, provided the representations are made within the time limit specified within the notice?

yes

Q47. Question 4.15: (e) Responsible individuals – sending the improvement notice to the service provider: Do you agree with the proposal to amend the 2016 Act to require that any improvement notice served to a Responsible Individual must also be sent to the service provider?

yes

Q48. Question 4.16: (e) Responsible individuals - Removing a Responsible Individual without making an application to designate a new Responsible Individual: Do you agree with the proposal to amend the 2016 Act to allow a service provider to apply to the Welsh Ministers (CIW) for a variation of the conditions of their registration to remove a Responsible Individual when they are not designating a replacement Responsible Individual as part of the same application?

yes

Q49. Question 4.17: (f) Definition of 'Care' for children and young people: Do you agree with the proposal to adjust the definition of 'care' in section 3 of the 2016 Act in order to place beyond doubt that the provision of parental-type care is recognised as being 'care' within the meaning of the 2016 Act?

yes

Q50. Question 4.18: What in your view would be the likely impacts of the proposals in this chapter? You may wish to consider, for example: Benefits, and disbenefits Costs (direct and indirect), and savings Impacts upon individuals and groups with protected characteristics Other practical issues Your views on how positive effects could be increased, or negative effects could be mitigated, would also be welcome.

Please explain your reasoning, either here or, if easier, please feel free to note any impacts specific to an individual proposal under the appropriate question above.

No Response

Q51. Question 4.19: We would like to know your views on the effects that the proposals in this chapter would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.

What effects do you think there would be?

How could positive effects be increased, or negative effects be mitigated?

No Response

Q52. Question 4.20: Please also explain how you believe the proposals in this chapter could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

No Response

Q53. Question 4.21: We have asked a number of specific questions in this chapter. If you have any related issues which we have not specifically addressed, please use this space to report them.

No Response

Q54. Question 5.1: Do you agree with the proposal to amend the 2016 Act to provide that a person who has held office as a member of Social Care Wales may be reappointed once?

Please explain your reasoning.

No Response

Q55. Question 5.2: Do you agree with the proposal to amend the 2016 Act to provide Social Care Wales with the power to grant a conditional registration for a person, when they are renewing their registration, in certain circumstances?

Please explain your reasoning.

No Response

Q56. Question 5.3: Do you agree with the proposal to amend the 2016 Act to allow a panel to review and extend interim orders as appropriate, up to the maximum of 18 months?

Please explain your reasoning.

No Response

Q57. Question 5.4: Do you agree with the proposal to amend the 2016 Act to provide a Fitness to Practise panel with the ability to revoke an interim order, during review proceedings, where it is necessary and appropriate?

Please explain your reasoning.

No Response

Q58. Question 5.5: What, in your view, would make it necessary and appropriate for a 'fitness to practise' panel to revoke an interim order?

No Response

Q59. Question 5.6: What in your view would be the likely impacts of the proposals in this chapter? You may wish to consider, for example: Benefits, and disbenefits Costs (direct and indirect), and savings Impacts upon individuals and groups with protected characteristics Other practical issues Your views on how positive effects could be increased, or negative effects could be mitigated, would also be welcome.

Please explain your reasoning.

No Response

Q60. Question 5.7: We would like to know your views on the effects that the proposals in this chapter would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.

What effects do you think there would be?

How could positive effects be increased, or negative effects be mitigated?

No Response

Q61. Question 5.8: Please also explain how you believe the proposals in this chapter could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

No Response

Q62. Question 5.9: We have asked a number of specific questions in this chapter. If you have any related issues which we have not specifically addressed, please use this space to report them.

No Response

Q63. Question 6.1: We would like to know your views on the proposal to extend the definition of 'social care worker' to include both childcare and play workers. In particular, are you in favour of extending the role of Social Care Wales to cover childcare and play workers working in the childcare sector?

Please explain your reasoning.

Yes, this will have a largely positive impact.

Q64. Question 6.2: What in your view would be the likely impacts of the proposal? You may wish to consider, for example: Benefits, and disbenefits Costs (direct and indirect), and savings Impacts upon individuals and groups with protected characteristics Other practical issues Your views on how positive effects could be increased, or negative effects could be mitigated, would also be welcome.

Please explain your reasoning.

No Response

Q65. Question 6.3: We would like to know your views on the effects that the proposal would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.

What effects do you think there would be?

How could positive effects be increased, or negative effects be mitigated?

No Response

Q66. Question 6.4: Please also explain how you believe the proposal could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language

No Response

Q67. Question 6.5: We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:

No Response

Submit your response

Q68. You are about to submit your response. Please ensure you are satisfied with the answers you have provided before sending.

Name: [REDACTED]
 Organisation (if applicable): [REDACTED]
 E:mail: [REDACTED]
 Telephone: [REDACTED]
 Your address: [REDACTED]

Q69. If you want to receive a receipt of your response, please provide an email address.

Email address

No Response

Q70. Responses to consultations may be made public. To keep your response anonymous (including email addresses) tick the box.

Keep my response anonymous

Proposed changes to legislation on social care and continuing health care

Q1. Question 1.1: Do you think that introducing provision in legislation that only allows 'not-for-profit' providers to register with CIW will support delivery of the Programme for Government commitment to eliminate profit from the care of children looked after?

Yes

Q2. Question 1.2: What in your view are the likely impacts of the proposal? You may wish to consider, for example: Benefits, and disbenefits Costs (direct and indirect), and savings Impacts upon individuals and groups with protected characteristics Other practical matters such as cross-border issues Your views on how positive effects could be increased, or negative effects could be mitigated, would also be welcome.

Please explain your reasoning.

We agree with the proposal and the aims it is trying to achieve. We think there is a risk that a number of providers may exit the market, particularly those working across border where the majority of work may be in East Wales. It may be optimistic to think they will restructure in order to become not for profit rather than exit the market due to the logistical challenges associated with changing their governance structure and the willingness to do so, and this brings a risk to the stability of the market. This needs to be considered on a detailed region by region basis so that contingency plans are in place prior to any significant change.

Q3. Question 1.3: One approach could be for the legislation to define 'not-for-profit' in terms of the types of organisation that would qualify.

Do you consider that the restriction should also be expressed in terms of the way that any trading surplus is expended?

What would be the effects and implications of this?

No Response

Q4. Question 1.4: Do you think the primary legislation should include a power for Welsh Ministers to amend the definition of 'not-for-profit' through subordinate legislation?

No Response

Q5. Question 1.5: What are your views on the proposed timings for the primary legislation to come into effect?

No Response

Q6. Question 1.6: Are there any issues in relation to transition for children looked after, local authorities and service providers you would like to draw our attention to?

No Response

Q7. Question 1.7: What are your views on the issuing of guidance to support the implementation of the primary legislation?

No Response

Q8. Question 1.8: What are your views on using legislation to place a restriction on local authorities to commission placements from 'not-for-profit' organisations only?

In particular: Do you think it would support us to deliver the commitment to eliminate profit from the care of children looked after in Wales? What would be the benefits, disbenefits and other implications of such an approach? What would be an appropriate timescale for implementing such an approach, if it were to be adopted in Wales?

No Response

Q9. Question 1.9: What are your views on the possibility of approaches being taken in response to these legislative proposals which would undermine the intention to eliminate profit from the care of children looked after in Wales?

Are there any actions which would guard against such activity?

No Response

Q10. Question 1.10: We would like to know your views on the effects that the legislative changes to eliminate profit from the care of children looked after will have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favorably than English.

What effects do you think there would be?

How could positive effects be increased, or negative effects be mitigated?

No Response

Q11. Question 1.11: Please also explain how you believe the legislative changes to support delivery of eliminating profit from the care of children looked after could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

No Response

Q12. Question 1.12: This chapter has focused on how we can achieve the commitment to eliminate profit in the care of children looked after, and we have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

No Response

Q13. Question 2.1: We have outlined our proposals to introduce further voice and control for adults receiving Continuing Health Care (CHC) in Wales.

Do you agree or disagree with these proposals?

Please explain your reasoning.

We agree with these proposals. They will give individuals greater voice, choice and control in their services, and remove barriers for people to access the CHC funding they are entitled to. It will remove the disparity between people receiving similar types of support with different funding streams having different rights in terms of how their package of care is provided.

Q14. Question 2.2: What in your view are the likely impacts of the proposal?

You may wish to consider, for example: Benefits, and disbenefits Costs (direct and indirect), and savings Impacts upon individuals and groups with protected characteristics Other practical matters such as cross-border issues or transition to the new arrangements Your views on how positive effects could be increased, or negative effects could be mitigated, would also be welcome.

Please explain your reasoning.

We believe the proposals will benefit individuals in receipt of CHC or entitled to receive CHC by allowing them greater voice, choice and control in how their care is delivered. It will also allow providers to provide packages of care to individuals in mixed supported living settings more easily, without the barriers that having different funders in the same setting can create.

Careful consideration and guidance needs to be provided, particularly in relation to the amount of direct payments provided. Payments provided to individuals under the direct payments scheme must be fair and equitable and be sufficient for them to have genuine choice and control in who delivers their care and how this is done. Where an individual uses the payments to directly employ people to provide their care, payments must be sufficient to cover the totality of costs this brings with it. We believe a funding formula should be considered to support this.

Direct Payments can still be daunting for individuals despite the benefits they bring. Clear guidance should be provided both in writing and in a practical ongoing manner for individuals to access who are considering direct payments, to support them to make positive, informed choices about who provides their care and information about how to keep themselves safe (ie vetting-type procedures). This may encourage people to take up the offer where it would be suitable but feels daunting.

Q15. Question 2.3: What lessons can we learn from other countries' practice in this area?

We are aware of people with similar needs and in similar services having different payments depending on how local authorities in England calculate them. Some people have had difficulties meeting costs associated with becoming an 'employer' as these have not been funded, or they have not been given sufficient information and guidance to understand their responsibilities in this area and how to allocate funding accordingly. We believe there should be guidance in place that applies across Wales, that supports fair and consistent funding depending on the individual's needs and taking into account local market costs. We think this could be done in line with the principles proposed in the 'rebalancing care and support' white paper. We currently only operate in Wales so have limited practical experience of other countries' practice.

Q16. Question 2.4: Do you believe there are any other or complementary approaches we should be considering to achieve the same effect?

If so, please outline below.

None that we could think of that would have the same effect.

Q17. Question 2.5: We will work to ensure that any legislative change is supported by robust guidance to help both payment recipients and practitioners understand how the system will operate.

Can you identify anything that it would be helpful to include in this guidance?

What other support should be provided?

Guidance for recipients should be clear on how the funding can be spent; what is or is not covered by the funding; the different options available for administering the fund together with advantages and disadvantages of each; guidance on how to choose a provider, what to do if the provider relationship breaks down, and if they are considering a direct employment relationship what their responsibilities within this are, as well as how to safely select/vet applicants.

Practitioners should have guidance in how the funding can be disbursed and administered; how to support recipients to access and manage funds; how to support the recipient in arranging their package; what information should be provided to the recipient to help them administer the fund and ensure it is meeting their needs. Providers should be given information relating to their duties and responsibilities under the proposed scheme, if a person is directly purchasing services.

As well as written guidance, there needs to be a dedicated resource for ongoing advice and guidance. This could be in the form of a centralised telephone service, or local arrangements within health board areas, but it must be accessible to individuals with a variety of communication needs.

Q18. Question 2.6: We would like to know your views on the effects that introducing direct payments for continuing NHS healthcare would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.

What effects do you think there would be?

How could positive effects be increased, or negative effects be mitigated?

This could be a positive move for individuals in particular, as they will be able to have more control over the language in which their care is delivered. While the More than just Words plan has ambitions to enable all people to receive care in Welsh if this is their preference, we know that this can be erratic in practice. Moving to Direct Payments for CHC would allow more people to decide what priority the spoken language of their care/support provider is for them.

Q19. Question 2.7: Please also explain how you believe our proposals for introducing direct payments for continuing NHS healthcare could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

We don't have any proposals for changes.

Q20. Question 2.8: We have asked a number of specific questions in this chapter. If you have any related issues which we have not specifically addressed, please use this space to report them.

No Response

Q21. Question 3.1: What are your views on the principle of imposing a duty to report a child at risk (as defined in section 130(4) of the Social Services and Well-being (Wales) Act 2014 directly on individuals within relevant bodies?

We believe that this will be a positive move and is in line with safeguarding training and guidance that safeguarding is 'everyone's business'. It will put this into practice on a practical level.

Q22. Question 3.2: What are your views on the principle of imposing a duty to report an adult at risk (as defined in section 126 (1) of the 2014 Act) directly on individuals within relevant bodies?

We believe that this will be a positive move and is in line with safeguarding training and guidance that safeguarding is 'everyone's business'. It will put this into practice on a practical level.

Q23. Question 3.3: What in your view would be the likely benefits, disbenefits, risks, costs, savings and equality impacts of such an approach?

Please explain your reasoning.

We think that this will make more professionals take direct action when they have concerns, rather than thinking someone else might or reporting issues internally only rather than to the local authority. We hope it will promote a culture of professional curiosity, and ensure that there are fewer occasions where opportunities for intervention are missed.

It may mean that local authorities experience multiple referrals for the same individual from different professionals. However while this may bring more work to the local authority teams, we consider the risks of this minimal when compared to the dangers of under-reporting. We also hope that where more referrals are being made, there will be more 'pieces of the puzzle' provided to safeguarding teams so that they may progress a case that would previously have been closed.

Q24. Question 3.4: What lessons can we learn from the duties to report in other countries?

No Response

Q25. Question 3.5: If individual reporting duties were to be introduced – for children and adults at risk – should these sit alongside, or replace, the existing duties on organisations under the 2014 Act?

We believe they should sit alongside. The organisation should also have a duty so that if incidents are reported internally in the first instance, they will still be obligated to make a report. It will also ensure that appropriate emphasis is placed by the organisation on ensuring their workforce are sufficiently trained, competent and confident to report, as the responsibility will be shared.

Q26. Question 3.6: If individual reporting duties were to be introduced, should they apply to the workforce of current 'relevant partners' under section 162 of the 2014 Act (including youth offending teams in relation to children), or more widely, for example to those working in religious or sports settings, etc., and in particular:

(a) What are your views on this in respect of children (under the age of 18)?

(b) What are your views on this in respect of adults?

We believe that for both adults and children, this should apply to any organisation working with the vulnerable person and not just the 'relevant partners'. This could include informal playgroups, religious groups, sports groups etc, wherever a service is aimed to support either children or adults who may be vulnerable.

Q27. Question 3.7: If individual reporting duties were to be introduced, which occupation types or roles should be subject to any duty (e.g. members of regulated professions; employed staff, even if they are not regulated; volunteers), and in particular:

(a) What are your views on this in respect of children (under the age of 18)?

(b) What are your views on this in respect of adults?

We believe that the types of professions should extend to all those working within the groups in our response to 3.6, including volunteers and unregulated workforces. We think this should apply to both adults and children.

We would be in favour of the duty being extended to the public, as long as there were sufficient campaigns to raise awareness of the duty to ensure people would know how to report a concern and what type of concern would be reportable.

Q28. Question 3.8: What sanctions do you think would be proportionate or appropriate for failure to comply with an individual reporting duty?

For those on a professional register of any type, fitness to practice proceedings should be considered.

For other individuals we do not feel able to comment on what would be proportionate or appropriate, as to some extent this would depend on circumstances. Measure could include fines, or being placed on the barred list, depending on the circumstances and the training/knowledge of the person at fault.

Q29. Question 3.9: We would like to know your views on the effects that introducing individual reporting duties would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.

What effects do you think there would be?

How could positive effects be increased, or negative effects be mitigated?

We cannot perceive any notable effects on the use of the Welsh Language.

Q30. Question 3.10: Please also explain how you believe proposals for introducing individual reporting duties could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

We cannot see any changes that would have a notable effect on the use of the Welsh Language.

Q31. Question 3.11: We have asked a number of specific questions in this chapter. If you have any related issues which we have not specifically addressed, please use this space to report them.

No Response

Q32. Question 4.1: (a) Identifying unregistered services - power to obtain information: Do you agree with the proposal to amend the 2016 Act to enable the Welsh Ministers (CIW) to require information from any person where there is reasonable cause to believe that they are providing a service which should be regulated?

We agree.

Q33. Question 4.2: (a) Identifying unregistered services - power to obtain information: Do you agree with the proposal to extend the offence of failing to provide information when required to do so, to include these persons?

Yes.

Q34. Question 4.3: (a) Identifying unregistered services - power of entry: Do you agree with the proposal to amend the 2016 Act to remove ambiguity and make it clear that the Welsh Ministers (CIW) have the power to enter and inspect any premises which they have reasonable cause to believe is (or has been) used as a place at or from which a service is (or has been) provided, or which is (or has been) used in connection with the provision of a regulated service?

We agree in principle but would like the following to be considered:

- 1) a definition of 'reasonable cause to believe'
- 2) a definition of 'premises'

We think there is some risk to people's right to privacy if the definition of premises extended to an individual's home in which they would receive domiciliary care. If by premises we are talking about the premises of the service provider, we entirely agree with the proposal. If we are talking about people's own homes where they receive domiciliary care, we would like further measures to be put in place to ensure that consent is sought where possible, and that the service provider's premises is visited first in case a visit to someone's home could be avoided. In the LPS consultation documentation there was consideration of the different checks and balances in place if CIW needed to visit someone's home in relation to a possible deprivation. We would welcome similar checks and balances if the definition of premises in this case might include individual's private homes.

Q35. Question 4.4: (a) Identifying unregistered services - power of entry: Do you agree with the proposal to extend the offence of obstructing an inspector or failing to comply with a requirement imposed by an inspector, to include these circumstances?

Yes.

Q36. Question 4.4: (a) Identifying unregistered services - power of entry: Do you agree with the proposal to extend the offence of obstructing an inspector or failing to comply with a requirement imposed by an inspector, to include these circumstances?

Yes.

Q37. Question 4.5: (b) Publication of annual returns: Do you agree with the proposal to amend the 2016 Act to require service providers to publish their annual returns?

We do agree with the proposal and understand the reasoning behind this in terms of data ownership. We think it would be beneficial to define what is meant by 'publish'. Large providers are likely to have websites where they can do this, but smaller providers may not have websites, or may not have the facilities in-house to amend their own websites without paying consultancy fees. Would publication on social media such as facebook qualify? Or having printed copies available on request for individuals and families? Would there be any expectation to actively send the returns out to anyone, or simply to make them available? We would be interested in understanding how CIW would manage and monitor this.

Q38. Question 4.6: (b) Publication of annual returns: Do you agree with the proposal to create a related offence of failing to publish an annual return?

Yes - but it should be clear within what timescale publication is expected after the close of the annual return window before action is taken.

Q39. Question 4.7: (c) Publication of inspection reports: Do you agree with the proposal to amend the 2016 Act to provide additional flexibility for the Welsh Ministers (CIW) to recognise circumstances where it may not be appropriate, relevant, or proportionate to prepare and/or publish an inspection report?

Yes we agree. We would prefer it if re inspections that take place after a previous inspection has identified concerns would be published, as we think this is in both the provider and the public's interest. We would like there to be a mechanism for a provider to challenge a decision not to publish, especially if publication would show an improvement and evidence actions taken by a provider to address any previous concerns that have been published.

Q40. Question 4.8: (d) Improvement notices and cancellation of registration – variation of registration as a service provider: Do you agree with the proposal to amend the 2016 Act to remove the requirement for the Welsh Ministers (CIW) to issue an improvement notice to a provider in circumstances where the provider is no longer providing that service or using that place to provide a service?

Yes.

Q41. Question 4.9: (d) Improvement notices and cancellation of registration - removal of a condition on a service provider's registration: Do you agree with the proposal to amend the 2016 Act to enable the Welsh Ministers (CIW) to remove a condition on a service provider's registration without giving a notice of proposal (section 18) and notice of decision following notice of proposal (section 19), when the circumstances which led to the imposition of the condition no longer apply?

Yes

Q42. Question 4.10: (d) Improvement notices and cancellation of registration – power to cancel a service provider’s registration: Do you agree with the proposal to amend the 2016 Act to remove the requirement for the Welsh Ministers (CIW) to follow the improvement notice process to cancel the registration of a service provider in circumstances when the provider has already ceased to provide a regulated service?

Yes

Q43. Question 4.11: (d) Improvement notices and cancellation of registration – information from providers who are cancelling their registration: Do you agree with the proposal to create a regulation-making power under Section 14 of the 2016 Act to enable the Welsh Ministers (CIW) to require information from a service provider who is cancelling their registration and exiting the market?

Yes

Q44. Question 4.12: (d) Improvement notices and cancellation of registration – power to extend the timescale within an Improvement Notice: Do you agree with the proposal to amend the 2016 Act to give the Welsh Ministers (CIW) the power to extend the timescale for information to be provided when improvement notices are issued?

Yes

Q45. Question 4.13: (d) Improvement notices and cancellation of registration – power to cancel a service provider’s registration in prescribed circumstances: Do you agree with the proposal to amend the 2016 Act to enable the Welsh Ministers (CIW) to disapply the section 16(3)(b) requirement within the improvement notice – to take particular action or provide information – in prescribed circumstances, when it would be futile to apply the requirement?

Yes

Q46. Question 4.14: (e) Responsible individuals – making representations: Do you agree with the proposal to amend the 2016 Act to give Responsible Individuals the right to make representations to the Welsh Ministers (CIW), against any improvement notice or cancellation of their designation, provided the representations are made within the time limit specified within the notice?

Yes, this feels an important amendment that would be fairer to RIs.

Q47. Question 4.15: (e) Responsible individuals – sending the improvement notice to the service provider: Do you agree with the proposal to amend the 2016 Act to require that any improvement notice served to a Responsible Individual must also be sent to the service provider?

Yes.

Q48. Question 4.16: (e) Responsible individuals - Removing a Responsible Individual without making an application to designate a new Responsible Individual: Do you agree with the proposal to amend the 2016 Act to allow a service provider to apply to the Welsh Ministers (CIW) for a variation of the conditions of their registration to remove a Responsible Individual when they are not designating a replacement Responsible Individual as part of the same application?

Yes. We think it would be helpful to have timescales around when a new RI would be expected to be appointed. If there is a need to recruit a new RI this could take several months, so we would propose the following:

- 1) that the application for the new RI commences within 6 months of the previous RI leaving
- 2) that in the interim, there is the facility for the service provider to nominate an interim RI within 28 days, who could fulfil the duties without needing to go through the full application process with CIW (a leaner process could be created for this purpose). This would need to be someone senior enough within the organisation to carry out the day to day functions while a new RI is sought and appointed. This would allow for an RI portal to continue to function for the submission of RI restricted notifications and for Reg 73 visits and Reg 74 and 80 reports to continue while an RI is appointed. It is likely that interim arrangements will already be made by the SP in practice, as the RI's operational role in the organisation is likely to be subject to cover arrangements.

Q49. Question 4.17: (f) Definition of 'Care' for children and young people: Do you agree with the proposal to adjust the definition of 'care' in section 3 of the 2016 Act in order to place beyond doubt that the provision of parental-type care is recognised as being 'care' within the meaning of the 2016 Act?

Yes

Q50. Question 4.18: What in your view would be the likely impacts of the proposals in this chapter? You may wish to consider, for example: Benefits, and disbenefits Costs (direct and indirect), and savings Impacts upon individuals and groups with protected characteristics Other practical issues Your views on how positive effects could be increased, or negative effects could be mitigated, would also be welcome.

Please explain your reasoning, either here or, if easier, please feel free to note any impacts specific to an individual proposal under the appropriate question above.

The proposal will provide clarity which will benefit all parties. It will also address some anomalies and provide balance for providers - particularly the right to respond to improvement notices and the need for SPs to be notified of concerns with an RI.

Q51. Question 4.19: We would like to know your views on the effects that the proposals in this chapter would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.

What effects do you think there would be?

How could positive effects be increased, or negative effects be mitigated?

None noted.

Q52. Question 4.20: Please also explain how you believe the proposals in this chapter could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

None noted

Q53. Question 4.21: We have asked a number of specific questions in this chapter. If you have any related issues which we have not specifically addressed, please use this space to report them.

No Response

Q54. Question 5.1: Do you agree with the proposal to amend the 2016 Act to provide that a person who has held office as a member of Social Care Wales may be reappointed once?

Please explain your reasoning.

Yes. This would be in line with other similar organisations, and would bring benefits of continuity and stability of leadership and direction which is important when long-term strategies and frameworks are being worked towards.

Q55. Question 5.2: Do you agree with the proposal to amend the 2016 Act to provide Social Care Wales with the power to grant a conditional registration for a person, when they are renewing their registration, in certain circumstances?

Please explain your reasoning.

Yes, we believe this is fair and proportionate and removes the risk of otherwise good workers having their employment put at risk for relatively minor or technical reasons. We would ask that the employer is told of any conditional registration so that we can support the registered worker to meet the requirements with practical support. It would also allow us to manage any performance concerns where registration is a condition of employment.

Q56. Question 5.3: Do you agree with the proposal to amend the 2016 Act to allow a panel to review and extend interim orders as appropriate, up to the maximum of 18 months?

Please explain your reasoning.

Yes, we believe this will reduce the imposition of unnecessarily long orders in case 6 months is not enough. This feels fairer to the person who is having their fitness to practice investigated. It will also relieve burdens on providers where they are needing to make additional arrangements to allow the person to comply with the order, for example not allowing lone working.

Q57. Question 5.4: Do you agree with the proposal to amend the 2016 Act to provide a Fitness to Practise panel with the ability to revoke an interim order, during review proceedings, where it is necessary and appropriate?

Please explain your reasoning.

Yes, this feels fairer to the person undergoing FTP proceedings and will avoid them feeling penalised while proceedings are still underway, if the need for the order is no longer there. It will also relieve burdens on employers for the reasons outlined above.

Q58. Question 5.5: What, in your view, would make it necessary and appropriate for a 'fitness to practise' panel to revoke an interim order?

Where one element of a concern has been disproved or downgraded that may reduce the risk that the person's presence in a service could pose. This may particularly apply if further evidence comes to light during an investigation.

Q59. Question 5.6: What in your view would be the likely impacts of the proposals in this chapter? You may wish to consider, for example: Benefits, and disbenefits Costs (direct and indirect), and savings Impacts upon individuals and groups with protected characteristics Other practical issues Your views on how positive effects could be increased, or negative effects could be mitigated, would also be welcome.

Please explain your reasoning.

We believe it will make the FTP process fairer and more proportionate for those under investigation. While interim orders are not intended to be punitive, they can feel so to the person subject to them and the ability to reduce timescales and revoke them if appropriate will help to make the person feel they are undergoing a fair and proportionate process. This also reduces financial burdens on employers (cover/shadowing arrangements) and the employee (if suspended with reduced pay).

Q60. Question 5.7: We would like to know your views on the effects that the proposals in this chapter would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.

What effects do you think there would be?

How could positive effects be increased, or negative effects be mitigated?

None noted.

Q61. Question 5.8: Please also explain how you believe the proposals in this chapter could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

None noted.

Q62. Question 5.9: We have asked a number of specific questions in this chapter. If you have any related issues which we have not specifically addressed, please use this space to report them.

No Response

Q63. Question 6.1: We would like to know your views on the proposal to extend the definition of 'social care worker' to include both childcare and play workers. In particular, are you in favour of extending the role of Social Care Wales to cover childcare and play workers working in the childcare sector?

Please explain your reasoning.

We agree with the proposal.

Q64. Question 6.2: What in your view would be the likely impacts of the proposal? You may wish to consider, for example: Benefits, and disbenefits Costs (direct and indirect), and savings Impacts upon individuals and groups with protected characteristics Other practical issues Your views on how positive effects could be increased, or negative effects could be mitigated, would also be welcome.

Please explain your reasoning.

It will mean that where the same child is being looked after by a professional in any setting, it can be assured that the professional is working to the same standards and requirements regardless of setting.

Q65. Question 6.3: We would like to know your views on the effects that the proposal would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.

What effects do you think there would be?

How could positive effects be increased, or negative effects be mitigated?

None noted

Q66. Question 6.4: Please also explain how you believe the proposal could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language

None noted

Q67. Question 6.5: We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:

N/a

Submit your response

Q68. You are about to submit your response. Please ensure you are satisfied with the answers you have provided before sending.

Name: Isobel Lloyd

Organisation (if applicable): Pobl Group

E:mail:

Telephone:

Your address: Exchange House, High Street, Newport NP20 1AA

Q69. If you want to receive a receipt of your response, please provide an email address.

Email address

[REDACTED]

Q70. Responses to consultations may be made public. To keep your response anonymous (including email addresses) tick the box.

No Response

Consultation Response Form

Your name: Lance Carver

Organisation (if applicable): Vale of Glamorgan Social Services, Vale of Glamorgan Council.

Email / Telephone number: lcarver@valeofglamorgan.gov.uk

Your address:

Responses to consultations may be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please place a tick in the box:

☐

Please tell us who you are responding on behalf of. For example is this your own response or is it sent on behalf of an organisation?

If you want to receive a receipt of your response, please confirm your email address, here:

Questions on Chapter 1: Eliminating profit from the care of children looked after

There are 12 questions about this chapter.

Question 1.1: Do you think that introducing provision in legislation that only allows 'not-for-profit' providers to register with CIW will support delivery of the Programme for Government commitment to eliminate profit from the care of children looked after?

Yes it would support the commitment, but there are a number of other factors to consider.

It is essential we recognise the population of children who need to be looked after has increased. This has been impacted by the pandemic and the cost of living crisis is likely to result in more families requiring intervention. Local Authorities are not able to identify suitable match placements for all of these children currently. Compromises are made on a daily basis and despite significant effort, children are not always being placed in the most appropriate settings. Legislative change is not a sufficient approach to resolving this issue and to implement this without a thorough and achievable plan is likely to result in unintended consequences.

Question 1.2: What in your view are the likely impacts of the proposal? You may wish to consider, for example:

- Benefits, and disbenefits;
- Costs (direct and indirect), and savings;
- Impacts upon individuals and groups with protected characteristics;
- Other practical matters such as cross-border issues.

Your views on how positive effects could be increased, or negative effects could be mitigated, would also be welcome.

Please explain your reasoning.

There is a significant shortage of all children's placements in Wales and in England. This includes fostering, residential and secure. This needs to be addressed as the first priority before looking to eliminate profit. The elimination of profit agenda will potentially further reduce placement availability in Wales.

Not for profit placements in our experience do not necessarily cost less to the local authority and it cannot be assumed that the quality is higher than those making profit.

There does not appear to be any differentiation between large profit making companies and small local companies who provide a good service and reinvest their profits to benefit the quality of care for children.

We are not aware of there being a shared understanding of what constitutes acceptable profit.

Question 1.3: One approach could be for the legislation to define 'not-for-profit' in terms of the types of organisation that would qualify. Do you consider that the restriction should also be expressed in terms of the way that any trading surplus is expended? What would be the effects and implications of this?

Yes we think this could be helpful – see above.

Question 1.4: Do you think the primary legislation should include a power for Welsh Ministers to amend the definition of 'not-for-profit' through subordinate legislation?

This is not clear – further explanation is required.

Question 1.5: What are your views on the proposed timings for the primary legislation to come into effect?

It is premature for this legislation to come into effect until there have been further efforts and investment in increasing placement provision in Wales. To progress without this investment could result in further insufficiency of placements and associated negative outcomes for children.

Question 1.6: Are there any issues in relation to transition for children looked after, local authorities and service providers you would like to draw our attention to?

This is a significant area of concern. Without a thorough plan and investment it is likely placement disruption will increase, placement stability will reduce, and the use of unregulated placements will increase.

Question 1.7: What are your views on the issuing of guidance to support the implementation of the primary legislation?

This would be expected but please note our observations regarding what needs to happen first.

Question 1.8: What are your views on using legislation to place a restriction on local authorities to commission placements from 'not-for-profit' organisations only? In particular:

- Do you think it would support us to deliver the commitment to eliminate profit from the care of children looked after in Wales?

- What would be the benefits, disbenefits and other implications of such an approach?
- What would be an appropriate timescale for implementing such an approach, if it were to be adopted in Wales?

This approach would severely limit our ability to identify placements, match children appropriately and meet our statutory responsibilities. Simply limiting the options available to placing authorities is not helpful.

In relation to timescales, this legislation should not be implemented until placement sufficiency within Wales has been addressed.

Question 1.9: What are your views on the possibility of approaches being taken in response to these legislative proposals which would undermine the intention to eliminate profit from the care of children looked after in Wales? Are there any actions which would guard against such activity?

No views on this.

Question 1.10: We would like to know your views on the effects that the legislative changes to eliminate profit from the care of children looked after will have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favorably than English. What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

Unless there is increased placement availability within Wales, opportunities for children to have an appropriately matched placement within Wales, within their own local culture, whether welsh speaking or not, will be affected.

Question 1.11: Please also explain how you believe the legislative changes to support delivery of eliminating profit from the care of children looked after could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

See above.

Question 1.12: This chapter has focused on how we can achieve the commitment to eliminate profit in the care of children looked after, and we have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

We feel that any further steps can only be successfully achieved through continued engagement with local authorities and providers and investment in increasing placement provision in Wales.

Questions on Chapter 2: Introducing direct payments for Continuing NHS healthcare

There are 8 questions about this chapter.

Question 2.1: We have outlined our proposals to introduce further voice and control for adults receiving Continuing Health Care (CHC) in Wales. Do you agree or disagree with these proposals? Please explain your reasoning.

We strongly agree with the principle that adults receiving CHC in Wales should have their voice heard and that they should be able to control their care through the provisions of Direct Payments.

Many people who may be eligible for Continuing Health Care and are currently utilising a Direct Payment for their social care or wish to receive their CHC through Direct Payments are currently disadvantaged, leading to uncertainty for the person and a potential point of conflict between the LHB and Local Authority.

It is vital that the principles of Voice and Control are taken seriously by policy makers and health professionals, if we are ever to achieve an improve patient experience by balancing the relationship between the patient and the professional. Direct Payments is one way of achieving this.

We are concerned that it is proposed that the LHB has a power, and not a duty to offer Direct Payments which implies that a final decision will be retained by the LHB, and not the individual. We understand that Direct Payments would not be in everyone's best interests, but the choice to determine the delivery of healthcare must remain with the individual, albeit on the advice of the health professional. We strongly advocate that the power of the LHB to provide health care through direct payments is amended to a duty to provide through Direct Payments unless the patient chooses otherwise or where it would be unsafe to do so. We would be interested to scrutinise regulations regarding this matter.

Historically a number of service users in receipt of Direct Payments have evaded Continuing Healthcare Assessments for fear of losing voice and control over their care. This has left local authorities in the unenviable position of continuing to provide care through this mechanism despite there being overwhelming evidence that the individual has a primary health care need.

Question 2.2: What in your view are the likely impacts of the proposal?

You may wish to consider, for example:

- Benefits, and disbenefits;
- Costs (direct and indirect), and savings;
- Impacts upon individuals and groups with protected characteristics;
- Other practical matters such as cross-border issues or transition to the new arrangements.

Your views on how positive effects could be increased, or negative effects could be mitigated, would also be welcome.

Please explain your reasoning.

The overarching positive impact of this proposal is to provide a person with the choice to receive their health care in a way that matters to them. This will encourage health professionals to involve people in their care planning from the earliest opportunity and will open alternative methods of meeting healthcare needs, which not only will improve people's quality of life, but will open the range of healthcare options available to the LHB, which in turn may take some pressure off traditional services.

The opportunity of Direct Payments may also remove barriers to healthcare for people with protected characteristics, where a person can choose to have their healthcare needs met in a culturally sensitive manner, which would otherwise be unavailable in their local area.

Question 2.3: What lessons can we learn from other countries' practice in this area?

In England Personal Budgets provide even greater levels of choice and autonomy for people regarding their care arrangements.

Question 2.4: Do you believe there are any other or complementary approaches we should be considering to achieve the same effect? If so, please outline below.

Yes, but not at the expense of Direct Payments.

To compliment and achieve the aim of DP need to ensure outcome focussed and person-centred care and support plans

Question 2.5: We will work to ensure that any legislative change is supported by robust guidance to help both payment recipients and practitioners understand how the system will operate. Can you identify anything that it would be helpful to include in this guidance? What other support should be provided?

Guidance needs to be absolutely clear in respect of the kind/type of support the LHB are prepared to provide through a Direct Payment. We believe it would help for it to be a requirement that LHBs offer direct payments before considering other models of care.

In addition to the robust guidance, we would welcome a promotion campaign to ensure all professionals are aware of their duty to offer Direct Payments and also to ensure that all citizens accessing continuing health care are aware of their rights to Direct Payments.

Question 2.6: We would like to know your views on the effects that introducing direct payments for continuing NHS healthcare would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English. What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

Positive as stated in answer to 2.1. We believe more bespoke care arrangements will enhance the opportunities for service users to secure their care using the Welsh language.

Question 2.7: Please also explain how you believe our proposals for introducing direct payments for continuing NHS healthcare could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

As above

Question 2.8: We have asked a number of specific questions in this chapter. If you have any related issues which we have not specifically addressed, please use this space to report them.

Positive step for citizens. Need to have clear structures in the LHB to support this and make it a positive offer – duty, not power.

For a Direct Payments scheme to be successful, the LHB would need to invest in a support mechanism to provide people with management, pay roll and recruitment support, either in-house or through a 3rd party organisation. We would recommend that this is included in the regulations.

Questions on Chapter 3: Mandatory reporting of children and adults at risk

There are 11 questions about this chapter.

Question 3.1: What are your views on the principle of imposing a duty to report a child at risk (as defined in section 130(4) of the Social Services and Well-being (Wales) Act 2014 directly on individuals within relevant bodies?

The current duty on organisations is sufficient and there is an established understanding of this duty. There is little information to support that imposing an individual duty will ensure that children and adults at risk are further prevented from the risk of or experiencing harm, abuse or neglect by introducing an individual duty.

Question 3.2: What are your views on the principle of imposing a duty to report an adult at risk (as defined in section 126(1) of the 2014 Act) directly on individuals within relevant bodies?

As above

Question 3.3: What in your view would be the likely benefits, disbenefits, risks, costs, savings and equality impacts of such an approach?

Please explain your reasoning.

Benefits:

- Strengthen the duty to report and support collective responsibility to report children and adults at risk.
- Could be aligned to specific codes of professional conduct; employee contracts; wider understanding of collective responsibility for individuals working with or providing services to adults/children at risk.
- Has to be owned by an individual, can't 'hide' within an organisation or group.
- Reduces duplication and delays

Disbenefits: Could further compound recruitment issues within social care sectors – individuals may not wish to work in a sector where they have a personal/individual duty and associated consequences.

Risks: As above. Also, wider resource implications for services in terms of what the consequences of not reporting where there is an individual duty – HR processes; Section 5 (WSP) implications, future professional development. How will individuals

be identified? At what levels within relevant authorities/partners? How would this be monitored; what would be the consequence of not reporting? Who would oversee this. Would this also dilute the duty report already in place.

Question 3.4: What lessons can we learn from the duties to report in other countries?

As detailed in the consultation document, countries who have introduced there is a mixture of evidence base to support whether this approach impacted positively on reporting adults/children at risk and has previously been considered in the UK and dismissed.

Question 3.5: If individual reporting duties were to be introduced – for children and adults at risk – should these sit alongside, or replace, the existing duties on organisations under the 2014 Act?

They would need to sit alongside, the relevant partner duty should remain.

Question 3.6: If individual reporting duties were to be introduced, should they apply to the workforce of current ‘relevant partners’ under section 162 of the 2014 Act (including youth offending teams in relation to children), or more widely, for example to those working in religious or sports settings, etc., and in particular:

(a) What are your views on this in respect of children (under the age of 18)?

Relevant partners; organisations providing services; commissioned services; registered social care workers in all organisations.

(b) What are your views on this in respect of adults?

As above

Question 3.7: If individual reporting duties were to be introduced, which occupation types or roles should be subject to any duty (e.g. members of regulated professions; employed staff, even if they are not regulated; volunteers), and in particular:

(a) What are your views on this in respect of children (under the age of 18)?

members of regulated professions; employed staff, even if they are not regulated; volunteers

(b) What are your views on this in respect of adults?

As above

Question 3.8: What sanctions do you think would be proportionate or appropriate for failure to comply with an individual reporting duty?

This approach would need to dovetail with Section 5 of the Wales Safeguarding Procedures– Allegations of Practitioners/Those in Positions of Trust as failure to report could be considered within the criteria for these reports.

Would need to be managed on a case by case basis. If a blanket approach may lead to people not reporting or pretending they didn't witness anything. A range of sanctions are likely to be appropriate to cover the most minor to the most major reporting failures.

Question 3.9: We would like to know your views on the effects that introducing individual reporting duties would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English. What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

None that we can think of.

Question 3.10: Please also explain how you believe proposals for introducing individual reporting duties could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

None that we can think of.

Question 3.11: We have asked a number of specific questions in this chapter. If you have any related issues which we have not specifically addressed, please use this space to report them.

The impact of introducing individual reporting could have a significant resource impact across the sector and could have a negative impact on the social care and other sectors in terms of recruitment and retention. There is little evidence base to support this approach but would require significant resource to support its implementation and monitoring across regulatory bodies; LAs and more widely. Training and support and good structures are all required to support this proposal.

Questions on Chapter 4: Amendments to regulation of service providers and responsible individuals

Part 2 and Schedule 1 of the Regulation and Inspection of Social Care (Wales) Act 2016 ('the 2016 Act') provides the basis on which Care Inspectorate Wales ('CIW') – on behalf of the Welsh Ministers – undertakes functions relating to the registration, regulation and inspection of 'regulated services'.

This chapter of the consultation focuses on proposed amendments to the regulatory regime for regulated services, service providers and their designated responsible individuals. These relate to a range of matters provided for within the 2016 Act, including:

- a) Identifying unregistered services
- b) Publication of annual returns
- c) Publication of inspection reports
- d) Improvement notices and cancellation of registration
- e) Responsible individuals
- f) Definition of 'Care' for children and young people

Questions on proposed amendments relating to each of these matters follow.

There are 21 questions about this chapter.

Question 4.1: *(a) Identifying unregistered services - power to obtain information:* Do you agree with the proposal to amend the 2016 Act to enable the Welsh Ministers (CIW) to require information from any person where there is reasonable cause to believe that they are providing a service which should be regulated?

No objection

Question 4.2: *(a) Identifying unregistered services - power to obtain information:* Do you agree with the proposal to extend the offence of failing to provide information when required to do so, to include these persons?

We would be concerned if this related to anyone other than service provider or responsible individual.

Question 4.3: *(a) Identifying unregistered services - power of entry:* Do you agree with the proposal to amend the 2016 Act to remove ambiguity and make it clear that the Welsh Ministers (CIW) have the power to enter and inspect any premises which they have reasonable cause to believe is (or has been) used as a place at or from

which a service is (or has been) provided, or which is (or has been) used in connection with the provision of a regulated service?

No objection

Question 4.4: *(a) Identifying unregistered services - power of entry:* Do you agree with the proposal to extend the offence of obstructing an inspector or failing to comply with a requirement imposed by an inspector, to include these circumstances?

No objection

Question 4.5: *(b) Publication of annual returns:* Do you agree with the proposal to amend the 2016 Act to require service providers to publish their annual returns?

No objection

Question 4.6: *(b) Publication of annual returns:* Do you agree with the proposal to create a related offence of failing to publish an annual return?

No objection (although 2 years imprisonment seems harsh for such an 'offence' and doesn't fit well with the positive arrangements we have in place with local providers).

Question 4.7: *(c) Publication of inspection reports:* Do you agree with the proposal to amend the 2016 Act to provide additional flexibility for the Welsh Ministers (CIW) to recognise circumstances where it may not be appropriate, relevant, or proportionate to prepare and/or publish an inspection report?

No objection

Question 4.8: *(d) Improvement notices and cancellation of registration – variation of registration as a service provider:* Do you agree with the proposal to amend the 2016 Act to remove the requirement for the Welsh Ministers (CIW) to issue an improvement notice to a provider in circumstances where the provider is no longer providing that service or using that place to provide a service?

No objection

Question 4.9: *(d) Improvement notices and cancellation of registration - removal of a condition on a service provider's registration:* Do you agree with the proposal to amend the 2016 Act to enable the Welsh Ministers (CIW) to remove a condition on a service provider's registration without giving a notice of proposal (section 18) and notice of decision following notice of proposal (section 19), when the circumstances which led to the imposition of the condition no longer apply?

No objection

Question 4.10: *(d) Improvement notices and cancellation of registration – power to cancel a service provider’s registration:* Do you agree with the proposal to amend the 2016 Act to remove the requirement for the Welsh Ministers (CIW) to follow the improvement notice process to cancel the registration of a service provider in circumstances when the provider has already ceased to provide a regulated service?

No objection

Question 4.11: *(d) Improvement notices and cancellation of registration – information from providers who are cancelling their registration:* Do you agree with the proposal to create a regulation-making power under Section 14 of the 2016 Act to enable the Welsh Ministers (CIW) to require information from a service provider who is cancelling their registration and exiting the market?

No objection

Question 4.12: *(d) Improvement notices and cancellation of registration – power to extend the timescale within an Improvement Notice:* Do you agree with the proposal to amend the 2016 Act to give the Welsh Ministers (CIW) the power to extend the timescale for information to be provided when improvement notices are issued?

No objection

Question 4.13: *(d) Improvement notices and cancellation of registration – power to cancel a service provider’s registration in prescribed circumstances:* Do you agree with the proposal to amend the 2016 Act to enable the Welsh Ministers (CIW) to disapply the section 16(3)(b) requirement within the improvement notice – to take particular action or provide information – in prescribed circumstances, when it would be futile to apply the requirement?

No objection

Question 4.14: *(e) Responsible individuals – making representations:* Do you agree with the proposal to amend the 2016 Act to give Responsible Individuals the right to make representations to the Welsh Ministers (CIW), against any improvement notice or cancellation of their designation, provided the representations are made within the time limit specified within the notice?

No objection

Question 4.15: *(e) Responsible individuals – sending the improvement notice to the service provider:* Do you agree with the proposal to amend the 2016 Act to require that any improvement notice served to a Responsible Individual must also be sent to the service provider?

No objection

Question 4.16: *(e) Responsible individuals - Removing a Responsible Individual without making an application to designate a new Responsible Individual:* Do you agree with the proposal to amend the 2016 Act to allow a service provider to apply to the Welsh Ministers (CIW) for a variation of the conditions of their registration to remove a Responsible Individual when they are not designating a replacement Responsible Individual as part of the same application?

No objection

Question 4.17: *(f) Definition of 'Care' for children and young people:* Do you agree with the proposal to adjust the definition of 'care' in section 3 of the 2016 Act in order to place beyond doubt that the provision of parental-type care is recognised as being 'care' within the meaning of the 2016 Act?

No objection

Question 4.18: What in your view would be the likely impacts of the proposals in this chapter? You may wish to consider, for example:

- Benefits, and disbenefits;
- Costs (direct and indirect), and savings;
- Impacts upon individuals and groups with protected characteristics;
- Other practical issues.

Your views on how positive effects could be increased, or negative effects could be mitigated, would also be welcome.

Please explain your reasoning, either here or, if easier, please feel free to note any impacts specific to an individual proposal under the appropriate question above.

Any improvement notice served to a Responsible Individual sent also to the service provider will result in greater transparency and accountability.

To give Responsible Individuals the right to make representations to the Welsh Ministers (CIW), against any improvement notice or cancellation of their designation is welcomed as it emphasises 'fairness' in offering an opportunity for redress.

Question 4.19: We would like to know your views on the effects that the proposals in this chapter would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English. What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

No impact anticipated

Question 4.20: Please also explain how you believe the proposals in this chapter could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

No changes required

Question 4.21: We have asked a number of specific questions in this chapter. If you have any related issues which we have not specifically addressed, please use this space to report them.

Questions on Chapter 5: Amendments to regulation of the social care workforce

There are 9 questions about this chapter.

Question 5.1: Do you agree with the proposal to amend the 2016 Act to provide that a person who has held office as a member of Social Care Wales may be reappointed once? Please explain your reasoning.

Agree – no strong view

Question 5.2: Do you agree with the proposal to amend the 2016 Act to provide Social Care Wales with the power to grant a conditional registration for a person, when they are renewing their registration, in certain circumstances? Please explain your reasoning.

Agree – appropriate in some circumstances. Allows some exceptions for some staff who have genuine reasons for not complying with registration requirements.

Question 5.3: Do you agree with the proposal to amend the 2016 Act to allow a panel to review and extend interim orders as appropriate, up to the maximum of 18 months? Please explain your reasoning.

Agree

Question 5.4: Do you agree with the proposal to amend the 2016 Act to provide a Fitness to Practise panel with the ability to revoke an interim order, during review proceedings, where it is necessary and appropriate? Please explain your reasoning.

Agree – panel should be able to have this option and enable a person to resume their role sooner – timely FTP hearings would be beneficial.

Question 5.5: What, in your view, would make it necessary and appropriate for a Fitness to Practise panel to revoke an interim order?

Evidence of appropriate training to remedy/mitigate risks of further concerns.
Character references.

Question 5.6: What in your view would be the likely impacts of the proposals in this chapter? You may wish to consider, for example:

- Benefits, and disbenefits;
- Costs (direct and indirect), and savings;
- Impacts upon individuals and groups with protected characteristics;

- Other practical issues.

Your views on how positive effects could be increased, or negative effects could be mitigated, would also be welcome.

Please explain your reasoning.

A more timely response to Fitness To Practise investigations would be appreciated whilst considering this proposal –this will allow people to move on if they cannot practice in social care, or reinstate them into the sector if appropriate to do so. When we are struggling to recruit and retain we need the ability to have timely responses to conclude matters.

Question 5.7: We would like to know your views on the effects that the proposals in this chapter would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English. What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

None anticipated

Question 5.8: Please also explain how you believe the proposals in this chapter could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

None anticipated

Question 5.9: We have asked a number of specific questions in this chapter. If you have any related issues which we have not specifically addressed, please use this space to report them.

Questions on Chapter 6: Extending the definition of social care worker to include childcare and play workers

There are 5 questions about this chapter.

Question 6.1: We would like to know your views on the proposal to extend the definition of 'social care worker' to include both childcare and play workers. In particular, are you in favour of extending the role of Social Care Wales to cover childcare and play workers working in the childcare sector?

Please explain your reasoning.

We feel that the professions are different, and should be regarded as such. The responsibilities are very different and I think broadening the definition may have a detrimental impact on both professions. I feel that child care and Play workers may be better described within educational terms rather than social care.

Question 6.2: What in your view would be the likely impacts of the proposal? You may wish to consider, for example:

- Benefits, and disbenefits;
- Costs (direct and indirect), and savings;
- Impacts upon individuals and groups with protected characteristics;
- Other practical issues.

Your views on how positive effects could be increased, or negative effects could be mitigated, would also be welcome.

Please explain your reasoning.

As above

Question 6.3: We would like to know your views on the effects that the proposal would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English. What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

None Anticipated

Question 6.4: Please also explain how you believe the proposal could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh

language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

None

Question 6.5: We have asked a number of specific questions in this chapter. If you have any related issues which we have not specifically addressed, please use this space to report them.

Proposed changes to legislation on social care and continuing health care

Q1. Question 1.1: Do you think that introducing provision in legislation that only allows 'not-for-profit' providers to register with CIW will support delivery of the Programme for Government commitment to eliminate profit from the care of children looked after?

Strange question – surely it must be the case that if only providers who are 'not-for-profit' are allowed to provide the care of children looked after it must be supportive of Welsh Government's commitment to eliminate profit from the care of children looked after.

Q2. Question 1.2: What in your view are the likely impacts of the proposal? You may wish to consider, for example: Benefits, and disbenefits Costs (direct and indirect), and savings Impacts upon individuals and groups with protected characteristics Other practical matters such as cross-border issues Your views on how positive effects could be increased, or negative effects could be mitigated, would also be welcome.

Please explain your reasoning.

I believe I fully understand why it is unacceptable to Welsh Government for profit to be made from the care of children looked after. What I am less clear about is why this is only being applied to the care of children looked after, and this should be made clear in the legislation. We live and work in a capitalist country where profit is made in health care, social care, and nursery provision so why is it acceptable for profit to be made in these areas but not with children looked after?

The bottom line in respect of children looked after is that the private sector only exists because of the continuing failure of Social Services to meet its responsibility to provide suitable accommodation for the children it needs to look after. This legislation not only fails to address that fundamental and underpinning issue it also has the potential to make a bad situation worse.

In my experience private fostering agencies evolved towards the end of the 1990s because of a simple frustration at the failure of Social Services to develop fostering services and appropriately recognise and reward Foster Carers – and because a number of individuals believed that they could do a better job themselves. It seems to me that what set out as well-meaning enterprises evolved into businesses, the expectation of profit, and for some agencies the takeover by private equity firms.

I have no idea how private equity firms are going to react to the prospect of not being able to make a profit from the care of children looked after. I suspect it has significantly reduced the value of these businesses and has the potential to see them leave the marketplace. As there is, and always has been, a shortage of Foster Carers this has the potential to make a bad situation much worse.

Q3. Question 1.3: One approach could be for the legislation to define 'not-for-profit' in terms of the types of organisation that would qualify.

Do you consider that the restriction should also be expressed in terms of the way that any trading surplus is expended?

What would be the effects and implications of this?

It would certainly help to have some clarity around this. We are a very small independent fostering agency. When we set ourselves up in 2016 we had to meet a challenge from a local authority to show that we would be profitable, so the position has obviously moved fundamentally since then.

We do not set out to make a profit but if we did it would be reinvested into the agency. However we do not want to set ourselves up as 'not for profit' as it substantially increases the administrative burden on us and we do not consider this to be a good use of our time.

In the 2020/21 financial year our total income was £192,694.67 and our total expenditure was £195,741.17 and we considered therefore that we had made a loss of £3,046.50. Our accountant however calculated that we had made a profit and we had to pay corporation tax of £5,343.75 – so in our experience these are not simple calculations. Our figures are similar for this financial (which for us runs from October to September.)

When we set up our agency in 2016 we used £40,000 of our money. Six years later this money is still tied up in the business because of the cashflow realities of dealing with local authorities. These are the financial realities for us as a 'not-for-profit' agency but we have no way of knowing whether the Welsh Government views us as the 'type of organisation' that it considers to be problematic.

The Welsh Government needs to be clear as to what the difference is between a profit and a trading surplus.

Q4. Question 1.4: Do you think the primary legislation should include a power for Welsh Ministers to amend the definition of 'not-for-profit' through subordinate legislation?

This seems ridiculous to me and would be a licence to move the goalposts. Surely the Welsh Ministers should be absolutely clear on this before drafting the primary legislation.

Q5. Question 1.5: What are your views on the proposed timings for the primary legislation to come into effect?

The timings need to take account of the current fostering situation because to introduce this when there is an ongoing shortage of Foster Carers is an accident waiting to happen - and it will be vulnerable young people who will suffer.

Q6. Question 1.6: Are there any issues in relation to transition for children looked after, local authorities and service providers you would like to draw our attention to?

If providers who are currently 'not-for-profit' decide to stop providing a service then there could be significant consequences for children looked after and local authorities. There is no guarantee that an agency's Foster Carers would continue to foster either with a local authority or another provider. How can this be in the best interests of the children they are looking after, and how will the Welsh Ministers explain to these children why they are now in transition?

It is not a particular issue for us but it is an issue for some providers that after years of building an agency that the Welsh Government have removed its value overnight.

Q7. Question 1.7: What are your views on the issuing of guidance to support the implementation of the primary legislation?

Who is the guidance aimed at?

Presumably the Care Inspectorate for Wales is going to be tasked with removing 'not-for-profit' providers who have previously satisfied all registration requirements so it would be interesting to know what guidance will be provided for this.

It would also be interesting to know what guidance the Welsh Ministers will be providing to the looked after children who will be impacted by this.

Q8. Question 1.8: What are your views on using legislation to place a restriction on local authorities to commission placements from 'not-for-profit' organisations only?

In particular: Do you think it would support us to deliver the commitment to eliminate profit from the care of children looked after in Wales? What would be the benefits, disbenefits and other implications of such an approach? What would be an appropriate timescale for implementing such an approach, if it were to be adopted in Wales?

It shows that the Welsh Government is completely out of touch with the reality of how placements are commissioned by local authorities. For years local authorities have tried to control the marketplace through the Children's Commissioning Consortium Cymru (the 4Cs) and I believe any independent evaluation of its impact would show it to be an unmitigated disaster – but it continues. Our agency works outside the reach of the 4Cs which means we should be the last to be contacted when local authorities are commissioning placements (even though we probably offer placements that are cheaper and better value than most, if not all, other providers). We do not however have a problem in making placements because of the ongoing shortage of Foster Carers.

It appears to me that the reality for local authorities is that the continuing shortage of Foster Carers and placements dictates the search for placements is often a case of any port in a storm. The reality the Welsh Government should be addressing is that the fostering system in Wales is broken and it is this that needs to be fixed. Eliminating profit from the care of children looked after in Wales has the potential to make a broken situation worse.

Q9. Question 1.9: What are your views on the possibility of approaches being taken in response to these legislative proposals which would undermine the intention to eliminate profit from the care of children looked after in Wales?

Are there any actions which would guard against such activity?

I would imagine that some of the bigger providers, perhaps those owned by private equity firms, will mount a legal challenge to the proposal.

If the issue is about eliminating profit it would appear to me to be much simpler and more targeted to introduce a windfall tax on providers who make a profit.

Q10. Question 1.10: We would like to know your views on the effects that the legislative changes to eliminate profit from the care of children looked after will have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favorably than English.

What effects do you think there would be?

How could positive effects be increased, or negative effects be mitigated?

I do not see that there is any correlation with providers making profits and the Welsh language.

Q11. Question 1.11: Please also explain how you believe the legislative changes to support delivery of eliminating profit from the care of children looked after could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

As above.

Q12. Question 1.12: This chapter has focused on how we can achieve the commitment to eliminate profit in the care of children looked after, and we have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

No Response

Q13. Question 2.1: We have outlined our proposals to introduce further voice and control for adults receiving Continuing Health Care (CHC) in Wales.

Do you agree or disagree with these proposals?

Please explain your reasoning.

No Response

Q14. Question 2.2: What in your view are the likely impacts of the proposal?

You may wish to consider, for example: Benefits, and disbenefits Costs (direct and indirect), and savings Impacts upon individuals and groups with protected characteristics Other practical matters such as cross-border issues or transition to the new arrangements Your views on how positive effects could be increased, or negative effects could be mitigated, would also be welcome.

Please explain your reasoning.

No Response

Q15. Question 2.3: What lessons can we learn from other countries' practice in this area?

No Response

Q16. Question 2.4: Do you believe there are any other or complementary approaches we should be considering to achieve the same effect?

If so, please outline below.

No Response

Q17. Question 2.5: We will work to ensure that any legislative change is supported by robust guidance to help both payment recipients and practitioners understand how the system will operate.

Can you identify anything that it would be helpful to include in this guidance?

What other support should be provided?

No Response

Q18. Question 2.6: We would like to know your views on the effects that introducing direct payments for continuing NHS healthcare would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.

What effects do you think there would be?

How could positive effects be increased, or negative effects be mitigated?

No Response

Q19. Question 2.7: Please also explain how you believe our proposals for introducing direct payments for continuing NHS healthcare could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

No Response

Q20. Question 2.8: We have asked a number of specific questions in this chapter. If you have any related issues which we have not specifically addressed, please use this space to report them.

No Response

Q21. Question 3.1: What are your views on the principle of imposing a duty to report a child at risk (as defined in section 130(4) of the Social Services and Well-being (Wales) Act 2014) directly on individuals within relevant bodies?

No Response

Q22. Question 3.2: What are your views on the principle of imposing a duty to report an adult at risk (as defined in section 126 (1) of the 2014 Act) directly on individuals within relevant bodies?

No Response

Q23. Question 3.3: What in your view would be the likely benefits, disbenefits, risks, costs, savings and equality impacts of such an approach?

Please explain your reasoning.

No Response

Q24. Question 3.4: What lessons can we learn from the duties to report in other countries?

No Response

Q25. Question 3.5: If individual reporting duties were to be introduced – for children and adults at risk – should these sit alongside, or replace, the existing duties on organisations under the 2014 Act?

No Response

Q26. Question 3.6: If individual reporting duties were to be introduced, should they apply to the workforce of current 'relevant partners' under section 162 of the 2014 Act (including youth offending teams in relation to children), or more widely, for example to those working in religious or sports settings, etc., and in particular:

(a) What are your views on this in respect of children (under the age of 18)?

(b) What are your views on this in respect of adults?

No Response

Q27. Question 3.7: If individual reporting duties were to be introduced, which occupation types or roles should be subject to any duty (e.g. members of regulated professions; employed staff, even if they are not regulated; volunteers), and in particular:

(a) What are your views on this in respect of children (under the age of 18)?

(b) What are your views on this in respect of adults?

No Response

Q28. Question 3.8: What sanctions do you think would be proportionate or appropriate for failure to comply with an individual reporting duty?

No Response

Q29. Question 3.9: We would like to know your views on the effects that introducing individual reporting duties would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.

What effects do you think there would be?

How could positive effects be increased, or negative effects be mitigated?

No Response

Q30. Question 3.10: Please also explain how you believe proposals for introducing individual reporting duties could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

No Response

Q31. Question 3.11: We have asked a number of specific questions in this chapter. If you have any related issues which we have not specifically addressed, please use this space to report them.

No Response

Q32. Question 4.1: (a) Identifying unregistered services - power to obtain information: Do you agree with the proposal to amend the 2016 Act to enable the Welsh Ministers (CIW) to require information from any person where there is reasonable cause to believe that they are providing a service which should be regulated?

No Response

Q33. Question 4.2: (a) Identifying unregistered services - power to obtain information: Do you agree with the proposal to extend the offence of failing to provide information when required to do so, to include these persons?

No Response

Q34. Question 4.3: (a) Identifying unregistered services - power of entry: Do you agree with the proposal to amend the 2016 Act to remove ambiguity and make it clear that the Welsh Ministers (CIW) have the power to enter and inspect any premises which they have reasonable cause to believe is (or has been) used as a place at or from which a service is (or has been) provided, or which is (or has been) used in connection with the provision of a regulated service?

No Response

Q35. Question 4.4: (a) Identifying unregistered services - power of entry: Do you agree with the proposal to extend the offence of obstructing an inspector or failing to comply with a requirement imposed by an inspector, to include these circumstances?

No Response

Q36. Question 4.4: (a) Identifying unregistered services - power of entry: Do you agree with the proposal to extend the offence of obstructing an inspector or failing to comply with a requirement imposed by an inspector, to include these circumstances?

No Response

Q37. Question 4.5: (b) Publication of annual returns: Do you agree with the proposal to amend the 2016 Act to require service providers to publish their annual returns?

No Response

Q38. Question 4.6: (b) Publication of annual returns: Do you agree with the proposal to create a related offence of failing to publish an annual return?

No Response

Q39. Question 4.7: (c) Publication of inspection reports: Do you agree with the proposal to amend the 2016 Act to provide additional flexibility for the Welsh Ministers (CIW) to recognise circumstances where it may not be appropriate, relevant, or proportionate to prepare and/or publish an inspection report?

No Response

Q40. Question 4.8: (d) Improvement notices and cancellation of registration – variation of registration as a service provider: Do you agree with the proposal to amend the 2016 Act to remove the requirement for the Welsh Ministers (CIW) to issue an improvement notice to a provider in circumstances where the provider is no longer providing that service or using that place to provide a service?

No Response

Q41. Question 4.9: (d) Improvement notices and cancellation of registration - removal of a condition on a service provider's registration: Do you agree with the proposal to amend the 2016 Act to enable the Welsh Ministers (CIW) to remove a condition on a service provider's registration without giving a notice of proposal (section 18) and notice of decision following notice of proposal (section 19), when the circumstances which led to the imposition of the condition no longer apply?

No Response

Q42. Question 4.10: (d) Improvement notices and cancellation of registration – power to cancel a service provider's registration: Do you agree with the proposal to amend the 2016 Act to remove the requirement for the Welsh Ministers (CIW) to follow the improvement notice process to cancel the registration of a service provider in circumstances when the provider has already ceased to provide a regulated service?

No Response

Q43. Question 4.11: (d) Improvement notices and cancellation of registration – information from providers who are cancelling their registration: Do you agree with the proposal to create a regulation-making power under Section 14 of the 2016 Act to enable the Welsh Ministers (CIW) to require information from a service provider who is cancelling their registration and exiting the market?

No Response

Q44. Question 4.12: (d) Improvement notices and cancellation of registration – power to extend the timescale within an Improvement Notice: Do you agree with the proposal to amend the 2016 Act to give the Welsh Ministers (CIW) the power to extend the timescale for information to be provided when improvement notices are issued?

No Response

Q45. Question 4.13: (d) Improvement notices and cancellation of registration – power to cancel a service provider's registration in prescribed circumstances: Do you agree with the proposal to amend the 2016 Act to enable the Welsh Ministers (CIW) to disapply the section 16(3)(b) requirement within the improvement notice – to take particular action or provide information – in prescribed circumstances, when it would be futile to apply the requirement?

No Response

Q46. Question 4.14: (e) Responsible individuals – making representations: Do you agree with the proposal to amend the 2016 Act to give Responsible Individuals the right to make representations to the Welsh Ministers (CIW), against any improvement notice or cancellation of their designation, provided the representations are made within the time limit specified within the notice?

No Response

Q47. Question 4.15: (e) Responsible individuals – sending the improvement notice to the service provider: Do you agree with the proposal to amend the 2016 Act to require that any improvement notice served to a Responsible Individual must also be sent to the service provider?

No Response

Q48. Question 4.16: (e) Responsible individuals - Removing a Responsible Individual without making an application to designate a new Responsible Individual: Do you agree with the proposal to amend the 2016 Act to allow a service provider to apply to the Welsh Ministers (CIW) for a variation of the conditions of their registration to remove a Responsible Individual when they are not designating a replacement Responsible Individual as part of the same application?

No Response

Q49. Question 4.17: (f) Definition of 'Care' for children and young people: Do you agree with the proposal to adjust the definition of 'care' in section 3 of the 2016 Act in order to place beyond doubt that the provision of parental-type care is recognised as being 'care' within the meaning of the 2016 Act?

No Response

Q50. Question 4.18: What in your view would be the likely impacts of the proposals in this chapter? You may wish to consider, for example: Benefits, and disbenefits Costs (direct and indirect), and savings Impacts upon individuals and groups with protected characteristics Other practical issues Your views on how positive effects could be increased, or negative effects could be mitigated, would also be welcome.

Please explain your reasoning, either here or, if easier, please feel free to note any impacts specific to an individual proposal under the appropriate question above.

No Response

Q51. Question 4.19: We would like to know your views on the effects that the proposals in this chapter would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.

What effects do you think there would be?

How could positive effects be increased, or negative effects be mitigated?

No Response

Q52. Question 4.20: Please also explain how you believe the proposals in this chapter could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

No Response

Q53. Question 4.21: We have asked a number of specific questions in this chapter. If you have any related issues which we have not specifically addressed, please use this space to report them.

No Response

Q54. Question 5.1: Do you agree with the proposal to amend the 2016 Act to provide that a person who has held office as a member of Social Care Wales may be reappointed once?

Please explain your reasoning.

No Response

Q55. Question 5.2: Do you agree with the proposal to amend the 2016 Act to provide Social Care Wales with the power to grant a conditional registration for a person, when they are renewing their registration, in certain circumstances?

Please explain your reasoning.

No Response

Q56. Question 5.3: Do you agree with the proposal to amend the 2016 Act to allow a panel to review and extend interim orders as appropriate, up to the maximum of 18 months?

Please explain your reasoning.

No Response

Q57. Question 5.4: Do you agree with the proposal to amend the 2016 Act to provide a Fitness to Practise panel with the ability to revoke an interim order, during review proceedings, where it is necessary and appropriate?

Please explain your reasoning.

No Response

Q58. Question 5.5: What, in your view, would make it necessary and appropriate for a 'fitness to practise' panel to revoke an interim order?

No Response

Q59. Question 5.6: What in your view would be the likely impacts of the proposals in this chapter? You may wish to consider, for example: Benefits, and disbenefits Costs (direct and indirect), and savings Impacts upon individuals and groups with protected characteristics Other practical issues Your views on how positive effects could be increased, or negative effects could be mitigated, would also be welcome.

Please explain your reasoning.

No Response

Q60. Question 5.7: We would like to know your views on the effects that the proposals in this chapter would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.

What effects do you think there would be?

How could positive effects be increased, or negative effects be mitigated?

No Response

Q61. Question 5.8: Please also explain how you believe the proposals in this chapter could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

No Response

Q62. Question 5.9: We have asked a number of specific questions in this chapter. If you have any related issues which we have not specifically addressed, please use this space to report them.

No Response

Q63. Question 6.1: We would like to know your views on the proposal to extend the definition of 'social care worker' to include both childcare and play workers. In particular, are you in favour of extending the role of Social Care Wales to cover childcare and play workers working in the childcare sector?

Please explain your reasoning.

No Response

Q64. Question 6.2: What in your view would be the likely impacts of the proposal? You may wish to consider, for example: Benefits, and disbenefits Costs (direct and indirect), and savings Impacts upon individuals and groups with protected characteristics Other practical issues Your views on how positive effects could be increased, or negative effects could be mitigated, would also be welcome.

Please explain your reasoning.

No Response

Q65. Question 6.3: We would like to know your views on the effects that the proposal would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.

What effects do you think there would be?

How could positive effects be increased, or negative effects be mitigated?

No Response

Q66. Question 6.4: Please also explain how you believe the proposal could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language

No Response

Q67. Question 6.5: We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:

No Response

Submit your response

Q68. You are about to submit your response. Please ensure you are satisfied with the answers you have provided before sending.

Name: Nigel Fenlon
Organisation (if applicable): Resilient Foster Care
E:mail: resilientfostercare@gmail.com
Telephone: [REDACTED]
Your address: Venture House, Navigation Park, Abercynon, CF45 4SN

Q69. If you want to receive a receipt of your response, please provide an email address.

Email address

resilientfostercare@gmail.com

Q70. Responses to consultations may be made public. To keep your response anonymous (including email addresses) tick the box.

No Response

Ffurflen Ymateb i'r Ymgynghoriad

Eich enw: Cyngor Gwynedd

Sefydliad (lle bo'n berthnasol):

E-bost / rhif ffôn: dylanowen@gwynedd.llyw.cymru

Eich cyfeiriad:

Mae ymatebion i ymgynghoriadau yn debygol o gael eu cyhoeddi, ar y rhyngwrwyd neu mewn adroddiad. Os byddai'n well gennych i'ch ymateb aros yn ddienw, ticiwch y blwch:

☐

Dywedwch wrthym ar ran pwy rydych yn ymateb. Er enghraifft, ai eich ymateb chi eich hun yw hwn neu ymateb ar ran sefydliad?

Os hoffech gael neges yn cydnabod bod eich ymateb wedi'i dderbyn, cadarnhewch eich cyfeiriad e-bost, yma:

Cwestiynau ar gyfer Pennod 1: Dileu elw o ofal plant sy'n derbyn gofal

Mae yna 12 cwestiwn am y bennod hon.

Cwestiwn 1.1: Ydych chi'n credu y bydd cyflwyno darpariaeth mewn deddfwriaeth sy'n caniatáu i ddarparwyr 'nid-er-elw' yn unig gofrestru ag Arolygiaeth Gofal Cymru yn helpu i gyflawni'r ymrwymiad yn y Rhaglen Lywodraethu i ddileu elw o ofal plant sy'n derbyn gofal?

Bydd.

Cwestiwn 1.2: Beth yn eich barn chi fyddai effeithiau tebygol y cynnig? Efallai yr hoffech ystyried, er enghraifft:

- Manteision ac anfanteision;
- Costau (uniongyrchol ac anuniongyrchol), ac arbedion;
- Effeithiau ar unigolion a grwpiau â nodweddion gwarchodedig;
- Materion ymarferol eraill megis materion trawsffiniol.

Byddai croeso hefyd i'ch barn ar sut y gellid cynyddu'r effeithiau cadarnhaol, neu liniaru'r effeithiau negyddol.

Esboniwch eich ateb.

Manteision

Manteision amlwg o ddileu elw o wasanaethau gofal plant. Mae'r ffaith fod plant mewn gofal eu hunain yn gefnogol o'r syniad ac yn gweld hyn yn fater o bryder yn reswm i yrru ymlaen efo'r cynnig yn ei hun. Mae arbedion ariannol yn debygol o ddilyn yn yr hir dymor – ar y funud mae'r Cyngor yn talu 'premiwm' sylweddol ar rai lleoliadau oherwydd y diffyg darpariaeth o fewn y Sîr.

Anfanteision

Un mater o bryder amlwg ydi'r diffyg darpariaeth i blant mewn gofal rwan ac i'r dyfodol. Gwyddom fod y ddarpariaeth yn brin fel ag y mae. Os yw darparwyr preifat yn penderfynu gadael y farchnad yn gynnar oherwydd y newid sydd i ddod (hynny yw, rhwng rwan a 2027), bydd hyn yn dwyshau'r heriau sy'n cael eu wynebu ar hyn o bryd. Mae gennym brofiad o hyn mewn meysydd gofal eraill. Mae'n debygol o effeithio Plant mewn gofal er gwaeth rhwng rwan a 2027.

Un o'n prif heriau yn y maes gofal ar hyn o bryd yn amlwg yw recriwtio a chadw staff. Byddai recriwtio staff newydd i weithio mewn darpariaeth gofal plant yn lleol yn her. Does dim sicrwydd byd staff yn awyddus i gymryd mantais o drefniadau 'TUPE'.

Er mwyn sicrhau fod digon o leoliadau ar gael mi fydd, yn debygol, fod angen prynu cwmnïau cartrefi a/neu brynu adeiladau a'u mewnnoli i'r Cynghorau. Bydd hynny angen cyllid cyfalaf ychwanegol sylweddol i bob Cyngor (nid drwy'r RPB) ac o bosib cyllid refeniw ychwanegol am gyfnod tra fod Cynghorau'n talu am ddau wasanaeth ar wahan.

Cwestiwn 1.3: Un ffordd bosibl o fynd ati yw i'r ddeddfwriaeth ddiffinio 'nid-er-elw' o ran y mathau o sefydliadau a fyddai'n gymwys. Ydych chi'n ystyried y dylid hefyd gyfyngu ar y ffordd y mae unrhyw arian masnachu dros ben yn cael ei wario? Beth fyddai effeithiau a goblygiadau hyn?

Fe ddylai unrhyw arian masnachu dros ben gael ei ail fuddsoddi mewn gwasanaethau gofal plant/gweithgareddau ataliol. Byddai hyn yn sicrhau datblygiad a chynaliadwyedd y maes i'r dyfodol. Mae na ddadl y ddylai'r arian gael ei glustnodi yn benodol. Y peryg fel arall ydi bydd gofal plant yn cael ei gysidro o fewn cyllidebau eraill y Cyngor, ac oherwydd y pwysau ariannol ar Awdurdodau Lleol, bydd ansawdd y gofal yn cael ei effeithio er gwaeth.

Mae Cynghorau yn comisiynu rhai cwmnïau lle mae'r gweithlu yn berchen ar y cwmni ac yn rhannu rhan o'r gwarged ymysg y gweithlu (Employee Ownership Trust (EOT)). A ystyrir cwmni o'r fath yn "nid-er-elw"? Bydd angen diffiniad hollol glir o beth ystyrir yn "nid-er-elw".

Cwestiwn 1.4: Ydych chi'n credu y dylai'r ddeddfwriaeth sylfaenol gynnwys pŵer i Weinidogion Cymru ddiwygio'r diffiniad o 'nid-er-elw' drwy is-ddeddfwriaeth?

Dylid.

Cwestiwn 1.5: Beth yw eich barn chi ar yr amseriadau sy'n cael eu cynnig o ran pryd y byddai'r ddeddfwriaeth sylfaenol yn cael effaith?

Bydd yn her sylweddol cyflawni o fewn yr amserlen. Mae'n bur debygol na fydd pob Cyngor wedi gallu gweithredu o fewn yr amserlen, a bydd angen cynllun wrth gefn. Er mwyn gweithredu'n ddiogel a chyflym bydd angen arian cyfalaf a refeniw ychwanegol sylweddol ar y Cynghorau wedi ei neilltuo ar gyfer hyn yn unig.

Cwestiwn 1.6: A oes yna unrhyw faterion yr hoffech dynnu ein sylw atynt mewn perthynas â'r broses bontio ar gyfer plant sy'n derbyn gofal, awdurdodau lleol a darparwyr gwasanaethau?

Fel y nodir uchod yn 1.2, rhagwelir darparwyr preifat yn gadael y farchnad ac yn amrywio eu gwasanaethau unwaith bydd y penderfyniad yn cael ei wneud, er mwyn cynllunio ymlaen. Mae hyn yn debygol o gael effaith sylweddol ar y diffyg lleoliadau o fewn y Sîr a thu allan l'r Sîr.

Cwestiwn 1.7: Beth yw eich barn chi ar gyhoeddi canllawiau i helpu i weithredu'r ddeddfwriaeth sylfaenol?

Sicr mae angen canllawiau ac arweiniad clîr i helpu i weithredu y ddeddfwriaeth, yn cynnwys ar gyfer plant mewn gofal. Angen bod yn glîr beth mae hyn yn olygu iddyn nhw a'u dyfodol nhw yn y byr dymor a'r hir dymor.

Cwestiwn 1.8: Beth yw eich barn chi ar ddefnyddio deddfwriaeth i osod cyfyngiad ar awdurdodau lleol i gomisiynu lleoliadau gan sefydliadau 'nid-er-elw' yn unig? Yn benodol:

- Ydych chi'n meddwl y byddai'n ein helpu i gyflawni'r ymrwymiad i ddileu elw o ofal plant sy'n derbyn gofal yng Nghymru?
- Beth fyddai manteision, anfanteision a goblygiadau eraill dull o'r fath?
- Beth fyddai'n amserlen briodol ar gyfer gweithredu dull o'r fath, pe bai'n cael ei fabwysiadu yng Nghymru?

Er fod defnyddio deddfwriaeth yn ffordd o yrru'r newid yn sydyn, ac yn sicr byddai'n cyfrannu at gyflawni'r ymrwymiad i ddileu elw o ofal plant, mae goblygiadau sydd angen eu cysidro. Er enghraifft, os nad oes modd i awdurdodau lleol sefydlu/darganfod lleoliadau 'nid-er-elw' digonol o fewn yr amserlen, be fydd goblygiadau hyn? Mae'r posibilrwydd y byddwn fel awdurdodau lleol yn methu cwrdd ag anghenion Plant bregus y Sîr ac y methu cwrdd a'n dyletswyddau statudol.

Cwestiwn 1.9: Beth yw eich barn chi ar weithgareddau posibl a wneir mewn ymateb i'r cynigion deddfwriaethol hyn a fyddai'n tanseilio'r bwriad i ddileu elw o ofal plant sy'n derbyn gofal yng Nghymru? Oes yna unrhyw gamau a fyddai'n gwarchod rhag gweithgareddau o'r fath?

Dylid ystyried cyfyngu lleoliadau preswyl i gartrefi o fewn dalgylch penodol i gartref y plentyn, oni bai fod rheswm da dros beidio gwneud hynny mewn achosion unigol.

Cwestiwn 1.10: Hoffem wybod eich barn ar yr effeithiau y byddai'r newidiadau deddfwriaethol er mwyn dileu elw o ofal plant sy'n derbyn gofal yn eu cael ar y Gymraeg, yn benodol ar gyfleoedd i bobl ddefnyddio'r Gymraeg ac ar beidio â thrin y

Gymraeg yn llai ffafriol na'r Saesneg. Beth fyddai'r effaith yn eich barn chi? Sut y gellid cynyddu'r effeithiau cadarnhaol, neu liniaru'r effeithiau negyddol?

Y gobaith ydi drwy ddarparu gwasanaethau gofal plant yn fwy lleol yng Ngwynedd, byddai hyn yn ein galluogi i gynnig fwy o wasanaethau yn y Gymraeg. Byddai creu swyddi newydd yng Ngwynedd yn cadw pob ifanc yn yr ardal ac yn hyrwyddo'r iaith.

Cwestiwn 1.11: Eglurwch hefyd sut rydych chi'n credu y gallai'r newidiadau deddfwriaethol i helpu i ddileu elw o ofal plant sy'n derbyn gofal gael eu llunio neu eu haddasu er mwyn cael effeithiau cadarnhaol neu fwy o effeithiau cadarnhaol ar gyfleoedd i bobl ddefnyddio'r Gymraeg ac ar beidio â thrin y Gymraeg yn llai ffafriol na'r Saesneg, a pheidio â chael dim effeithiau niweidiol ar gyfleoedd i bobl ddefnyddio'r Gymraeg ac ar beidio â thrin y Gymraeg yn llai ffafriol na'r Saesneg.

Cwestiwn 1.12: Mae'r bennod hon wedi canolbwyntio ar sut y gallwn gyflawni'r ymrwymiad i ddileu elw o ofal plant sy'n derbyn gofal, ac rydym wedi gofyn nifer o gwestiynau penodol. Os oes gennych unrhyw faterion cysylltiedig nad ydyn ni wedi mynd i'r afael â nhw, defnyddiwch y lle hwn i wneud hynny.

Mae canran gymharol uchel o ddarpariaeth plant mewn gofal Gwynedd yn cael ei ddarparu gan sefydliadau 'nid er elw' yn barod oherwydd penderfyniadau strategol sydd wedi eu cymryd dros y blynyddoedd gan y Cyngor. Os oes adnoddau yn cael eu darparu i ddatblygu'r sector, ni ddylai'r Cyngorau sydd eisoes wedi cychwyn ar y gwaith gael eu trin yn llai ffafriol yn ariannol.

Bydd angen dilyn y cynsail a roddwyd wrth ddarparu'r arian i Gynghorau i dalu'r Cyflog Byw Gwirioneddol i ofalwyr. Hynny yw – roedd angen rhoi'r taliad ychwanegol hyd yn oed os oedd y darparwyr yn talu'r Cyflog Byw Gwirioneddol yn barod.

Cwestiynau ar gyfer Pennod 2: Cyflwyno taliadau uniongyrchol ar gyfer Gofal Iechyd Parhaus y GIG

Mae yna 8 cwestiwn am y bennod hon.

Cwestiwn 2.1: Rydym ni wedi amlinellu ein cynigion i gyflwyno llais a rheolaeth bellach i oedolion sy'n cael Gofal Iechyd Parhaus yng Nghymru. Ydych chi'n cytuno neu'n anghytuno â'r cynigion hyn? Esboniwch eich ateb.

Cytuno - ar hyn o bryd mae'r ffaith nad oes gan Oedolion sy'n cael Gofal Iechyd Parhaus lais a rheolaeth dros eu gofal yn creu problemau ac yn arwain at ymarfer aneffeithlon. Os am weld gwir wasanaethau integredig, mae angen i'r trawsnewidiad o ofal 'arferol' a Gofal Iechyd Parhaus fod yn fwy di-dor a chael llai o effaith ar Oedolion a'u teuluoedd.

Ar hyn o bryd, mae nifer o Oedolion sydd yn derbyn gofal drwy Daliadau Uniongyrchol, lle mae asesiad yn dangos y dylai'r pecyn gofal gael ei ariannu ar y cyd. Er fod y gofal yn cael ei gomisiynu drwy'r Awdurdod Lleol drwy daliadau uniongyrchol, mae'r GIG yn gwrthod cyfrannu yn ariannol at y pecyn gofal gan ei fod yn cael ei ddarparu drwy Daliadau Uniongyrchol. Drwy weithredu yn anhyblyg fel hyn, yn amlwg mae'r Awdurdod Lleol yn ysgwyddo baich ariannol ychwanegol. Er fod hon yn fater eilradd i gyfarch anghenion unigolion, mae'n fater sydd wedi bod yn broblemus ers rhai blynyddoedd bellach.

Cwestiwn 2.2: Beth yn eich barn chi yw effeithiau tebygol y cynnig?

Efallai yr hoffech ystyried, er enghraifft:

- Manteision, ac anfanteision;
- Costau (uniongyrchol ac anuniongyrchol), ac arbedion;
- Effeithiau ar unigolion a grwpiau â nodweddion gwarchodedig;
- Materion ymarferol eraill megis materion trawsffiniol neu drosglwyddo i'r trefniadau newydd.

Byddai croeso hefyd i'ch barn ar sut y gellid cynyddu'r effeithiau cadarnhaol, neu liniaru'r effeithiau negyddol.

Esboniwch eich ateb.

[Manteision](#)

Unigolion yn gallu comisiynu gwasanaethau o'u dewis, ac yn gallu bod yn fwy hyblyg er mwyn cyrraedd eu allbynnau personol a beth sy'n bwysig iddyn nhw. Galluogi unigolion i barhau i gael eu cefnogi gan unigolion sydd yn adnabyddus iddyn nhw, yn yr iaith o'u dewis ayyb.

Mae gennym enghreifftiau lle mae unigolion yn gwrthod asesiad Gofal Iechyd Parhaus oherwydd eu bod eisiau parhau i gael eu cefnogi yn y modd o'u dewis gan y Darparwr/unigolyn o'u dewis. Yn amlwg mae hyn yn golygu fod yr Awdurdod Lleol yn comisiynu gofal na ddylai fod yn ei gomisiynu, ond hefyd mae'n bosib fod Oedolion yn cyfrannu yn ariannol tuag at ofal a ddylai fod yn Ofal Iechyd Parhaus, ac felly am ddim.

Anfanteision

Mae risg amlwg o symud rhai agweddau ar wasanaethau iechyd i'r sector breifat.

Cwestiwn 2.3: Pa wersi y gallwn ni eu dysgu o arfer gwledydd eraill yn y maes hwn?

Cwestiwn 2.4: Ydych chi'n credu bod unrhyw ddulliau eraill neu ddulliau ategol y dylen ni fod yn eu hystyried i gyflawni'r un effaith? Os felly, nodwch nhw isod.

Cwestiwn 2.5: Byddwn yn gweithio i sicrhau bod unrhyw newid deddfwriaethol yn cael ei gefnogi gan ganllawiau cadarn i helpu'r rhai sy'n derbyn taliadau ac ymarferwyr i ddeall sut y bydd y system yn gweithredu. Allwch chi nodi unrhyw beth y byddai'n ddefnyddiol ei gynnwys yn y canllawiau hyn? Pa gymorth arall y dylid ei ddarparu?

Credwn y dylai'r system newydd (a'r canllawiau) gyd fynd gymaint a phosib gyda'r system daliadau uniongyrchol sydd mewn lle yn barod, a fod cymorth i weithredu ar hyn. Byddai cysoni gymaint a phosib efo'r broses taliadau uniongyrchol presennol yn gwneud pethau'n gliriach i unigolion sy'n derbyn gofal a'u teuluoedd, ac yn gwneud pethau'n llai dryslyd pan fo rhywun yn trosglwyddo i Ofal Iechyd Parhaus. Byddai hyn hefyd yn lleihau'r pryder am gael asesiad Gofal Iechyd Parhaus, gan fod y system/broses newydd ddim yn teimlo fel rhywbeth dieithr/llethol.

Cwestiwn 2.6: Hoffem wybod eich barn ar yr effeithiau y byddai cyflwyno taliadau uniongyrchol ar gyfer Gofal Iechyd Parhaus yn ei gael ar y Gymraeg, yn benodol ar gyfleoedd i bobl ddefnyddio'r Gymraeg ac ar beidio â thrin y Gymraeg yn llai ffafriol

na'r Saesneg. Beth fyddai'r effeithiau yn eich barn chi? Sut y gellid cynyddu'r effeithiau cadarnhaol, neu liniaru'r effeithiau negyddol?

Byddem yn dychmygu fod rhai fwy o lais a rheolaeth i unigolion dros eu gofal yn annog unigolion i gomisiynu gofal/cefnogaeth gan unigolion yn yr iaith o'u dewis. Bydd hyn yn y Gymraeg yn aml iawn yng Ngwynedd. Ar hyn o bryd, mae'n bosib fod unigolion yn cael eu gorfodi i dderbyn gwasanaeth yn Saesneg gan nad yw'r GIG yn comisiynu gwasanaeth yn y Gymraeg iddyn nhw.

Cwestiwn 2.7: Eglurwch hefyd sut rydych chi'n credu y gallai ein cynigion ar gyfer cyflwyno taliadau uniongyrchol ar gyfer Gofal Iechyd Parhaus y GIG gael eu llunio neu eu haddasu er mwyn cael effeithiau cadarnhaol neu fwy o effeithiau cadarnhaol ar gyfleoedd i bobl ddefnyddio'r Gymraeg ac ar beidio â thrin y Gymraeg yn llai ffafriol na'r Saesneg; a pheidio â chael dim effeithiau niweidiol ar gyfleoedd i bobl ddefnyddio'r Gymraeg ac ar beidio â thrin y Gymraeg yn llai ffafriol na'r Saesneg.

Cwestiwn 2.8: Rydym wedi gofyn nifer o gwestiynau penodol yn y bennod hon. Os oes gennych unrhyw faterion cysylltiedig nad ydyn ni wedi mynd i'r afael â nhw yn benodol, defnyddiwch y lle hwn i wneud hynny.

Cwestiynau ar gyfer Pennod 3: Hysbysu gorfodol am blant ac oedolion sy'n wynebu risg

Mae yna 11 cwestiwn am y bennod hon.

Cwestiwn 3.1: Beth yw eich barn ar yr egwyddor o osod dyletswydd i hysbysu am blentyn sy'n wynebu risg (fel y'i diffinnir yn adran 130(4) o Ddeddf Gwasanaethau Cymdeithasol a Llesiant (Cymru) 2014) yn uniongyrchol ar unigolion mewn cyrff perthnasol?

Mae egwyddor o osod dyletswydd i adrodd yn creu pryder. Mae'n mynd yn groes i'r egwyddor o gael llais yr unigolyn yn ganolog i'r broses diogelu ac yn tynnu'r elfen o ddewis. Byddai'r newid hwn yn yn rhoi cyfrifoldeb personol ar yr unigolyn ac nid y cyflogwr, felly gall y newid gael cryn effaith.

Cwestiwn 3.2: Beth yw eich barn ar yr egwyddor o osod dyletswydd i hysbysu am oedolyn sy'n wynebu risg (fel y'i diffinnir yn adran 126(1) o Ddeddf 2014) yn uniongyrchol ar unigolion mewn cyrff perthnasol?

Fel uchod.

Cwestiwn 3.3: Beth yn eich barn chi fyddai'r manteision, anfanteision, risgiau, costau, arbedion ac effeithiau ar gydraddoldeb, sy'n debygol o ddull o'r fath?

Esboniwch eich ateb.

Mae goblygiadau adnoddau i hyn. Rydym yn debygol o dderbyn nifer o adroddiadau anaddas a byddai angen buddsoddiad o fewn yr Uned Ddiogelu i gyfarch y galw. Byddai hefyd angen rhaglen hyfforddiant sylweddol er mwyn creu dealltwriaeth cadarn o ddiogelu.

Yn ogystal byddai'n anodd penderfynu i ba broffesiynau y mae'n berthnasol iddo a beth fyddai'r sancsiynau am beidio cydymffurfio. Pwy fydd yn monitro plismona'r drefn ac yn ysgwyddo'r costau cysylltiedig? A fydd yn golygu fod unigolion yn mynd i banig ac yn cyfeirio pawb yn anaddas oherwydd yr 'ofn' ac yn creu gwaith ychwanegol diangen?

Rydym o'r farn ein bod angen deall mwy am beth yn union sydd mewn golwg a beth y dymunir ei gyflawni. Mae'r egwyddor y tu ôl i'r cynnig yn rhesymegol, ond a oes digon o ystyriaeth wedi ei roi i'r oblygiadau ymarferol a'r effaith bosib?

Cwestiwn 3.4: Pa wersi gallwn ni eu dysgu o'r dyletswyddau i hysbysu mewn gwledydd eraill?

Cwestiwn 3.5: Pe bai dyletswyddau hysbysu unigol yn cael eu cyflwyno – ar gyfer plant ac oedolion sy'n wynebu risg – a ddylai'r rhain fod ochr yn ochr â'r dyletswyddau presennol ar sefydliadau o dan Ddeddf 2014, neu gymryd eu lle?

Ochr yn ochr – mae'n hanfodol bod y dyletswydd ar sefydliadau i adrodd yn parhau. Mae angen cymryd perchnogaeth am y dyletswydd.

Cwestiwn 3.6: Pe bai dyletswyddau hysbysu unigol yn cael eu cyflwyno, a ddylen nhw fod yn berthnasol i weithlu'r 'partneriaid perthnasol' presennol o dan adran 162 o Ddeddf 2014 (gan gynnwys timau troseddau ieuencid mewn perthynas â phlant), neu'n ehangach, er enghraifft i'r rhai sy'n gweithio mewn lleoliadau crefyddol neu chwaraeon, etc., ac yn benodol:

(a) Beth yw eich barn am hyn o ran plant (o dan 18 oed)?

(b) Beth yw eich barn am hyn o ran oedolion?

Os yw'n cael ei gyflwyno, mae'n ofynnol bod y dyletswydd i adrodd yn berthnasol i bob sefydliad sy'n cefnogi unigolion, boed yn blentyn neu'n oedolyn.

Cwestiwn 3.7: Pe bai dyletswyddau hysbysu unigol yn cael eu cyflwyno, pa fathau o alwedigaeth neu rolau ddylai fod yn ddarostyngedig i unrhyw ddyletswydd (e.e. aelodau o broffesiynau rheoleiddiedig; staff cyflogedig, hyd yn oed os nad ydynt yn cael eu rheoleiddio; gwirfoddolwyr), ac yn benodol:

(a) Beth yw eich barn am hyn o ran plant (o dan 18 oed)?

(b) Beth yw eich barn am hyn o ran oedolion?

Ar gyfer A a B, aelodau o gyrff proffesiynol, gwirfoddolwyr, aelodau o fudiadau cyhoeddus (Capeli ac ati).

Os yn rhoi unrhyw ddyletswyddau ychwanegol ar wirfoddolwyr, a sancisynau posib, ydi hyn yn effeithio ar parodrwydd bobl i fod yn gwirfoddoli? Mae'n debyg y bydd rhai yn gweld y risg yn ormodol ac yn peidio gwirfoddoli, be fyddai effaith colli'r gwirfoddolwyr yma ar rai meysydd sydd o dan bwysau cynyddol fel ag y mae pethau?

Cwestiwn 3.8: Pa sancsiynau ydych chi'n meddwl fyddai'n gymesur neu'n briodol am fethu â chydymffurfio â dyletswydd hysbysu unigol?

Dirwy? Ymchwiliad proffesiynol? Pwy fyddai'n plismona unrhyw sancsiynau ac yn sicrhau bod y rhai sy'n methu cydymffurfio yn cael eu sancsiynu?

Cwestiwn 3.9: Hoffem wybod eich barn ar yr effeithiau y byddai cyflwyno dyletswyddau hysbysu unigol yn eu cael ar y Gymraeg, yn benodol ar gyfleoedd i

bobl ddefnyddio'r Gymraeg ac ar beidio â thrin y Gymraeg yn llai ffafriol na'r Saesneg. Beth fyddai'r effaith yn eich barn chi? Sut y gellid cynyddu'r effeithiau cadarnhaol, neu liniaru'r effeithiau negyddol?

Cwestiwn 3.10: Eglurwch hefyd sut rydych chi'n credu y gallai'r cynigion ar gyfer cyflwyno dyletswyddau hysbysu unigol gael eu llunio neu eu haddasu er mwyn cael effeithiau cadarnhaol neu fwy o effeithiau cadarnhaol ar gyfleoedd i bobl ddefnyddio'r Gymraeg ac ar beidio â thrin y Gymraeg yn llai ffafriol na'r Saesneg, a pheidio â chael dim effeithiau niweidiol ar gyfleoedd i bobl ddefnyddio'r Gymraeg ac ar beidio â thrin y Gymraeg yn llai ffafriol na'r Saesneg.

[Byddai angen sicrhau bod pob cyhoeddusrwydd, hyfforddiant ac ati'n cael eu cynnal yn y Gymraeg.](#)

Cwestiwn 3.11: Rydym wedi gofyn nifer o gwestiynau penodol yn y bennod hon. Os oes gennych unrhyw faterion cysylltiedig nad ydyn ni wedi mynd i'r afael â nhw yn benodol, defnyddiwch y lle hwn i'w nodi.

[Mae pryder y gall cyflwyno dyletswydd i adrodd atal unigolion rhag gwneud hynny. Rydym wedi cydweithio hefo holl adrannau'r awdurdod i godi ymwybyddiaeth am ddiogelu a'r dyletswydd i adrodd ac mae ofn y gall hyn achosi nerfusrwydd am y broses a all arwain i unigolion gau eu llygaid i'r hyn sy'n mynd ymlaen. Fel sydd wedi ei nodi eisoes, mae hyn hefyd yn tynnu llais yr unigolyn o'r broses ac mae hynny'n risg mawr o ran ymarfer a chreu cynlluniau diogelu.](#)

Cwestiynau ar gyfer Pennod 4: Diwygio rheoleiddio darparwyr gwasanaethau ac unigolion cyfrifol

Mae Rhan 2 ac Atodlen 1 o Ddeddf Rheoleiddio ac Arolygu Gofal Cymdeithasol (Cymru) 2016 ('Deddf 2016') yn darparu'r sail y mae Arolygiaeth Gofal Cymru ('AGC') – ar ran Gweinidogion Cymru – yn ymgymryd â swyddogaethau arni mewn perthynas â chofrestru, rheoleiddio ac arolygu 'gwasanaethau rheoleiddiedig'.

Mae'r bennod hon o'r ymgynghoriad yn canolbwyntio ar ddiwygiadau arfaethedig i'r drefn reoleiddio ar gyfer gwasanaethau rheoleiddiedig, darparwyr gwasanaethau a'u hunigolion cyfrifol dynodedig. Mae'r rhain yn ymwneud ag ystod o faterion y darperir ar eu cyfer o fewn Deddf 2016, gan gynnwys:

- a) Nodi gwasanaethau anghofrestredig
- b) Cyhoeddi datganiadau blynyddol
- c) Cyhoeddi adroddiadau arolygu
- d) Hysbysiadau gwella a chanslo cofrestriad
- e) Unigolion cyfrifol
- f) Diffiniad o 'Ofal' i blant a phobl ifanc

Dyma gwestiynau ar ddiwygiadau arfaethedig ym mhob un o'r meysydd hyn.

Mae yna 21 cwestiwn am y bennod hon.

Cwestiwn 4.1: *(a) Nodi gwasanaethau anghofrestredig – pŵer i'w gwneud yn ofynnol i wybodaeth gael ei darparu:* Ydych chi'n cytuno â'r cynnig i ddiwygio Deddf 2016 i alluogi Gweinidogion Cymru (AGC) i'w gwneud yn ofynnol i unrhyw berson ddarparu gwybodaeth pan fo achos rhesymol i gredu ei fod yn darparu gwasanaeth a ddylai gael ei reoleiddio?

Ydym. Mae'r disgwyliad hwn eisoes yn bodoli.

Cwestiwn 4.2: *(a) Nodi gwasanaethau anghofrestredig – pŵer i'w gwneud yn ofynnol i wybodaeth gael ei darparu:* Ydych chi'n cytuno â'r cynnig i estyn y drosedd o fethu â darparu gwybodaeth pan fo'n ofynnol i wneud hynny, i gynnwys y personau hyn?

Cwestiwn 4.3: *(a) Nodi gwasanaethau anghofrestredig – pŵer mynediad:* Ydych chi'n cytuno â'r cynnig i ddiwygio Deddf 2016 i ddileu amwysedd a'i gwneud yn glir bod gan Weinidogion Cymru (AGC) y pŵer i fynd i mewn ac archwilio unrhyw fangre y mae ganddynt achos rhesymol i gredu ei bod yn cael ei defnyddio (neu wedi ei

defnyddio) fel man y darperir (neu y darparwyd) gwasanaeth ynddo neu ohono, neu ei bod yn cael ei defnyddio (neu wedi ei defnyddio) mewn cysylltiad â darparu gwasanaeth rheoleiddiedig?

Cytuno.

Cwestiwn 4.4: (a) *Nodi gwasanaethau anghofrestredig – pŵer mynediad:* Ydych chi'n cytuno â'r cynnig i estyn y drosedd o rwystro arolygydd neu fethu â chydymffurfio â gofyniad a osodir gan arolygydd, i gynnwys yr amgylchiadau hyn?

Ddim yn argyhoeddedig o'r angen i'w gwneud yn drosedd.

Cwestiwn 4.5: (b) *Cyhoeddi datganiadau blynyddol:* Ydych chi'n cytuno â'r cynnig i ddiwygio Deddf 2016 i'w gwneud yn ofynnol i ddarparwyr gwasanaethau gyhoeddi eu datganiadau blynyddol?

Cytuno.

Cwestiwn 4.6: (b) *Cyhoeddi datganiadau blynyddol:* Ydych chi'n cytuno â'r cynnig i greu trosedd gysylltiedig sef methu â chyhoeddi datganiad blynyddol?

Ddim yn argyhoeddedig o'r angen i'w gwneud yn drosedd.

Cwestiwn 4.7: (c) *Cyhoeddi adroddiadau arolygu:* Ydych chi'n cytuno â'r cynnig i ddiwygio Deddf 2016 i roi hyblygrwydd ychwanegol i Weinidogion Cymru (AGC) i gydnabod amgylchiadau pan na fyddai llunio a/neu gyhoeddi adroddiad arolygu o bosibl yn briodol, yn berthnasol neu'n gymesur?

Mae'r angen i lunio a chyhoeddi adroddiadau yn parhau yn y rhan fwyaf o amgylchiadau yn dilyn arolwg, ond cydnabod fod sefyllfaoedd lle na fydd budd cyhoeddi e.e mewn amgylchiadau all arwain at adnabod plentyn neu oedolyn agored i niwed. Y newidiadau arfaethedig yn rhoi mwy o hyblygrwydd pan na fyddai llunio a/neu gyhoeddi adroddiad arolygu yn briodol, perthnasol neu gymesur. Newid rhesymegol.

Cwestiwn 4.8: (d) *Hysbysiadau gwella a chanslo cofrestriad – amrywio cofrestriad fel darparwr gwasanaeth:* Ydych chi'n cytuno â'r cynnig i ddiwygio Deddf 2016 i ddileu'r gofyniad i Weinidogion Cymru (AGC) roi hysbysiad gwella i ddarparwr pan nad yw'r darparwr bellach yn darparu'r gwasanaeth hwnnw neu'n defnyddio'r lle hwnnw i ddarparu gwasanaeth?

Dim gwrthwynebiad i hyn.

Cwestiwn 4.9: (d) *Hysbysiadau gwella a chanslo cofrestriad – dileu amod ar gofrestrriad darparwr gwasanaeth:* Ydych chi'n cytuno â'r cynnig i ddiwygio Deddf 2016 i alluogi Gweinidogion Cymru (AGC) i ddileu amod ar gofrestrriad darparwr gwasanaeth heb roi hysbysiad o gynnig (adran 18) a hysbysiad o benderfyniad yn

dilyn hysbysiad o gynnig (adran 19), pan nad yw'r amgylchiadau a arweiniodd at osod yr amod yn gymwys bellach?

[Dim gwrthwynebiad i hyn.](#)

Cwestiwn 4.10: (d) *Hysbysiadau gwella a chanslo cofrestriad – pŵer i ganslo cofrestriad darparwr gwasanaeth:* Ydych chi'n cytuno â'r cynnig i ddiwygio Deddf 2016 i ddileu'r gofyniad i Weinidogion Cymru (AGC) ddilyn y broses hysbysiad gwella i ganslo cofrestriad darparwr gwasanaeth pan fydd y darparwr eisoes wedi peidio â darparu gwasanaeth rheoleiddiedig?

[Cytuno bod hyn yn dileu cam di-angen.](#)

Cwestiwn 4.11: (d) *Hysbysiadau gwella a chanslo cofrestriad – gwybodaeth gan ddarparwyr sy'n canslo eu cofrestriad:* Ydych chi'n cytuno â'r cynnig i greu pŵer i wneud rheoliadau o dan adran 14 o Ddeddf 2016 er mwyn galluogi Gweinidogion Cymru (AGC) i'w gwneud yn ofynnol bod gwybodaeth yn cael ei darparu gan ddarparwr gwasanaeth sy'n canslo ei gofrestrriad ac yn gadael y farchnad?

[Dim gwrthwynebiad i hyn.](#)

Cwestiwn 4.12: (d) *Hysbysiadau gwella a chanslo cofrestriad – pŵer i estyn y terfyn amser mewn Hysbysiad Gwella:* Ydych chi'n cytuno â'r cynnig i ddiwygio Deddf 2016 i roi pŵer i Weinidogion Cymru (AGC) i estyn yr amserlen ar gyfer darparu gwybodaeth pan roddir hysbysiadau gwella?

[Dim gwrthwynebiad i hyn.](#)

Cwestiwn 4.13: (d) *Hysbysiadau gwella a chanslo cofrestriad – pŵer i ganslo cofrestriad darparwr gwasanaeth o dan amgylchiadau rhagnodedig:* Ydych chi'n cytuno â'r cynnig i ddiwygio Deddf 2016 i alluogi Gweinidogion Cymru (AGC) i ddatgymhwyso gofyniad adran 16(3)(b) mewn hysbysiad gwella – i gymryd camau penodol neu ddarparu gwybodaeth – o dan amgylchiadau rhagnodedig, pan na fyddai diben cymhwyso'r gofyniad?

[Dim gwrthwynebiad i hyn.](#)

Cwestiwn 4.14: (e) *Unigolion cyfrifol – cyflwyno sylwadau:* Ydych chi'n cytuno â'r cynnig i ddiwygio Deddf 2016 i roi'r hawl i Unigolion Cyfrifol gyflwyno sylwadau i Weinidogion Cymru (AGC), yn erbyn hysbysiad gwella neu fwriad i ganslo eu dynodiad, ar yr amod y gwneir y sylwadau o fewn y terfyn amser a bennir yn yr hysbysiad?

[Cytuno.](#)

Cwestiwn 4.15: (e) *Unigolion cyfrifol – anfon yr Hysbysiad Gwella at y darparwr gwasanaeth:* Ydych chi'n cytuno â'r cynnig i ddiwygio Deddf 2016 i'w gwneud yn

ofynnol bod unrhyw hysbysiad gwella a roddir i Unigolyn Cyfrifol hefyd yn cael ei anfon at y darparwr gwasanaeth?

Dim gwrthwynebiad i hyn.

Cwestiwn 4.16: (e) *Unigolion cyfrifol – dileu Unigolyn Cyfrifol heb wneud cais i ddynodi Unigolyn Cyfrifol newydd:* Ydych chi'n cytuno â'r cynnig i ddiwygio Deddf 2016 i ganiatáu i ddarparwr gwasanaeth wneud cais i Weinidogion Cymru (AGC) i amrywio amodau ei gofrestrriad i ddileu Unigolyn Cyfrifol pan nad yw'n dynodi'r Unigolyn Cyfrifol newydd fel rhan o'r un cais?

Dim gwrthwynebiad i hyn.

Cwestiwn 4.17: (f) *Diffiniad o 'Ofal' i blant a phobl ifanc:* Ydych chi'n cytuno â'r cynnig i addasu'r diffiniad o 'ofal' yn adran 3 o Ddeddf 2016 i'w gwneud yn gwbl glir bod darparu gofal sy'n debyg i ofal rhiant yn cael ei gydnabod fel 'gofal' o fewn yr ystyr yn Deddf 2016?

Cwestiwn 4.18: Beth yn eich barn chi fyddai effeithiau tebygol y cynigion yn y bennod hon? Efallai yr hoffech ystyried, er enghraifft:

- Manteision ac anfanteision;
- Costau (uniongyrchol ac anuniongyrchol), ac arbedion;
- Effeithiau ar unigolion a grwpiau â nodweddion gwarchodedig;
- Materion ymarferol eraill.

Byddai croeso hefyd i'ch barn ar sut y gellid cynyddu'r effeithiau cadarnhaol, neu liniaru'r effeithiau negyddol.

Esboniwch eich ateb, naill ai yma neu, os yw'n haws, mae croeso ichi nodi unrhyw effeithiau sy'n benodol i gynnig unigol o dan y cwestiwn priodol uchod.

Cwestiwn 4.19: Hoffem wybod eich barn ar yr effeithiau y byddai'r cynigion yn y bennod hon yn eu cael ar y Gymraeg, yn benodol ar gyfleoedd i bobl ddefnyddio'r Gymraeg ac ar beidio â thrin y Gymraeg yn llai ffafriol na'r Saesneg. Beth fyddai'r effaith yn eich barn chi? Sut y gellid cynyddu'r effeithiau cadarnhaol, neu liniaru'r effeithiau negyddol?

Cwestiwn 4.20: Eglurwch hefyd sut rydych chi'n credu y gallai'r cynigion yn y bennod hon gael eu llunio neu eu haddasu er mwyn cael effeithiau cadarnhaol neu

fwy o effeithiau cadarnhaol ar gyfleoedd i bobl ddefnyddio'r Gymraeg ac ar beidio â thrin y Gymraeg yn llai ffafriol na'r Saesneg, a pheidio â chael dim effeithiau niweidiol ar gyfleoedd i bobl ddefnyddio'r Gymraeg ac ar beidio â thrin y Gymraeg yn llai ffafriol na'r Saesneg.

Cwestiwn 4.21: Rydym wedi gofyn nifer o gwestiynau penodol yn y bennod hon. Os oes gennych unrhyw faterion cysylltiedig nad ydyn ni wedi mynd i'r afael â nhw, defnyddiwch y lle hwn i wneud hynny.

Cwestiynau ar gyfer Pennod 5: Diwygio rheoleiddio'r gweithlu gofal cymdeithasol

Mae yna 9 cwestiwn am y bennod hon.

Cwestiwn 5.1: Ydych chi'n cytuno â'r cynnig i ddiwygio Deddf 2016 i ddarparu y gall person sydd wedi dal swydd fel aelod o Gofal Cymdeithasol Cymru gael ei ailbenodi unwaith? Esboniwch eich ateb.

Mae hyn yn adlewyrchu arfer bresennol GCC ac yn cyd-fynd â'r dybiaeth gadarn a nodir yn y Cod Llywodraethiant Penodiadau Cyhoeddus na ddylai unrhyw unigolyn wasanaethu mwy na dau dymor. Dim gwrthwynebiad.

Cwestiwn 5.2: Ydych chi'n cytuno â'r cynnig i ddiwygio Deddf 2016 i roi'r pŵer i Gofal Cymdeithasol Cymru i roi cofrestriad amodol i berson, pan fo'r person hwnnw'n adnewyddu ei gofrestrriad, mewn rhai amgylchiadau? Esboniwch eich ateb.

Cytuno. Byddai hyn yn osgoi achosion lle bydd statws cofrestredig person yn darford, ac yn caniatáu i GCC fonitro cydymffurfiaeth ag unrhyw amod a dileu'r amod hwnnw ar ôl i bob gofyniad cofrestru gael ei fodloni. Cefnogi'r newid.

Cwestiwn 5.3: Ydych chi'n cytuno â'r cynnig i ddiwygio Deddf 2016 i ganiatáu panel i adolygu ac estyn gorchmynion interim fel sy'n briodol, am hyd at uchafswm o 18 mis? Esboniwch eich ateb.

Cytuno. Awgrym ymarferol.

Cwestiwn 5.4: Ydych chi'n cytuno â'r cynnig i ddiwygio Deddf 2016 i ddarparu panel Addasrwydd i Ymarfer sydd â'r gallu i ddirymu gorchymyn interim, yn ystod achosion adolygu, pan fo'n angenrheidiol ac yn briodol? Esboniwch eich ateb.

Cwestiwn 5.5: Beth yn eich barn chi fyddai'n ei gwneud yn angenrheidiol ac yn briodol i banel Addasrwydd i Ymarfer ddirymu gorchymyn interim?

Cwestiwn 5.6: Beth yn eich barn chi fyddai effeithiau tebygol y cynigion yn y bennod hon? Efallai yr hoffech ystyried, er enghraifft:

- Manteision ac anfanteision;
- Costau (uniongyrchol ac anuniongyrchol), ac arbedion;
- Effeithiau ar unigolion a grwpiau â nodweddion gwarchodedig;

Cwestiynau ar gyfer Pennod 6: Estyn y diffiniad o weithiwr gofal cymdeithasol i gynnwys gweithwyr gofal plant a chwarae

Mae yna 5 cwestiwn am y bennod hon.

Cwestiwn 6.1: Hoffem wybod eich barn ar y cynnig i estyn y diffiniad o 'gweithiwr gofal cymdeithasol' i gynnwys gweithwyr gofal plant a gweithwyr chwarae. Yn benodol, ydych chi'n ffafrio estyn rôl Gofal Cymdeithasol Cymru i gynnwys gweithwyr gofal plant a chwarae sy'n gweithio yn y sector gofal plant?

Esboniwch eich ateb.

Mae'n gostus i weithwyr ar gyflogau isel. Byddai'n fwy derbyniol pe tasai'n wasanaeth am ddim i gofrestru.

Efallai ei fod yn bryder nad oes unrhyw sôn am gynnwys gweithwyr heb gymhwyster proffesiynol sydd yn gweithio o fewn ein gwasanaethau, er enghraifft ein ymarferwyr gwaith cymdeithasol. Rydym wedi bod yn gofyn am flynyddoedd l'r rhain hefyd gael eu cofrestru. Allweddol i gynnal gwasanaethau ond ymddangos wedi anghofio am y garfan yma eto er bod hyn yn cael ei godi'n rheolaidd.

Cwestiwn 6.2: Beth yn eich barn chi fyddai effeithiau tebygol y cynnig? Efallai yr hoffech ystyried, er enghraifft:

- Manteision ac anfanteision;
- Costau (uniongyrchol ac anuniongyrchol), ac arbedion;
- Effeithiau ar unigolion a grwpiau â nodweddion gwarchodedig;
- Materion ymarferol eraill.

Byddai croeso hefyd i'ch barn ar sut y gellid cynyddu'r effeithiau cadarnhaol, neu liniaru'r effeithiau negyddol.

Esboniwch eich ateb.

Cofrestru yn cael ei weld fel baich ychwanegol sylweddol gan rai gweithwyr ar hyn o bryd sydd eisoes dan bwysau, ac hynny'n troi rhai i ffwrdd o'r maes neu yn gyrru staff sydd eisoes yn y maes allan. Angen taro'r balans rhwng darparu gwasanaethau saff o safon, tra'n cysidro'r faich ychwanegol ar staff rheng flaen a staff sydd yn eu cefnogi i gofrestru.

Royal College of Psychiatrists Wales

Response to developing a national framework for social prescribing

The Royal College of Psychiatrists is the professional medical body responsible for supporting psychiatrists throughout their careers, from training through to retirement, and setting and raising standards of psychiatry in the United Kingdom.

The College aims to improve the outcomes of people with mental illness and intellectual disabilities, and the mental health of individuals, their families and communities.

In order to achieve this, the College sets standards and promotes excellence in psychiatry; leads, represents and supports psychiatrists; improves the scientific understanding of mental illness; works with and advocates for patients, carers and their organisations. Nationally and internationally, the College has a vital role in representing the expertise of the psychiatric profession to governments and other agencies.

RCPsych Wales represents more than 600 Consultant and Trainee Psychiatrists working in Wales.

Your name: Katherine Lowther

Organisation (if applicable): Royal College of Psychiatrists

Email / Telephone number: [REDACTED]

Your address: Suite 206, Creative Quarter, 8a Morgan Arcade, Cardiff, CF10 1AF

Responses to consultations may be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please place a tick in the box:

☐

Please tell us who you are responding on behalf of. For example is this your own response or is it sent on behalf of an organisation?

On behalf of an organisation

If you want to receive a receipt of your response, please confirm your email address, here:

Questions on Chapter 1: Eliminating profit from the care of children looked after

Question 1.6: Are there any issues in relation to transition for children looked after, local authorities and service providers you would like to draw our attention to?

Almost half of children in care have a diagnosable mental health disorder¹, often emerging as a result of abuse and neglect. They are a vulnerable group and it's vital that every effort is made to mitigate the chances of their mental health worsening through their experience in care. Overall, we agree that profit should be eliminated from children in care, however we have some concerns around the logistics of the transitions involved.

We are pleased that paragraph 13 of the consultation document acknowledges the need for looked-after young people to preserve links with their local communities and neighborhoods, allowing for them to maintain as much continuity in their lives as possible. Moving children away from their local communities may isolate them from their familiar means of support, such as teachers, CAMHS professionals or extended family, and thus negatively impacting their mental health.

Local authorities and CAMHS services need to reflect the significant mental health needs of many children in care in their strategic planning, particularly around transitions. When children are moved from one location to another, disruptions may occur in the continuity of their health care. Officers from the local authority responsible for looked-after children's services should:

- Agree multi-agency action to meet looked-after children's health needs
- Ensure looked-after children are always registered with GPs near to where they're living
- Ensure that when children are registered with a new GP, the transfer of GP-held clinical records is fast tracked
- Ensure that a child is never refused a mental health service (or other services) on the grounds of their placement being short-term or unplanned

Question 1.10: We would like to know your views on the effects that the legislative changes to eliminate profit from the care of children looked after will have on the

¹ [Promoting the health and well-being of looked-after children - update note added to start in August 2022 \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/103111/Promoting_the_health_and_well-being_of_looked-after_children_-_update_note_added_to_start_in_August_2022.pdf)

Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favorably than English. What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

Although paragraph 13 states that every effort will be made to ensure that children aren't moved away from their local communities, it is inevitable that this may still occur in some cases. Moving children away from Welsh-speaking communities into English-speaking communities, and vice versa, may present communication barriers, leaving them feeling ostracized and vulnerable to poor mental health.

Proposed changes to legislation on social care and continuing health care

Q1. Question 1.1: Do you think that introducing provision in legislation that only allows 'not-for-profit' providers to register with CIW will support delivery of the Programme for Government commitment to eliminate profit from the care of children looked after?

I am generally sympathetic to this proposal but I believe that a fair approach to fees/ charges is the most important principle. In saying that children services has tended to be a buyers market and providers have inflated prices possibly without justification. [REDACTED]

I believe it to be very important that we are clear about what we want to achieve. At the higher level are we clear about:

- the outcomes we want to achieve for children/ young people
- the needs we are trying to meet
- the inputs required to meet those needs in terms of accommodation, care staff, management, therapeutic, psychological, psychiatric support, education and health provision, etc.,
- are we clear about the costs of such services. If we cannot cost the service or provide a rationale for the fees paid we cannot claim that a provider is making excess profits. Remember both a local authority and health board have lost judicial reviews in large part because they could not provide a rationale for the fees they paid (residential nursing home care for older people)
- in the case of residential care are clear that the not for profit sector has access to capital to secure appropriate accommodation (the cost of capital will need to be included in the fees)?

We need to avoid a race to the bottom in terms of commissioners (local authorities/ health boards) placing the priority on price above quality. Going for cheap but less effective services may lead to placement breakdown, higher costs together with negative consequences for the individual child. Hence the need to be clear about the outcomes to be achieved. Can strapped commissioners will be tempted to go cheap.

Many placements are joint funded involving combinations of contributions from social services, education and health boards. How are all these partners involved in the commissioning process in terms planning and securing these services?

There are often delays in developing multi-disciplinary assessments and care plans and further delays in securing joint funding arrangements. The National Commissioning Board did some work in this area in 2018. What mechanisms are in place to ensure a timely completion of these processes? Delays can be detrimental to children, young people and their families. Is there a consistent approach to determining the contribution from each agency to funding placements throughout Wales?

Finally how good are we in specifying the needs of individual children/ young people to providers?

Q2. Question 1.2: What in your view are the likely impacts of the proposal? You may wish to consider, for example: Benefits, and disbenefits Costs (direct and indirect), and savings Impacts upon individuals and groups with protected characteristics Other practical matters such as cross-border issues Your views on how positive effects could be increased, or negative effects could be mitigated, would also be welcome.

Please explain your reasoning.

Clarity concerning the above (outcomes, needs, inputs, etc) the impact should be positive. However, there are always going to be complex cases which existing provision struggles to meet so a complete bar on private placements maybe counter productive. The alternative would be to enhance payments to existing services to meet any unpaid need.

Q3. Question 1.3: One approach could be for the legislation to define 'not-for-profit' in terms of the types of organisation that would qualify.

Do you consider that the restriction should also be expressed in terms of the way that any trading surplus is expended?

What would be the effects and implications of this?

Including a description of the types of organisation that qualify would be helpful. The term not for profit can be problematic. Many social enterprises would claim to make a profit which is reinvested in the business. The Charity Commission, Social Enterprise and CO-OP community can provide advice. Cartrefi Cymru offers a model - supported accommodation for people with learning disabilities.

Q4. Question 1.4: Do you think the primary legislation should include a power for Welsh Ministers to amend the definition of 'not-for-profit' through subordinate legislation?

This would provide flexibility in terms further innovation.

Q5. Question 1.5: What are your views on the proposed timings for the primary legislation to come into effect?

This is a three to five year project in terms of any residential care provision given the private sector dominance of the market. It will need be very carefully project managed with all interests represented. Some capital projects may be involved.

Has a detailed market analysis been completed across Wales or across each partnership board to provide an indication of demand together with the adequacy of current provision.

Q6. Question 1.6: Are there any issues in relation to transition for children looked after, local authorities and service providers you would like to draw our attention to?

I think the social services act could have included more guidance around transition. This could be provided as part of this project.

Q7. Question 1.7: What are your views on the issuing of guidance to support the implementation of the primary legislation?

It will be essential to provide guidance together with examples of good practice.

Q8. Question 1.8: What are your views on using legislation to place a restriction on local authorities to commission placements from 'not-for-profit' organisations only?

In particular: Do you think it would support us to deliver the commitment to eliminate profit from the care of children looked after in Wales? What would be the benefits, disbenefits and other implications of such an approach? What would be an appropriate timescale for implementing such an approach, if it were to be adopted in Wales?

as stated above this may be too restrictive. The views of local authorities must be taken into account. Such a change will require their commitment and support. Without their support, the proposal is dead. In this case you can retreat to creating a fair price for care as with older peoples services.

Local authorities and their combined commissioning unit will have the most realistic view of the practicalities of this proposal.

Q9. Question 1.9: What are your views on the possibility of approaches being taken in response to these legislative proposals which would undermine the intention to eliminate profit from the care of children looked after in Wales?

Are there any actions which would guard against such activity?

I think the provider in Wales needs to be registered in Wales and not a parent company based elsewhere. We do not want cross subsidisation from Wales to other countries. This also implies we will not accept cross subsidisation from Barnados England to Barnados Wales.

Q10. Question 1.10: We would like to know your views on the effects that the legislative changes to eliminate profit from the care of children looked after will have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favorably than English.

What effects do you think there would be?

How could positive effects be increased, or negative effects be mitigated?

This should be accommodated in the service specification.

Q11. Question 1.11: Please also explain how you believe the legislative changes to support delivery of eliminating profit from the care of children looked after could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

No Response

Q12. Question 1.12: This chapter has focused on how we can achieve the commitment to eliminate profit in the care of children looked after, and we have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

No Response

Q13. Question 2.1: We have outlined our proposals to introduce further voice and control for adults receiving Continuing Health Care (CHC) in Wales.

Do you agree or disagree with these proposals?

Please explain your reasoning.

The extension of direct payments to CHC is long overdue. [REDACTED]

Whilst CHC continues to exist as a policy I support this proposal. I personally believe CHC should be abolished on the following grounds.

People do not understand why an elderly person suffering from dementia with serious mobility and health problems fails to qualify for free continuing care whilst another individual falls just over the line (perhaps with severe dementia and difficult to manage) and qualifies for totally free care. One person may pay perhaps £600 per week or more whilst the other pays nothing. This is very unfair.

Also despite many reviews of the framework there are still inconsistencies of interpretation between health boards let alone between health and social services.

It involves a tremendous amount of time of staff from health and social services in determining eligibility for CHC. This also involves a lot of time wasted in disputes. We cannot afford to waste resources in this way. The whole policy and its processes involved, damages attempts to integrate health and social services. What makes it worse is it involves arguments over money not the type of care provided. A CHC assessment has no influence over the nature of care provided.

Furthermore delays in determining CHC eligibility can cause delayed transfers of care.

The policy of CHC has created a lucrative industry for lawyers who have made a fortune out of health boards.

People, usually family members often make backdated claims for CHC. This includes nephews and nieces not just children. As next of kin they are entitled to do so but is this a good use of public money?

CHC now accounts for a significant element of the NHS budget

The solution may be to expand FNC funding and abolish CHC. The SocialServices charging policy will then apply.

At least individuals should be charged for their accommodation. Who else gets free accommodation. Some people may argue that this could involve charging for hospital accommodation. This is not the same. People should only be in hospital if they require acute intervention and care.

It was poorly formulated from the start. In the 1980s and 1990s the NHS closed many institutions such as long stay geriatric hospitals and 'Mental Handicap' hospitals such as Hensol. These often provided dormitory accommodation with no privacy and did not provide a homely environment. The NHS started to commission nursing home placements. These placements involved a charge and this was seen to compromise the principle of free NHS care.

This accommodation does strive to provide a homely environment with ensuite accommodation so is very different.

Q14. Question 2.2: What in your view are the likely impacts of the proposal?

You may wish to consider, for example: Benefits, and disbenefits Costs (direct and indirect), and savings Impacts upon individuals and groups with protected characteristics Other practical matters such as cross-border issues or transition to the new arrangements Your views on how positive effects could be increased, or negative effects could be mitigated, would also be welcome.

Please explain your reasoning.

[REDACTED]

Q15. Question 2.3: What lessons can we learn from other countries' practice in this area?

No Response

Q16. Question 2.4: Do you believe there are any other or complementary approaches we should be considering to achieve the same effect?

If so, please outline below.

No Response

Q17. Question 2.5: We will work to ensure that any legislative change is supported by robust guidance to help both payment recipients and practitioners understand how the system will operate.

Can you identify anything that it would be helpful to include in this guidance?

What other support should be provided?

No Response

Q18. Question 2.6: We would like to know your views on the effects that introducing direct payments for continuing NHS healthcare would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.

What effects do you think there would be?

How could positive effects be increased, or negative effects be mitigated?

No Response

Q19. Question 2.7: Please also explain how you believe our proposals for introducing direct payments for continuing NHS healthcare could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

No Response

Q20. Question 2.8: We have asked a number of specific questions in this chapter. If you have any related issues which we have not specifically addressed, please use this space to report them.

No Response

Q21. Question 3.1: What are your views on the principle of imposing a duty to report a child at risk (as defined in section 130(4) of the Social Services and Well-being (Wales) Act 2014 directly on individuals within relevant bodies?

No Response

Q22. Question 3.2: What are your views on the principle of imposing a duty to report an adult at risk (as defined in section 126 (1) of the 2014 Act) directly on individuals within relevant bodies?

No Response

Q23. Question 3.3: What in your view would be the likely benefits, disbenefits, risks, costs, savings and equality impacts of such an approach?

Please explain your reasoning.

No Response

Q24. Question 3.4: What lessons can we learn from the duties to report in other countries?

No Response

Q25. Question 3.5: If individual reporting duties were to be introduced – for children and adults at risk – should these sit alongside, or replace, the existing duties on organisations under the 2014 Act?

No Response

Q26. Question 3.6: If individual reporting duties were to be introduced, should they apply to the workforce of current 'relevant partners' under section 162 of the 2014 Act (including youth offending teams in relation to children), or more widely, for example to those working in religious or sports settings, etc., and in particular:

(a) What are your views on this in respect of children (under the age of 18)?

(b) What are your views on this in respect of adults?

No Response

Q27. Question 3.7: If individual reporting duties were to be introduced, which occupation types or roles should be subject to any duty (e.g. members of regulated professions; employed staff, even if they are not regulated; volunteers), and in particular:

(a) What are your views on this in respect of children (under the age of 18)?

(b) What are your views on this in respect of adults?

No Response

Q28. Question 3.8: What sanctions do you think would be proportionate or appropriate for failure to comply with an individual reporting duty?

No Response

Q29. Question 3.9: We would like to know your views on the effects that introducing individual reporting duties would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.

What effects do you think there would be?

How could positive effects be increased, or negative effects be mitigated?

No Response

Q30. Question 3.10: Please also explain how you believe proposals for introducing individual reporting duties could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

No Response

Q31. Question 3.11: We have asked a number of specific questions in this chapter. If you have any related issues which we have not specifically addressed, please use this space to report them.

No Response

Q32. Question 4.1: (a) Identifying unregistered services - power to obtain information: Do you agree with the proposal to amend the 2016 Act to enable the Welsh Ministers (CIW) to require information from any person where there is reasonable cause to believe that they are providing a service which should be regulated?

No Response

Q33. Question 4.2: (a) Identifying unregistered services - power to obtain information: Do you agree with the proposal to extend the offence of failing to provide information when required to do so, to include these persons?

No Response

Q34. Question 4.3: (a) Identifying unregistered services - power of entry: Do you agree with the proposal to amend the 2016 Act to remove ambiguity and make it clear that the Welsh Ministers (CIW) have the power to enter and inspect any premises which they have reasonable cause to believe is (or has been) used as a place at or from which a service is (or has been) provided, or which is (or has been) used in connection with the provision of a regulated service?

No Response

Q35. Question 4.4: (a) Identifying unregistered services - power of entry: Do you agree with the proposal to extend the offence of obstructing an inspector or failing to comply with a requirement imposed by an inspector, to include these circumstances?

No Response

Q36. Question 4.4: (a) Identifying unregistered services - power of entry: Do you agree with the proposal to extend the offence of obstructing an inspector or failing to comply with a requirement imposed by an inspector, to include these circumstances?

No Response

Q37. Question 4.5: (b) Publication of annual returns: Do you agree with the proposal to amend the 2016 Act to require service providers to publish their annual returns?

No Response

Q38. Question 4.6: (b) Publication of annual returns: Do you agree with the proposal to create a related offence of failing to publish an annual return?

No Response

Q39. Question 4.7: (c) Publication of inspection reports: Do you agree with the proposal to amend the 2016 Act to provide additional flexibility for the Welsh Ministers (CIW) to recognise circumstances where it may not be appropriate, relevant, or proportionate to prepare and/or publish an inspection report?

No Response

Q40. Question 4.8: (d) Improvement notices and cancellation of registration – variation of registration as a service provider: Do you agree with the proposal to amend the 2016 Act to remove the requirement for the Welsh Ministers (CIW) to issue an improvement notice to a provider in circumstances where the provider is no longer providing that service or using that place to provide a service?

No Response

Q41. Question 4.9: (d) Improvement notices and cancellation of registration - removal of a condition on a service provider's registration: Do you agree with the proposal to amend the 2016 Act to enable the Welsh Ministers (CIW) to remove a condition on a service provider's registration without giving a notice of proposal (section 18) and notice of decision following notice of proposal (section 19), when the circumstances which led to the imposition of the condition no longer apply?

No Response

Q42. Question 4.10: (d) Improvement notices and cancellation of registration – power to cancel a service provider's registration: Do you agree with the proposal to amend the 2016 Act to remove the requirement for the Welsh Ministers (CIW) to follow the improvement notice process to cancel the registration of a service provider in circumstances when the provider has already ceased to provide a regulated service?

No Response

Q43. Question 4.11: (d) Improvement notices and cancellation of registration – information from providers who are cancelling their registration: Do you agree with the proposal to create a regulation-making power under Section 14 of the 2016 Act to enable the Welsh Ministers (CIW) to require information from a service provider who is cancelling their registration and exiting the market?

No Response

Q44. Question 4.12: (d) Improvement notices and cancellation of registration – power to extend the timescale within an Improvement Notice: Do you agree with the proposal to amend the 2016 Act to give the Welsh Ministers (CIW) the power to extend the timescale for information to be provided when improvement notices are issued?

No Response

Q45. Question 4.13: (d) Improvement notices and cancellation of registration – power to cancel a service provider's registration in prescribed circumstances: Do you agree with the proposal to amend the 2016 Act to enable the Welsh Ministers (CIW) to disapply the section 16(3)(b) requirement within the improvement notice – to take particular action or provide information – in prescribed circumstances, when it would be futile to apply the requirement?

No Response

Q46. Question 4.14: (e) Responsible individuals – making representations: Do you agree with the proposal to amend the 2016 Act to give Responsible Individuals the right to make representations to the Welsh Ministers (CIW), against any improvement notice or cancellation of their designation, provided the representations are made within the time limit specified within the notice?

No Response

Q47. Question 4.15: (e) Responsible individuals – sending the improvement notice to the service provider: Do you agree with the proposal to amend the 2016 Act to require that any improvement notice served to a Responsible Individual must also be sent to the service provider?

No Response

Q48. Question 4.16: (e) Responsible individuals - Removing a Responsible Individual without making an application to designate a new Responsible Individual: Do you agree with the proposal to amend the 2016 Act to allow a service provider to apply to the Welsh Ministers (CIW) for a variation of the conditions of their registration to remove a Responsible Individual when they are not designating a replacement Responsible Individual as part of the same application?

No Response

Q49. Question 4.17: (f) Definition of 'Care' for children and young people: Do you agree with the proposal to adjust the definition of 'care' in section 3 of the 2016 Act in order to place beyond doubt that the provision of parental-type care is recognised as being 'care' within the meaning of the 2016 Act?

No Response

Q50. Question 4.18: What in your view would be the likely impacts of the proposals in this chapter? You may wish to consider, for example: Benefits, and disbenefits Costs (direct and indirect), and savings Impacts upon individuals and groups with protected characteristics Other practical issues Your views on how positive effects could be increased, or negative effects could be mitigated, would also be welcome.

Please explain your reasoning, either here or, if easier, please feel free to note any impacts specific to an individual proposal under the appropriate question above.

No Response

Q51. Question 4.19: We would like to know your views on the effects that the proposals in this chapter would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.

What effects do you think there would be?

How could positive effects be increased, or negative effects be mitigated?

No Response

Q52. Question 4.20: Please also explain how you believe the proposals in this chapter could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

No Response

Q53. Question 4.21: We have asked a number of specific questions in this chapter. If you have any related issues which we have not specifically addressed, please use this space to report them.

No Response

Q54. Question 5.1: Do you agree with the proposal to amend the 2016 Act to provide that a person who has held office as a member of Social Care Wales may be reappointed once?

Please explain your reasoning.

No Response

Q55. Question 5.2: Do you agree with the proposal to amend the 2016 Act to provide Social Care Wales with the power to grant a conditional registration for a person, when they are renewing their registration, in certain circumstances?

Please explain your reasoning.

No Response

Q56. Question 5.3: Do you agree with the proposal to amend the 2016 Act to allow a panel to review and extend interim orders as appropriate, up to the maximum of 18 months?

Please explain your reasoning.

No Response

Q57. Question 5.4: Do you agree with the proposal to amend the 2016 Act to provide a Fitness to Practise panel with the ability to revoke an interim order, during review proceedings, where it is necessary and appropriate?

Please explain your reasoning.

No Response

Q58. Question 5.5: What, in your view, would make it necessary and appropriate for a 'fitness to practise' panel to revoke an interim order?

No Response

Q59. Question 5.6: What in your view would be the likely impacts of the proposals in this chapter? You may wish to consider, for example: Benefits, and disbenefits Costs (direct and indirect), and savings Impacts upon individuals and groups with protected characteristics Other practical issues Your views on how positive effects could be increased, or negative effects could be mitigated, would also be welcome.

Please explain your reasoning.

No Response

Q60. Question 5.7: We would like to know your views on the effects that the proposals in this chapter would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.

What effects do you think there would be?

How could positive effects be increased, or negative effects be mitigated?

No Response

Q61. Question 5.8: Please also explain how you believe the proposals in this chapter could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

No Response

Q62. Question 5.9: We have asked a number of specific questions in this chapter. If you have any related issues which we have not specifically addressed, please use this space to report them.

No Response

Q63. Question 6.1: We would like to know your views on the proposal to extend the definition of 'social care worker' to include both childcare and play workers. In particular, are you in favour of extending the role of Social Care Wales to cover childcare and play workers working in the childcare sector?

Please explain your reasoning.

No Response

Q64. Question 6.2: What in your view would be the likely impacts of the proposal? You may wish to consider, for example: Benefits, and disbenefits Costs (direct and indirect), and savings Impacts upon individuals and groups with protected characteristics Other practical issues Your views on how positive effects could be increased, or negative effects could be mitigated, would also be welcome.

Please explain your reasoning.

No Response

Q65. Question 6.3: We would like to know your views on the effects that the proposal would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.

What effects do you think there would be?

How could positive effects be increased, or negative effects be mitigated?

No Response

Q66. Question 6.4: Please also explain how you believe the proposal could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language

No Response

Q67. Question 6.5: We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:

No Response

Submit your response

Q68. You are about to submit your response. Please ensure you are satisfied with the answers you have provided before sending.

Name: [REDACTED]
Organisation (if applicable): [REDACTED]
E:mail: [REDACTED]
Telephone: [REDACTED]
Your address: [REDACTED]

Q69. If you want to receive a receipt of your response, please provide an email address.

Email address

[REDACTED]

Q70. Responses to consultations may be made public. To keep your response anonymous (including email addresses) tick the box.

Keep my response anonymous



Proposed changes to legislation on social care and continuing health care

Response from The Fostering Network, September 2022

About The Fostering Network

The Fostering Network is the UK's leading fostering charity and membership organisation. We are the essential network for fostering, bringing together everyone who is involved in the lives of fostered children. We support foster carers to transform children's lives and we work with fostering services and the wider sector to develop and share best practice. We work to ensure all fostered children and young people experience stable family life and we are passionate about the difference foster care makes. We champion fostering and seek to create vital change so that foster care is the very best it can be.

We have been leading the fostering agenda for more than 40 years, influencing and shaping policy and practice at every level. As a membership organisation we bring together individuals and services involved in providing foster care across the UK. We have approximately 60,000 individual members and 450 organisational members, both local authorities and independent fostering providers, which cover nearly 77 per cent of foster carers in the UK. In Wales, all 22 local authorities are in membership with us. Our views are informed by our members, as well as through research; in this way we aim to be the voice of foster care.

Introduction

In responding to this consultation, we have surveyed our members on issues relating directly to Chapter 1: Eliminating profit from the care of children looked after. Therefore, this response reflects the views of foster carers across Wales. We did not ask services to complete the survey as we respect their right to respond to this consultation as individual organisations.

Our survey asked four questions to establish the level of understanding of this planned programme of work amongst our membership. We also sought to represent their views on the impact this process would have for them as carers and most importantly, for children and young people in Wales.

There were 229 responses to the survey.

- 6% foster for independent providers
- 4% foster for third sector organisations
- 90% foster for local authorities
- 16% of the LA respondents were connected persons carers

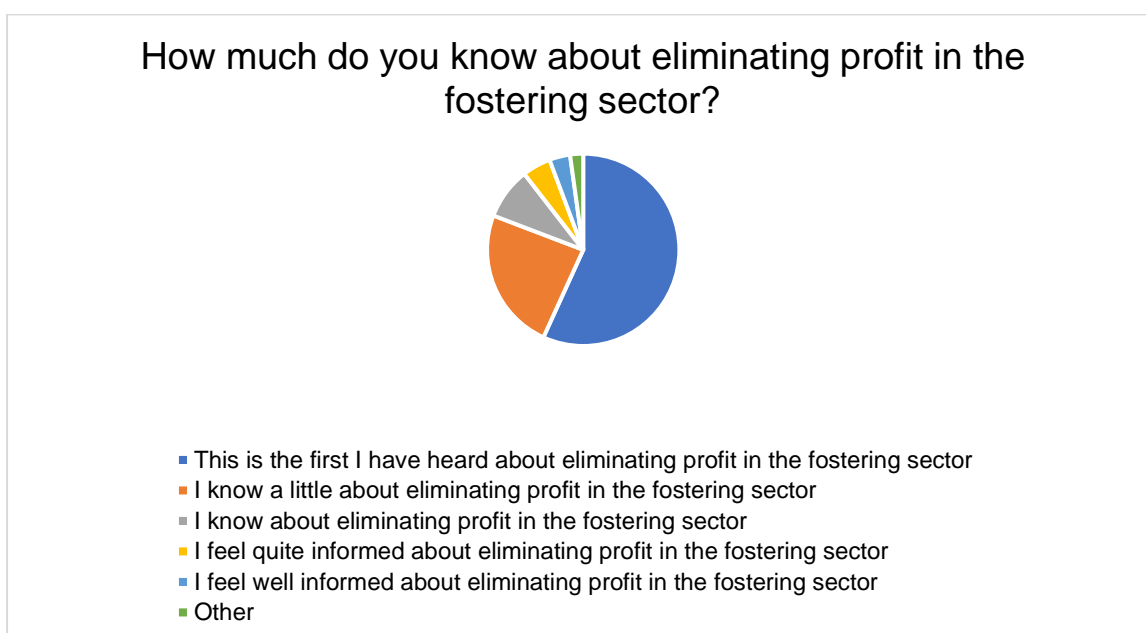
We received responses from every region in Wales and the survey was available in Welsh and English. We shared the survey with Welsh Government ahead of dissemination.

Eliminating profit from the care of children looked after: foster carers responses

Question 1: How much do you know about eliminating profit in the fostering sector?

Over 50% of the respondents stated that this survey was the first they had heard about plans to eliminate profit from the care of children looked after. Only 8.5% felt informed or well informed about the plans. The 'other' option included people sharing their initial opinions about eliminating profit. There was no clear theme to their comments here which ranged from support for local authority provision to concern about the impact for the system as a whole.

This is the first I have heard about eliminating profit in the fostering sector	130	56.8%
I know a little about eliminating profit in the fostering sector	55	24.0%
I know about eliminating profit in the fostering sector	20	8.7%
I feel quite informed about eliminating profit in the fostering sector	11	4.8%
I feel well informed about eliminating profit in the fostering sector	8	3.5%
Other	5	2.2%
Total	229	100%



Question 2: How do you feel about eliminating profit in the fostering sector?

44.5% of respondents agreed with the proposed plans to eliminate profit from the fostering sector. 17% were not in agreement and 24% did not have a view.

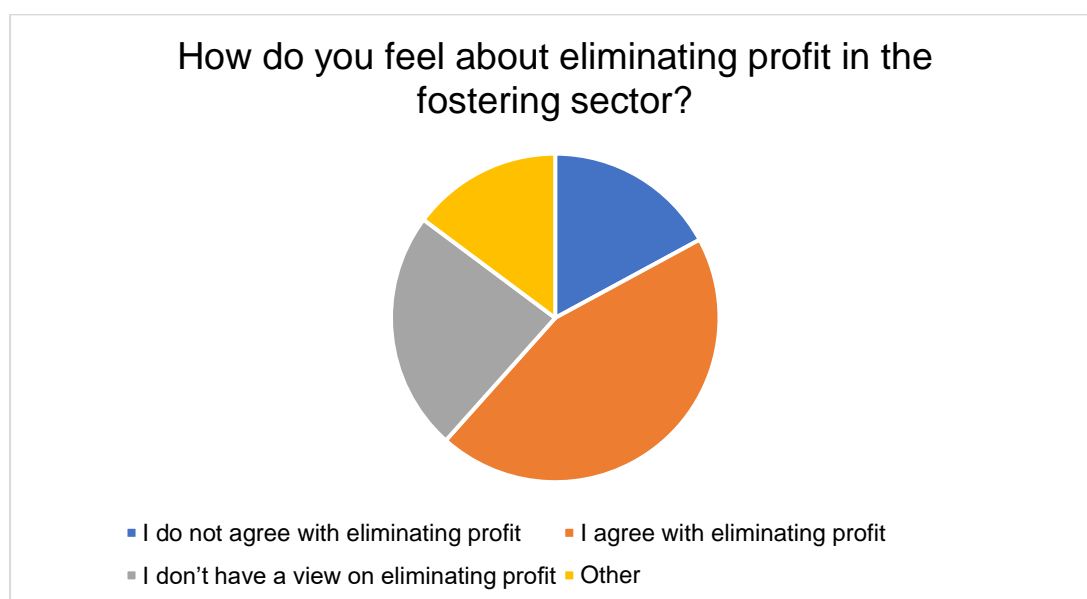
Some foster carers chose to comment rather than select one of these options and just over 10% gave responses that also equated to an answer of being not sure about their feelings. As well as commenting that they would need more information before taking a view, we again saw respondents who were concerned about the wider impact on the sector.

'I agree with the concept, but I have concerns that the non for profit sector is not ready yet for this.'

'Where would the children go if non-profit organizations were the only option? There is already a shortage of foster carers.'

'What does it mean? Would love to hear more to understand.'

I do not agree with eliminating profit	39	17.1%
I agree with eliminating profit	102	44.5%
I don't have a view on eliminating profit	54	23.6%
Other	34	14.8%
Total	229	100%



Question 3: When the elimination of profit legislative changes are implemented, what impact do you think it will have on foster carers?

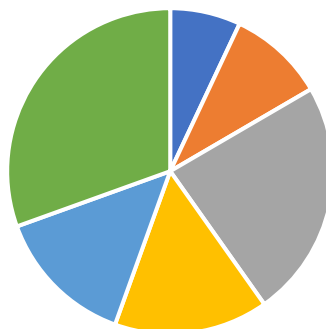
Responses to this question were mixed, with 'it will impact foster carers somewhat' being the most popular response. Again the 'other' option was used for foster carers to share their own specific response to the question. 50 respondents gave answers that can be categorised as 'not sure', 'don't know' or 'would need more information before commenting further'.

'I don't fully understand the concept as this is the first i have heard of it'

'I don't know enough about eliminating profit to comment'

It won't impact foster carers	16	7.0%
It will impact foster carers a little	22	9.6%
It will impact foster carers somewhat	54	23.6%
It will impact foster carers quite a lot	35	15.3%
It will impact foster carers a great deal	32	14.0%
Other	70	30.5%
Total	229	100%

What impact do you think this will have on foster carers?



- It won't impact foster carers
- It will impact foster carers a little
- It will impact foster carers somewhat
- It will impact foster carers quite a lot
- It will impact foster carers a great deal
- Other

Question 4: When the elimination of profit legislative changes are implemented, what impact do you think it will have on children looked after?

As with the question about impact for foster carers, there was no clear consensus from our respondents about the affect on children looked after. Of those that responded with 'other', 44 carers (19%) gave an answer of 'don't know'.

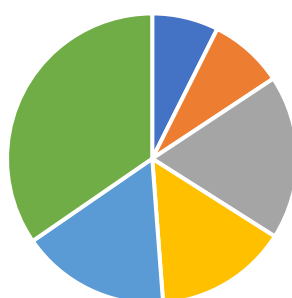
There were comments concerned about this change resulting in placement instability for children, due to there being fewer fostering placements available.

'It has the potential to reduce the number of places for children requiring care.'

'If there isn't sufficient reinvestment concern for lack of local provision if private providers shut down'

It won't impact children looked after	17	7.4%
It will impact children looked after a little	19	8.3%
It will impact children looked after somewhat	42	18.3%
It will impact children looked after quite a lot	34	14.8%
It will impact children looked after a great deal	38	16.6%
Other	79	34.6%
Total	229	100%

What impact do you think this will have on children looked after?



- It won't impact children looked after
- It will impact children looked after a little
- It will impact children looked after somewhat
- It will impact children looked after quite a lot
- It will impact children looked after a great deal
- Other



Conclusion

In responding to this survey, foster carers have told us that they have received limited information or have limited or no knowledge on the proposed changes to legislation for children's social care. There is not a clear consensus on how the elimination of profit will affect them as foster carers or children and young people looked after.

Contact Details

Sarah Thomas, Director for Wales and England

Email: [REDACTED]

Consultation Response Form

Your name: Dr Julie Doughty

Organisation (if applicable): Centre for Health and Social Care Law, School of Law and Politics, Cardiff University

Email / Telephone number:



Your address: School of Law and Politics, Museum Avenue, Cardiff CF10 3AX

Responses to consultations may be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please place a tick in the box:

☐

Please tell us who you are responding on behalf of. For example is this your own response or is it sent on behalf of an organisation?

My own.

I am answering only Chapter 1, based on recent research and on my experience in previous posts in local authorities and Cafcass.

If you want to receive a receipt of your response, please confirm your email address, here:



Questions on Chapter 1: Eliminating profit from the care of children looked after

There are 12 questions about this chapter.

Question 1.1: Do you think that introducing provision in legislation that only allows 'not-for-profit' providers to register with CIW will support delivery of the Programme for Government commitment to eliminate profit from the care of children looked after?

Yes. I strongly support this proposal. Research indicates that services from for-profit providers are increasingly expensive but often not meeting children's needs.¹ Some large providers appear financially unstable and change hands frequently.²

Question 1.2: What in your view are the likely impacts of the proposal? You may wish to consider, for example:

- Benefits, and disbenefits;
- Costs (direct and indirect), and savings;
- Impacts upon individuals and groups with protected characteristics;
- Other practical matters such as cross-border issues.

Your views on how positive effects could be increased, or negative effects could be mitigated, would also be welcome.

Please explain your reasoning.

Benefits:

Localised services can be more appropriate and responsive than larger providers.

Most children who are looked after by local authorities return home or to kinship care before they turn 18. In most cases, it is therefore vital to maintain children's links with their family, community, school, GP etc. while they are in care. Although in some cases a child may need to be placed at a geographical distance because they are at

¹ Anders Malthe Bach-Mortensen, Benjamin Goodair, Jane Barlow (2022) Outsourcing and children's social care: A longitudinal analysis of inspection outcomes among English children's homes and local authorities, Social Science & Medicine, Volume 313, 115323, at <https://www.sciencedirect.com/science/article/pii/S0277953622006293>

² Martin Barrow 'Privatisation of children's services is bad for children and bad for taxpayers' The Transparency Project, 17 February 2021, at <https://transparencyproject.org.uk/privatisation-of-childrens-services-is-bad-for-children-and-bad-for-taxpayers/>

risk in the area in which they have been living, such a decision should be based on the child's welfare needs, not on where spaces may exist.

Public money will be put directly toward improving children's experiences instead of being paid to business owners, hedge funds and shareholders.

Potential for recruiting and developing local staff with secure employment contracts and conditions.

A sense of local ownership and accountability will incentivise continuous improvement of services.

Welsh Government will be sending a strong message across Wales and the UK about the value they place on children's services.

Concerns:

Legislation and guidance will need careful drafting and timing.

Residential homes situated in Wales that currently accommodate children from English LAs will also need to be subject to the new provisions. If the legislation allowed homes in Wales to make profits from English LAs but not Welsh LAs, their owners would probably take children from England in preference. Similarly, if foster care services in Wales can charge more to look after children from England, there will be a shortage of local placements. The legislation will need to be clear about what type of services can operate in Wales.

The consultation paper does not clearly differentiate between (1) children who are looked after under section 74 Social Services and Wellbeing (Wales) Act 2014 with non-related foster carers or kinship carers and (2) children who have serious complex needs that require specialist therapeutic placements. Proposals to improve support for foster carers (to persuade them to work for LAs or charities instead of private agencies) and for kinship foster carers (to make special guardianship viable for them) should be clearly set out. It would be helpful if proposals for children in these groups were separate from proposals to provide resource-intensive specialist care for the (increasing) minority of children who need this. Appropriate services for children on the threshold of secure accommodation and those who are leaving secure accommodation are also essential.

There is also a need for carefully planned transition that will ensure no current individual placements that are working well will be disrupted.

Question 1.3: One approach could be for the legislation to define 'not-for-profit' in terms of the types of organisation that would qualify. Do you consider that the restriction should also be expressed in terms of the way that any trading surplus is expended? What would be the effects and implications of this?

A definition should identify registered charities and charitable incorporated organisations; community interest companies; and companies limited by guarantee where any surplus income over expenditure is reinvested toward the organisation's objectives. The constitution or memorandum and articles of association of the organisation would include this restriction.

Question 1.4: Do you think the primary legislation should include a power for Welsh Ministers to amend the definition of 'not-for-profit' through subordinate legislation?

Yes, this would be a wise precaution, as new forms of incorporation may be introduced in future legislation.

Question 1.5: What are your views on the proposed timings for the primary legislation to come into effect?

I have no strong views. The timing will need to achieve a balance between realistic and meaningful expectations i.e take the views of the public and private sector into account but discouraging drift.

Question 1.6: Are there any issues in relation to transition for children looked after, local authorities and service providers you would like to draw our attention to?

I think this question will be best answered by representative groups.

Question 1.7: What are your views on the issuing of guidance to support the implementation of the primary legislation?

Guidance will be essential.

Question 1.8: What are your views on using legislation to place a restriction on local authorities to commission placements from 'not-for-profit' organisations only? In particular:

- Do you think it would support us to deliver the commitment to eliminate profit from the care of children looked after in Wales?
- What would be the benefits, disbenefits and other implications of such an approach?
- What would be an appropriate timescale for implementing such an approach, if it were to be adopted in Wales?

I am not certain how such a restriction would be effective. It is likely there will be instances where a suitable placement cannot be found within Wales so the LA will be compelled to look for a placement in England or Scotland, where the only suitable provider may be a profit-making company. For example, where a child is subject to a secure accommodation order under section 119 Social Services and Wellbeing (Wales) Act 2014 but the LA cannot find a place in Wales, the LA would be able

to apply under the High Court's inherent jurisdiction to place the child in a for-profit institution in England. The High Court already allows many unregulated placements to go ahead, because of the shortage of regulated placements.³ If a LA in Wales were to apply to the court to authorise the placement of a child in a setting that was not registered or regulated in Wales because its owner was a for-profit business, it would appear from current case law that this would nevertheless be authorised by the court. Although the judiciary have expressed disquiet when they are called on to override the legislation (Children Act 1989 in England), they have not found any alternative.

The inherent jurisdiction is not something Welsh Government can curtail through legislation, because if a LA cannot lawfully meet the child's welfare needs, the inherent jurisdiction will remain available. This means that Welsh Government will need to explore the feasibility of establishing a range of services that provide specialist care within Wales. However, some children have such complex needs that it may not be possible to guarantee services that meet all needs. Other circumstances can affect availability, for example where there might be a conflict of interest between safeguarding a child already in the home and the child who would otherwise benefit from moving there. There is therefore a place for the inherent jurisdiction – but it should be a last resort.

The restriction should therefore not be absolute but should be worded in such a way as to ensure that for-profit providers in England or Scotland are approached only where necessary and not as a matter of course.

Question 1.9: What are your views on the possibility of approaches being taken in response to these legislative proposals which would undermine the intention to eliminate profit from the care of children looked after in Wales? Are there any actions which would guard against such activity?

I do not have any expertise on this question. However, I have read negative comments about the proposal, by some individuals in local authorities and providers in the media, and I believe these should be engaged with constructively if possible, in order to resolve avoidable conflicts.

Question 1.10: We would like to know your views on the effects that the legislative changes to eliminate profit from the care of children looked after will have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favorably than English. What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

³ Alice Roe, Mary Ryan and Andrew Powell (2022) Deprivation of liberty: a review of published judgments, Nuffield Family Justice Observatory at <https://www.nuffieldfjo.org.uk/resource/deprivation-of-liberty-a-review-of-published-judgments>

It would seem likely that children whose first language is Welsh or who are enjoying Welsh language education would have more opportunities to use Welsh if they were able to live more locally.

Question 1.11: Please also explain how you believe the legislative changes to support delivery of eliminating profit from the care of children looked after could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

I do have any expertise on this question.

Question 1.12: This chapter has focused on how we can achieve the commitment to eliminate profit in the care of children looked after, and we have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

1. *I have some questions about the consultation paper. These are not criticisms but requests for further information.*

Para 19, what are the other measures that are being delivered through 'our Programme for Government'?

Para 21, where are the public details about the multi-agency programme board: its membership; terms of reference; minutes of meetings; achievements to date etc?

Para 26, what is the current work being undertaken on these aims?

Para 33 and 34, again, it would be helpful for this work to be made public.

Para 39, what is the timing of the Impact Assessment?

2. *I would urge Welsh Government to examine current NHS policy that too narrowly restricts access to mental health services by children and young people. The legal framework of the Mental Health Act 1983 could be used more inclusively and flexibly to address the therapeutic needs of some children who are currently found in expensive but sub-optimal placements. I hope that the consultation process will take into account the relevant work by the Children's Commissioner's Office.⁴*

⁴ Making Wales a No Wrong Door Nation, at <https://www.childcomwales.org.uk/making-wales-a-no-wrong-door-nation-how-are-we-doing/>

Consultation Response Form

Your name: **Emma Edwards, Business Manager, on behalf of Anglesey County Council.**

Organisation (if applicable): **Anglesey County Council**

Email / Telephone number: **[REDACTED]**

Your address: **Anglesey County Council, Council Offices, Llangefni, Ynys Mon. LL77 7TW**

Responses to consultations may be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please place a tick in the box:

☐

Please tell us who you are responding on behalf of. For example is this your own response or is it sent on behalf of an organisation?

If you want to receive a receipt of your response, please confirm your email address, here: **[REDACTED]**

Questions on Chapter 1: Eliminating profit from the care of children looked after

There are 12 questions about this chapter.

Question 1.1: Do you think that introducing provision in legislation that only allows 'not-for-profit' providers to register with CIW will support delivery of the Programme for Government commitment to eliminate profit from the care of children looked after?

Agree in principle. As a Council we are already working to this principle, with the development of our 'Cartrefi Clyd' homes on the Island and by offering a package of support to our Foster Carers which in turn has allowed us to recruit above our target of 6 new foster families a year, every year since 2018.

The eliminate profit will be hard work and is a huge ambition and we consider will only have teeth if supported legislatively.

To make this successful in the transition period there would need to be additional funds made available to LA's to allow smooth transition. It would also be necessary to work on a regional basis to ensure adequate availability of placements to meet demand.

Question 1.2: What in your view are the likely impacts of the proposal? You may wish to consider, for example:

- Benefits, and disbenefits;
- Costs (direct and indirect), and savings;
- Impacts upon individuals and groups with protected characteristics;
- Other practical matters such as cross-border issues.

Your views on how positive effects could be increased, or negative effects could be mitigated, would also be welcome. **Place sufficiency duty on LAs pro rata to rate of Looked After Children.**

Benefits:

- **Eliminate profit from motivation, which in turn, is more likely to reduce costs, whilst improving environments**
- **Will encourage LAs to invest in own provision which, in turn, may facilitate more young people in residential care continuing to reside within their own communities**

Weaknesses:

- **Short/medium term – destabilize the market and will reduced the number of beds in Wales.**
- **Reduce placement choice as all LA's 'look after their own provision'.**
- **There will be an increase in unregulated placements**

Question 1.3: One approach could be for the legislation to define 'not-for-profit' in terms of the types of organisation that would qualify. Do you consider that the restriction should also be expressed in terms of the way that any trading surplus is expended? What would be the effects and implications of this?

Trading surpluses reinvested in additional provision may reduce risks in terms of stock.

Question 1.4: Do you think the primary legislation should include a power for Welsh Ministers to amend the definition of 'not-for-profit' through subordinate legislation?

Yes – there should be a degree of flexibility to ensure no wholesale reduction in stock.

Question 1.5: What are your views on the proposed timings for the primary legislation to come into effect?

No issues with timing.

Question 1.6: Are there any issues in relation to transition for children looked after, local authorities and service providers you would like to draw our attention to?

Primarily related to challenges in placing young people with complex behavioural/mental health issues prior to entering adulthood. Different regulators (CIW/CQC) causes difficulties.

Question 1.7: What are your views on the issuing of guidance to support the implementation of the primary legislation?

Absolutely required.

Question 1.8: What are your views on using legislation to place a restriction on local authorities to commission placements from 'not-for-profit' organisations only? In particular:

- Do you think it would support us to deliver the commitment to eliminate profit from the care of children looked after in Wales?

Would need to be a considerable transition period, but yes.

- What would be the benefits, disbenefits and other implications of such an approach?

Risks of dramatically reduced stock.

- What would be an appropriate timescale for implementing such an approach, if it were to be adopted in Wales?

Would need to be over a number of years.

Question 1.9: What are your views on the possibility of approaches being taken in response to these legislative proposals which would undermine the intention to eliminate profit from the care of children looked after in Wales? Are there any actions which would guard against such activity?

No response.

Question 1.10: We would like to know your views on the effects that the legislative changes to eliminate profit from the care of children looked after will have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favorably than English. What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

Likely to increase – could be part of spec for not for profit providers.

Question 1.11: Please also explain how you believe the legislative changes to support delivery of eliminating profit from the care of children looked after could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

Organisations within Wales or with roots in Wales more likely to start up.

Question 1.12: This chapter has focused on how we can achieve the commitment to eliminate profit in the care of children looked after, and we have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

None.

Questions on Chapter 2: Introducing direct payments for Continuing NHS healthcare

There are 8 questions about this chapter.

Question 2.1: We have outlined our proposals to introduce further voice and control for adults receiving Continuing Health Care (CHC) in Wales. Do you agree or disagree with these proposals? Please explain your reasoning.

We agree in principle with the proposals, and as a Council we already working closely with our Health colleagues in developing a Learning Disability Pool Funding Agreement.

Question 2.2: What in your view are the likely impacts of the proposal?

You may wish to consider, for example:

- Benefits, and disbenefits;
- Costs (direct and indirect), and savings;
- Impacts upon individuals and groups with protected characteristics;
- Other practical matters such as cross-border issues or transition to the new arrangements.

Your views on how positive effects could be increased, or negative effects could be mitigated, would also be welcome.

Please explain your reasoning.

We would be supportive of any proposals that would allow for improved methods of streamlining packages of care across organisations, whilst ensuring the individual has voice and control

Question 2.3: What lessons can we learn from other countries' practice in this area?

Question 2.4: Do you believe there are any other or complementary approaches we should be considering to achieve the same effect? If so, please outline below.

We believe that our current processes of empowering individuals, via the Voice, Choice and Control policy supports this proposal.

Question 2.5: We will work to ensure that any legislative change is supported by robust guidance to help both payment recipients and practitioners understand how the system will operate. Can you identify anything that it would be helpful to include in this guidance? What other support should be provided?

Question 2.6: We would like to know your views on the effects that introducing direct payments for continuing NHS healthcare would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English. What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

Promoting the Welsh language is a cornerstone to our service offering, and we ensure that there is a choice for our service user at all times, although this can sometimes be challenging due to staffing capacity.

Question 2.7: Please also explain how you believe our proposals for introducing direct payments for continuing NHS healthcare could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

Question 2.8: We have asked a number of specific questions in this chapter. If you have any related issues which we have not specifically addressed, please use this space to report them.

Questions on Chapter 3: Mandatory reporting of children and adults at risk

There are 11 questions about this chapter.

Question 3.1: What are your views on the principle of imposing a duty to report a child at risk (as defined in section 130(4) of the Social Services and Well-being (Wales) Act 2014 directly on individuals within relevant bodies?

Suggest that further consultation and debate required. Implementation of this could be complex and we are not aware of evidence to date that has demonstrated conclusively that the introduction of a mandatory reporting duty or a duty to act improves outcomes for children.

Question 3.2: What are your views on the principle of imposing a duty to report an adult at risk (as defined in section 126(1) of the 2014 Act) directly on individuals within relevant bodies?

Again this would require more consultation and debate. Implementation of this could be complex and we are not aware of evidence to date that has demonstrated conclusively that the introduction of a mandatory reporting duty or a duty to act improves outcomes for adults at risk. The interface with the Mental Capacity Act and the individual's human rights needs to be considered.

Question 3.3: What in your view would be the likely benefits, disbenefits, risks, costs, savings and equality impacts of such an approach?

Please explain your reasoning.

- **Efficient reporting in the safeguarding arena depends on professional judgment. We need to focus on how organisations support and provide the necessary framework for staff to understand and be supported to implement this duty on behalf of the organisation.**
- **What is the evidence that mandatory reporting improves professional judgment?**
- **Mandatory reporting duty could lead to less consideration and a more process led action - purely to satisfy regulations: especially within a risk averse context.**
- **Increase in referrals, would require funding to meet this demand.**

- **Encourage a talking up/escalation culture rather than one based on prevention and working at the lowest level of intervention commensurate with the risk. Increased intervention in the lives of individuals.**
- **Practitioners through their professional bodies and their employer's safeguarding policies will already have frameworks to ensure that they discharge the key obligations inherent in their roles.**
- **Evidence suggests that issues around information sharing, professional practice and decision making are more likely to be at the crux of incidents where children do not receive the protection they need.**

Question 3.4: What lessons can we learn from the duties to report in other countries?

There is a variety of provision across those countries where there are mandatory reporting laws. That lack of consistency makes establishing a firm conclusion on outcomes difficult.

- **Who is covered by the duty**
- **What must be reported**
- **Who the report must be made to**
- **Sanctions for failing to report**

Question 3.5: If individual reporting duties were to be introduced – for children and adults at risk – should these sit alongside, or replace, the existing duties on organisations under the 2014 Act?

Alongside.

Question 3.6: If individual reporting duties were to be introduced, should they apply to the workforce of current 'relevant partners' under section 162 of the 2014 Act (including youth offending teams in relation to children), or more widely, for example to those working in religious or sports settings, etc., and in particular:

- (a) What are your views on this in respect of children (under the age of 18)?
- (b) What are your views on this in respect of adults?

Definition of relevant partners should be expanded to include those working with children or adults who are, or may be, at risk. See previous comments.

Question 3.7: If individual reporting duties were to be introduced, which occupation types or roles should be subject to any duty (e.g. members of regulated professions; employed staff, even if they are not regulated; volunteers), and in particular:

- (a) What are your views on this in respect of children (under the age of 18)?
- (b) What are your views on this in respect of adults?

People employed in education, health and social care, probation service, police, local authority, sports and leisure where the participants are children and/or adults at risk. See previous comments.

Question 3.8: What sanctions do you think would be proportionate or appropriate for failure to comply with an individual reporting duty?

This is complex and would need to link into the professional registration and contractual arrangements around their post.

Question 3.9: We would like to know your views on the effects that introducing individual reporting duties would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English. What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

No comments to make.

Question 3.10: Please also explain how you believe proposals for introducing individual reporting duties could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

Individual organisations duties under the Welsh Language Act to ensure that they treat the Welsh language no less favourably than the English language.

Question 3.11: We have asked a number of specific questions in this chapter. If you have any related issues which we have not specifically addressed, please use this space to report them.

Questions on Chapter 4: Amendments to regulation of service providers and responsible individuals

Part 2 and Schedule 1 of the Regulation and Inspection of Social Care (Wales) Act 2016 ('the 2016 Act') provides the basis on which Care Inspectorate Wales ('CIW') – on behalf of the Welsh Ministers – undertakes functions relating to the registration, regulation and inspection of 'regulated services'.

This chapter of the consultation focuses on proposed amendments to the regulatory regime for regulated services, service providers and their designated responsible individuals. These relate to a range of matters provided for within the 2016 Act, including:

- a) Identifying unregistered services
- b) Publication of annual returns
- c) Publication of inspection reports
- d) Improvement notices and cancellation of registration
- e) Responsible individuals
- f) Definition of 'Care' for children and young people

Questions on proposed amendments relating to each of these matters follow.

There are 21 questions about this chapter.

Question 4.1: *(a) Identifying unregistered services - power to obtain information:* Do you agree with the proposal to amend the 2016 Act to enable the Welsh Ministers (CIW) to require information from any person where there is reasonable cause to believe that they are providing a service which should be regulated?

Yes.

Question 4.2: *(a) Identifying unregistered services - power to obtain information:* Do you agree with the proposal to extend the offence of failing to provide information when required to do so, to include these persons?

Yes.

Question 4.3: *(a) Identifying unregistered services - power of entry:* Do you agree with the proposal to amend the 2016 Act to remove ambiguity and make it clear that the Welsh Ministers (CIW) have the power to enter and inspect any premises which they have reasonable cause to believe is (or has been) used as a place at or from

which a service is (or has been) provided, or which is (or has been) used in connection with the provision of a regulated service?

Yes. But consideration needs to be given to un-registered services too.

Question 4.4: *(a) Identifying unregistered services - power of entry:* Do you agree with the proposal to extend the offence of obstructing an inspector or failing to comply with a requirement imposed by an inspector, to include these circumstances?

Yes.

Question 4.5: *(b) Publication of annual returns:* Do you agree with the proposal to amend the 2016 Act to require service providers to publish their annual returns?

Yes.

Question 4.6: *(b) Publication of annual returns:* Do you agree with the proposal to create a related offence of failing to publish an annual return?

Yes.

Question 4.7: *(c) Publication of inspection reports:* Do you agree with the proposal to amend the 2016 Act to provide additional flexibility for the Welsh Ministers (CIW) to recognise circumstances where it may not be appropriate, relevant, or proportionate to prepare and/or publish an inspection report?

Yes. Especially in the case of Children Services – these should not be published online.

Question 4.8: *(d) Improvement notices and cancellation of registration – variation of registration as a service provider:* Do you agree with the proposal to amend the 2016 Act to remove the requirement for the Welsh Ministers (CIW) to issue an improvement notice to a provider in circumstances where the provider is no longer providing that service or using that place to provide a service?

Yes.

Question 4.9: *(d) Improvement notices and cancellation of registration - removal of a condition on a service provider's registration:* Do you agree with the proposal to amend the 2016 Act to enable the Welsh Ministers (CIW) to remove a condition on a service provider's registration without giving a notice of proposal (section 18) and notice of decision following notice of proposal (section 19), when the circumstances which led to the imposition of the condition no longer apply?

Yes.

Question 4.10: *(d) Improvement notices and cancellation of registration – power to cancel a service provider’s registration:* Do you agree with the proposal to amend the 2016 Act to remove the requirement for the Welsh Ministers (CIW) to follow the improvement notice process to cancel the registration of a service provider in circumstances when the provider has already ceased to provide a regulated service?

Yes.

Question 4.11: *(d) Improvement notices and cancellation of registration – information from providers who are cancelling their registration:* Do you agree with the proposal to create a regulation-making power under Section 14 of the 2016 Act to enable the Welsh Ministers (CIW) to require information from a service provider who is cancelling their registration and exiting the market?

Yes.

Question 4.12: *(d) Improvement notices and cancellation of registration – power to extend the timescale within an Improvement Notice:* Do you agree with the proposal to amend the 2016 Act to give the Welsh Ministers (CIW) the power to extend the timescale for information to be provided when improvement notices are issued?

Yes.

Question 4.13: *(d) Improvement notices and cancellation of registration – power to cancel a service provider’s registration in prescribed circumstances:* Do you agree with the proposal to amend the 2016 Act to enable the Welsh Ministers (CIW) to disapply the section 16(3)(b) requirement within the improvement notice – to take particular action or provide information – in prescribed circumstances, when it would be futile to apply the requirement?

Yes.

Question 4.14: *(e) Responsible individuals – making representations:* Do you agree with the proposal to amend the 2016 Act to give Responsible Individuals the right to make representations to the Welsh Ministers (CIW), against any improvement notice or cancellation of their designation, provided the representations are made within the time limit specified within the notice?

Yes.

Question 4.15: *(e) Responsible individuals – sending the improvement notice to the service provider:* Do you agree with the proposal to amend the 2016 Act to require that any improvement notice served to a Responsible Individual must also be sent to the service provider?

Yes.

Question 4.16: *(e) Responsible individuals - Removing a Responsible Individual without making an application to designate a new Responsible Individual:* Do you agree with the proposal to amend the 2016 Act to allow a service provider to apply to the Welsh Ministers (CIW) for a variation of the conditions of their registration to remove a Responsible Individual when they are not designating a replacement Responsible Individual as part of the same application?

Yes.

Question 4.17: *(f) Definition of 'Care' for children and young people:* Do you agree with the proposal to adjust the definition of 'care' in section 3 of the 2016 Act in order to place beyond doubt that the provision of parental-type care is recognised as being 'care' within the meaning of the 2016 Act?

Yes.

Question 4.18: What in your view would be the likely impacts of the proposals in this chapter? You may wish to consider, for example:

- Benefits, and disbenefits;
- Costs (direct and indirect), and savings;
- Impacts upon individuals and groups with protected characteristics;
- Other practical issues.

Your views on how positive effects could be increased, or negative effects could be mitigated, would also be welcome.

Please explain your reasoning, either here or, if easier, please feel free to note any impacts specific to an individual proposal under the appropriate question above.

No comment.

Question 4.19: We would like to know your views on the effects that the proposals in this chapter would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English. What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

No comment.

Question 4.20: Please also explain how you believe the proposals in this chapter could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the

Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

As above.

Question 4.21: We have asked a number of specific questions in this chapter. If you have any related issues which we have not specifically addressed, please use this space to report them.

No further comment.

Questions on Chapter 5: Amendments to regulation of the social care workforce

There are 9 questions about this chapter.

Question 5.1: Do you agree with the proposal to amend the 2016 Act to provide that a person who has held office as a member of Social Care Wales may be reappointed once? Please explain your reasoning.

We consider it to be reasonable to be reappointed to a second term, and would allow for continuity.

Question 5.2: Do you agree with the proposal to amend the 2016 Act to provide Social Care Wales with the power to grant a conditional registration for a person, when they are renewing their registration, in certain circumstances? Please explain your reasoning.

This flexibility appears to be beneficial in exceptional circumstances. This would need to be with clear conditions and timescales.

Question 5.3: Do you agree with the proposal to amend the 2016 Act to allow a panel to review and extend interim orders as appropriate, up to the maximum of 18 months? Please explain your reasoning.

This appears reasonable if the maximum length remains at 18 months. This may make it more likely that Interim Orders are initially imposed for the appropriate minimum period required, with the possibility of extension.

Question 5.4: Do you agree with the proposal to amend the 2016 Act to provide a Fitness to Practise panel with the ability to revoke an interim order, during review proceedings, where it is necessary and appropriate? Please explain your reasoning.

There would need to be a clear review process in place whereby the panel would have full access to the information related to the interim order to be able to make an informed decision on an order outside the substantive matter.

Question 5.5: What, in your view, would make it necessary and appropriate for a Fitness to Practise panel to revoke an interim order?

They would need to be satisfied that the investigation has been completed, the panel are satisfied that the person no longer poses a risk or that the employer can provide adequate safeguards.

Question 5.6: What in your view would be the likely impacts of the proposals in this chapter? You may wish to consider, for example:

- Benefits, and disbenefits;
- Costs (direct and indirect), and savings;
- Impacts upon individuals and groups with protected characteristics;
- Other practical issues.

Your views on how positive effects could be increased, or negative effects could be mitigated, would also be welcome.

Please explain your reasoning.

Question 5.7: We would like to know your views on the effects that the proposals in this chapter would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English. What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

There appears to be benefits in terms of processes and therefore also associated costs. The benefits of being able to allow conditional registration would mean registration not lapsing in certain circumstances which would support the employer to retain staff. These amendments would need to have clear parameters and set review periods to avoid inappropriate use and avoidance of correct registration processes.

Question 5.8: Please also explain how you believe the proposals in this chapter could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

As above.

Question 5.9: We have asked a number of specific questions in this chapter. If you have any related issues which we have not specifically addressed, please use this space to report them.

None.

Questions on Chapter 6: Extending the definition of social care worker to include childcare and play workers

There are 5 questions about this chapter.

Question 6.1: We would like to know your views on the proposal to extend the definition of 'social care worker' to include both childcare and play workers. In particular, are you in favour of extending the role of Social Care Wales to cover childcare and play workers working in the childcare sector?

Please explain your reasoning.

Yes, we are in agreement with this statement in order to support and develop a fluid workforce to support our communities. The flexibility to move staff to work across services would be beneficial in providing business continuity accrues the service in future.

Question 6.2: What in your view would be the likely impacts of the proposal? You may wish to consider, for example:

- Benefits, and disbenefits;
- Costs (direct and indirect), and savings;
- Impacts upon individuals and groups with protected characteristics;
- Other practical issues.

Your views on how positive effects could be increased, or negative effects could be mitigated, would also be welcome.

Please explain your reasoning.

It would allow for flexibility in providing care and support across our services. It would also benefit staff in the fact that they could work across services.

Question 6.3: We would like to know your views on the effects that the proposal would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English. What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

Question 6.4: Please also explain how you believe the proposal could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on

opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

Question 6.5: We have asked a number of specific questions in this chapter. If you have any related issues which we have not specifically addressed, please use this space to report them.

None.

Consultation Response Form

Your name: [REDACTED]

Organisation (if applicable): [REDACTED]

Email / Telephone number: [REDACTED]

Your address: [REDACTED]

Responses to consultations may be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please place a tick in the box:

X

Please tell us who you are responding on behalf of. For example is this your own response or is it sent on behalf of an organisation?

If you want to receive a receipt of your response, please confirm your email address, here:

Questions on Chapter 1: Eliminating profit from the care of children looked after

There are 12 questions about this chapter.

Question 1.1: Do you think that introducing provision in legislation that only allows 'not-for-profit' providers to register with CIW will support delivery of the Programme for Government commitment to eliminate profit from the care of children looked after?

We are supportive of the 'not-for-profit' philosophy and the values it endorses for Wales. However, the model of delivery will be a challenge. It will require significant investment through development of in-house provisions and third sector organisations to rebalance the market. There are currently small independent providers that deliver good outcomes and also reinvest profit back into their organisations for the benefit of children. With these proposed changes to legislation, we must recognise the ethical providers and that they may operate for a reasonable profit (and this profit is reinvested).

We require Welsh providers that we can depend on and that operate to deliver good outcomes. Among those providers within Wales we also require a tapestry of good choices that can provide the varying care and support children require.

Question 1.2: What in your view are the likely impacts of the proposal? You may wish to consider, for example:

- Benefits, and disbenefits;
- Costs (direct and indirect), and savings;
- Impacts upon individuals and groups with protected characteristics;
- Other practical matters such as cross-border issues.

Your views on how positive effects could be increased, or negative effects could be mitigated, would also be welcome.

Please explain your reasoning.

Changing the legislation will allow the surplus money that is currently used as a profit for some organisations, to be reinvested into developing services that are local, bespoke and deliver good outcomes. The perceived disadvantages to the proposed changes are the concerns that those organisations currently operating in Wales may choose to move to across the English border or will only accept placements from English authorities. We may lose placements of choice, which are currently bespoke and an identified need of the local community, and the opportunity to work and

develop good working relationships may be lost. There are already current challenges for local authorities in finding suitable placements for children.

Additional associated challenges will be managing safeguarding concerns of children who are not known to the area (out of county placements from English authorities), for example, police in the first instance are likely to make contact with the local authority of where the child is residing, rather than contacting the local authority that has responsibility for the child or young person; thus creating a further demand on services locally. From a safeguarding perspective with the proposed legislation changes, there may be a loss to placement choices locally (and nationally across Wales) and this will create further challenges for the local authority to manage the safeguarding of a child or young person, if placements are lost locally and children and young people are placed further away.

There will be indirect and direct costs for local authorities. Independent sector are not always accepting of children that present with challenges and therefore, cost of finding suitable placement becomes costly. With the proposed changes this will minimize this and this is a positive. However, we must ensure that there is investment into developing and building greater choice and control. Investment into specialist provisions for children that present with challenges, thus reducing the impact of breakdown in placements and being served short term or immediate notices. Developing in specialist and bespoke services will remove instances of short term placements and unregulated placements.

Providing in-house provision isn't a substantial saving. The infrastructure of running a home, the quality of care, managing voids is costly and much investment will be required for the expansion of in-house provision and third sector organisations.

What will be the impact to services in the independent sector that are bespoke to the needs of the children, this includes children with disabilities, victims of child sexual exploitation (CSE), and perpetrators of sexually harmful behaviour? The individual local provisions that provide a scale of specialism and excellence, they need to be encouraged to remain in Wales and be promoted to further develop. Changes to primary legislation may negatively impact the specialism these independent organisations provide to meet those bespoke needs.

Being a bordering local authority to England, it may be appropriate to commission a placement out of the local community, on occasions. The outcomes and safety of placing a child or young person to a bordering local authority within England (i.e. Cheshire) may be more appropriate than placing a child or young person to a neighbouring local authority within North Wales. We need to continue to consider a child's outcomes, their wishes, aspirations, experiences, positive influences (amongst many others) and these may be better achieved within a bordering England local authority placement.

Legislation needs to allow for small ethical providers who are allowed to make a reasonable a profit but can demonstrate that the profit made is reinvested back into the organisations for the benefits of the children and young people. Providers already have to be registered with CIW but could all providers become part of 4c's framework to ensure the ethos of 'not for profit' is being met? There are already independent providers in Wales that can demonstrate the values of a not for profit. They provide a strong local connection and employability opportunities in the area; we must not lose these organisations.

Question 1.3: One approach could be for the legislation to define 'not-for-profit' in terms of the types of organisation that would qualify. Do you consider that the restriction should also be expressed in terms of the way that any trading surplus is expended? What would be the effects and implications of this?

Organisations must be able to demonstrate that they are a not-for-profit organisation. Robust tests to be introduced to ensure that organisations can demonstrate they are purely a not-for-profit and not of subsidiary profit making/driven organisations. Need to include both third sector organisations and independent providers within these tests. Furthermore, need to ensure that those organisations who demonstrate the right values are not trading at surplus and profit is capped; need to evidence reinvestments of profits are being used for the development of securing outcomes for children and young people. Finally, all providers to go through a rigorous framework (such as 4C's – stated above) as an approved provider in Wales for Wales.

Question 1.4: Do you think the primary legislation should include a power for Welsh Ministers to amend the definition of 'not-for-profit' through subordinate legislation?

Yes

Question 1.5: What are your views on the proposed timings for the primary legislation to come into effect?

Welsh Government must recognise the need for pace. Rapid expansion of in house provision in the context of placement insufficiencies is difficult and should not be developed due to placement insufficiencies and there being unregulated provisions but rather investment in appropriate provisions (in house, third sector and independent providers) is required. Lead-in times for developing in house provision and third sector organisations is lengthy. We must consider all aspects of developing provisions, this includes planning, consultation, procurement of developers, frameworks, shortage workforce within the context of the construction industry currently, timelines for recruiting a workforce, vacancy challenges and securing CIW registration. This is a minimum of two years from concept to being open, then once open a further six months to ensure operational delivery is operating successfully. The current suggested timeframe does not reflect the scale of delivery that will be needed.

Question 1.6: Are there any issues in relation to transition for children looked after, local authorities and service providers you would like to draw our attention to?

No

Question 1.7: What are your views on the issuing of guidance to support the implementation of the primary legislation?

It is welcomed but opportunities of a coproduced approach to developing guidance is required. To consider local authorities having a primary role of working collaboratively with the Welsh Government to support with the development of producing a guidance.

Question 1.8: What are your views on using legislation to place a restriction on local authorities to commission placements from 'not-for-profit' organisations only? In particular:

- Do you think it would support us to deliver the commitment to eliminate profit from the care of children looked after in Wales?
- What would be the benefits, disbenefits and other implications of such an approach?
- What would be an appropriate timescale for implementing such an approach, if it were to be adopted in Wales?

There are unforeseen circumstances/situations where a placement in a profit for organisation is the best and only viable option compared to, for example, an alternative option of an unregulated placement that is not suitable and doesn't meet the child or young person's needs and outcomes. An agreed approach to appropriately commission a full profit organisation based on the needs of a child or young person is required and we don't believe that local authorities should have these decisions vetted where there are exceptional circumstances.

Question 1.9: What are your views on the possibility of approaches being taken in response to these legislative proposals which would undermine the intention to eliminate profit from the care of children looked after in Wales? Are there any actions which would guard against such activity?

There is a risk that organisations who focus on securing profit could take creative approaches to develop a 'not-for-profit' strand to their organisations, which doesn't fully accord with the values and principles this legislation is seeking to achieve. We need for a robust application process and all organisations following a framework approach, to ensure that any organisations wishing to deliver not-for-profit are required to complete a rigorous application process to ensure that they can deliver.

Question 1.10: We would like to know your views on the effects that the legislative changes to eliminate profit from the care of children looked after will have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favorably than English. What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

Cross border initiatives between other local authorities could ensure sufficiency of language choice and preference of the children. Recognising the challenges of securing workforce but having a framework for cross border of placements with other local authorities could be an option?

Question 1.11: Please also explain how you believe the legislative changes to support delivery of eliminating profit from the care of children looked after could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

As above

Question 1.12: This chapter has focused on how we can achieve the commitment to eliminate profit in the care of children looked after, and we have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

Need to consider the challenges within the workforce and ensuring sufficient training opportunities to promote staff, managers, Responsible Individuals to the sector. An approach to attracting a workforce in residential care through a national and regional approach to workforce development training needs to be considered; promoting training opportunities for specific skills that are required to work within a residential setting, i.e. therapeutic training. Further training opportunities to increase and obtain registered managers and Responsible Individuals is necessary. To develop successful in-house provisions the workforce must be at capacity, as this has a significant impact on placements and further development for in-house provision. However, due to the nature of the role and the specific requirements to the role, there is a need for competence amongst the workforce. Pay is often competitive in a thriving area of varying other work opportunities, this includes the tourism and service industry. Investment will be essential to promote people to the sector and a pay scale that reflects the specialism required to undertake the role is essential.

Questions on Chapter 2: Introducing direct payments for Continuing NHS healthcare

There are 8 questions about this chapter.

Question 2.1: We have outlined our proposals to introduce further voice and control for adults receiving Continuing Health Care (CHC) in Wales. Do you agree or disagree with these proposals? Please explain your reasoning.

Questions have been answered by the All Wales Direct Payment Forum, which a Flintshire County Council employee within Direct Payments is a Vice Chair for the Forum.

Overall, the All Wales Direct Payment Forum (AWDPF) members agree with the proposals as it will improve voice, choice and control for people who have a primary health need. They believe it will provide greater voice, choice and self-determination to people over their lives particularly and over their health, care and support needs. These elements can be lost when transitioning from social care to health care and it currently has a fundamentally negative impact on their lives if using Direct Payments (DP). Regardless of where funding streams come from people should be able to live their life the way they wish to.

One member stated that it should be essential there is one system for administering and governance of DP for people who are both funded by health or social services. It would also remove the risk to social care of the provision to health services by default. There would be considerable benefits for children transitioning to adult social care or health services.

AWDPF felt that the changes would provide and allow a fairer process when people are transitioning to their needs being met by health. In the past people have been scared to be truthful about their needs as they were worried about leaning into the health funding process and losing the control, consistency and continuity of their care staff. People didn't want to lose the system that has worked for them and their families. Overall the suggested changes are welcomed.

The AWDPF hope these changes will bring a more equitable process, providing more choice and allowing consistency, particularly for transition. AWDPF have experienced situations where social care practitioners have been reluctant to promote DPs as they are aware a person's needs will very soon increase and tip into Continuing Health Care (CHC) in the future and as currently DP cannot be used for CHC they feel it not appropriate to offer. However, these changes will encourage and enable practitioners to be more proactive and may be more inclined to explore this option.

AWDPF members commented that often medical tasks are being completed under the radar by Personal Assistants (PA's) and this unintentional covert practice will hopefully reduce/be eradicated and PAs will receive appropriate training and governance to be able to intervene appropriately.

It will also open up discussion about rates of pay for PAs. Health care tasks being undertaken will now be suitably recompensed and will be a positive move to professionalise in the role.

AWDPF members are happy that people will be able to receive the service they require in a timely manner and receive free at the point of delivery services. Currently, so many are continuing to pay assessed charges for the services that should be free at the point of delivery.

In principle the change will improve situations where PA's who have worked for someone for a long period of time are lost due to a lack of understanding around TUPE when someone transfers to CHC. The continuity and consistency of excellent care staff lost because they are either dismissed or made redundant when in fact, they may have been able to continue their working relationship with a person.

However, caution should be taken and it is important to ensure we do not replicate personal budgets as provided in England but that any system implemented is fit for purpose and for the context of Wales. It is vital that robust governance and support is provided to the person and their staff, with appropriate insurances in place to safeguard all concerned.

Will there be a requirement to amend Section 47 of the SSWBA regarding ancillary and incidental, to reflect health budgets provided under CHC and also to reflect, where appropriate, a health board commissions the support from a local authority to support a health budget package?

A forum member asked for clarity on the following:

- Would health have a care coordinator role if there was DP and would they ensure all the DBS checks, insurance and other requirements are in place?
- Would they still take over full responsibility for the package or would they want to break down the health tasks and want us to meet all the other needs as this would impact fairer charging and would increase our workloads?
- Would they also look at insurances that cover health care tasks and who would provide the training for those tasks?

Swansea forum member stated - The Welsh Audit Commission report of 06.04.22 recognised in its findings that 'in house' provision of support for DP was the preferred vehicle for facilitating client support. Swansea Council are currently investing in expanding their 'in house' Direct Payment Support Team and are promoting DP as a priority choice in mitigating identified Practitioner Assessed Need. There is value in further exploring this exemplar model and expanding the existing team to manage and oversee any proposed changes to ensure a seamless approach and a uniformity of delivery.

Question 2.2: What in your view are the likely impacts of the proposal?

You may wish to consider, for example:

- Benefits, and disbenefits;
- Costs (direct and indirect), and savings;
- Impacts upon individuals and groups with protected characteristics;
- Other practical matters such as cross-border issues or transition to the new arrangements.

Your views on how positive effects could be increased, or negative effects could be mitigated, would also be welcome.

Please explain your reasoning.

AWDPF felt this very much links to the first question. However, some feedback received from forum members includes;

The benefits will be continuity of care and consistency of working relationships to care and support provided to an individual. The person will not have to use their own financial resources to contribute to a service but will receive rightly a service free at the point of access. The person will be able to continue to be in control of their lives and direct their care and support to suit their lives with appropriate training and guidance.

Their needs to be caution when setting up Direct Payments for health that clear distinctions are made so as not to confuse individuals, families, professionals where the funding is from and who is responsible for the support to administer the DP. Particularly where there may be joint packages. There will need to be clear language, systems, and a process to distinguish between a Health DP and a Social Care DP. Unless there is to be a mechanism to not replicate but work collaboratively with existing support and systems?

Furthermore AWDPF members are asking; will health have their own support service and care coordinator role? As social care do. Would they be responsible for ensuring all the DBS checks, insurance and other requirements are in place for the employer and employees?

Would health take over full responsibility for the DP package if a situation was transitioning from social care to CHC, or would health want to break down the health tasks and want social care to meet all the other needs (as this would impact fairer charging and would increase workloads)? AWDPF members reiterated the changes would provide continuity of care, consistency for employer and employees, and it also acknowledges and recognises the existing PA relationships.

Will health DPs be an extension of the existing DP provision or a separate entity? The AWDPF identified the need for clarity on how health will implement these changes? Some members have expressed concerns over the title/wording and asked for changes to be made to what they will be called, as there may be confusion.

Health rates of pay would need to be considered as health care support workers generally earn more than social care workers. Would health set rates in line with social

care? At a time when finding care staff in the Domiciliary Care market is difficult, there is added concern of staff leaving social care to work for health, and people using health budgets is concerning

All local Health Boards will need to be mindful of cross border arrangements and transition, and make allowances for anyone moving around Wales that their DP continues until a suitable time to review. Appropriate levels of governance, safeguarding and training and insurance cover must be available to PAs. Will there be additional agencies able to provide the appropriate service to someone receiving CHC or will existing services be commissioned, what will the impact be on those?

Welsh Government should consider consulting with Liability Insurers across Wales, England, Scotland and Ireland that support Direct Payments and Personal Health Budget users for feedback on the positives and negatives they have experienced. Could this be a possibility?

One member highlighted a response as follows: There would be an increased coordination of the process for Health Boards. The process would need to be the same for all organisations. Would there be a resource issue for the Health Board to manage this extra demand? There are also commissioning and funding issues that should remain consistent for all organisations, otherwise this will cause considerable confusion. There may also be a supplementary benefit in that people who had previously declined to be assessed under CHC Guidance would then agree to engage in the assessment process; this would lead to an increase in people funded under CHC having a DP. It would also mean that people were having support and oversight from the appropriate agency and risk would be reduced. Client contribution to their care costs would also be negated if DP funding was via the health service. The benefit in this arrangement is that service users would be happier and more content with care arrangements that they engaged in and had control over. This would increase satisfaction and reduce complaints.

A 'one budget' approach if this could be achieved would significantly reduce current 'in fighting' as to which organisation ultimately pays for the service. If barriers and 'silo working' practices are stripped away, the user of these services would benefit with the assessed support identified as required and being delivered in a timely fashion, with cross organisation support to ensure continuity of delivery.

Question 2.3: What lessons can we learn from other countries' practice in this area?

Very important to ensure the changes encompass the Wales context rather than choosing a model from England and this replicated in Wales. Concerns that this does not work and long-standing forum members have experienced this with Direct Payments since 1997 when the first DPs were implemented.

There are distinct cultural, geographical and socio-economic differences in Wales that must be considered. The right support at the right time to suit the above will be key to the success of health budgets in Wales.

Question 2.4: Do you believe there are any other or complementary approaches we should be considering to achieve the same effect? If so, please outline below.

See above

Question 2.5: We will work to ensure that any legislative change is supported by robust guidance to help both payment recipients and practitioners understand how the system will operate. Can you identify anything that it would be helpful to include in this guidance? What other support should be provided?

AWDPF members accept that there needs to be clinical governance, however, there is fear that this may lead to control and the ethos needs to continue to be that people are in control. Individuals need the greatest amount of control over their lives but the clinical governance is key to their safety and so, therefore appropriate conversations, training and interaction with people is key, in order for them to understand the importance of clinical governance but be reassured they are not losing overall control.

AWDPF members are all too aware the different approaches to risk between health and social care colleagues. It is important to iron out any differences and ensure any assessment of risk is co-produced and the approach benefits all areas of the workforce. AWDPF members asked for clarity on who the lead practitioner would be during a transition situation.

There will need to be a lot of work prior to implementation to ensure that integration with health colleagues is meaningful and proactive. There is a risk that changes may destabilise effective process and systems for Direct Payment Regulation. AWDPF members acknowledge that there is already a bureaucratic process in place, despite attempts to streamline by many and that navigating different cultural aspects and viewpoints is difficult. If these are not clarified early on, this potentially will cause more issues.

Welsh Government to be mindful that any changes to be made to primary legislation changes that involvement and input from organisations (and people within these organisations) are key to the consultation and implementation processes. Above all else any guidance produced needs to be clear and AWDPF members highlighted the changes made to the code of practice with the use of the word 'must' and 'should', has helped.

AWDPF members emphasised that it is Welsh Government responsibility to ensure that new legislation is followed, implemented and interpreted correctly and that the guidance should be clear to all parties. AWDPF believe that appropriate and timely training for all assessing parties and practitioners is key and that they must understand the implications and benefits for the recipient and for Mental Capacity Act (MCA), Primary Health Board (PBH), Health Inspectorate Wales (HIW), Care Inspectorate Wales (CIW), Welsh Government and local authority, all being involved to ensure this is available and implemented ahead of the 'live' date.

AWDPF members raised the concern of individuals having capacity to consent to the new health budgets and were clear that this should be determined following the MCA and the function should be key to this area. Capacity to consent to the Health Budget must be explored with clear pathways to who can stand in the shoes of the individual and work in their best interests.

Independent User Trusts – These can be very complex, expensive and there is little or no understanding across the board how these work and how to get them up and running. If they are to be used in the interim or continue to be an option more work is required. Where trusts are in place, appropriate and robust paperwork, and support for the trustees in order to safeguard the individual, PAs and trustees is needed. Also sufficient funding for individuals to have a legal trust drawn up.

AWDPF advise there needs to be clear transition mechanisms if someone currently receives DP from social care but this is to move to health.

Training and guidance for employers giving direction to their PAs on medical interventions is needed. Will there be a requirement for them to be trained in competency to give direction regarding medical tasks to their PAs in the same way PAs will require competency, training and governance?

There needs to be clear guidance on responsibility and roles. Lessons can be learnt from DP where employers refuse to take responsibility or do not fully understand their responsibility, or are dismissive of it. There needs to be robust and clear explanation to what the Health Budget will and will not fund and any actions taken if the individual strays from this or uses inappropriately. Regular and clear reviews of the Health Budget and a process in place, for if they end, allowing all scenarios to be covered.

Question 2.6: We would like to know your views on the effects that introducing direct payments for continuing NHS healthcare would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English. What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

AWDPF acknowledge there are varying opportunities for people to use Welsh across Wales and acknowledged this is variable according to the Welsh local authority standards. There are challenges for PAs, availability of Welsh speaking PAs and time to undertake language and training instruction. Health board's standards on Welsh Language are different to those that are mandatory to LA's also.

Additionally consideration for the Welsh language are the following:

- Workforce demographic profiles are different;
- Legislation and standards are different;
- Welsh language commissioner needs to be consulted and included as part of co-producing promotional, marketing and documentation;

- Welsh language officers in LAs may want to work collaboratively with equivalents in Health boards and all need to be involved;

Question 2.7: Please also explain how you believe our proposals for introducing direct payments for continuing NHS healthcare could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

See above answer for Question 2.6

Question 2.8: We have asked a number of specific questions in this chapter. If you have any related issues which we have not specifically addressed, please use this space to report them.

Will the parent of children with CCC needs be able to access the same benefits as adult? How will health audit effectiveness?

Forum members stated the following:

- Co-producing the new arrangements have not been discussed or mentioned in this proposal. What involvement have service users had in the development of these new arrangements?
- Clear guidance about the new proposal and detail regarding what can be provided and by whom is vital;
- Guidance should be clear, easy to read and easy to follow for service users and professionals. Direct Payments as an option for all should be provided with equity, parity, clarity, transparency and delivered in a timely manner for all organisations throughout Wales;
- Should the proposal finally be adopted? Then a 'joined up' Communication Strategy to be devised incorporating all parties supporting client's accessibility to the new service and detailing the support available to navigate through this;
- There are also key considerations that the staff delivering the expanded DP service are appropriately instructed, trained, informed and supervised with clearly defined role profiles and job descriptions;
- There is currently an All-Wales Direct Payment Forum and a Direct Payment Advisor Forum that serve to support both development of the service and broad parity in delivery. It would be prudent that any developments capitalise on the significant amount of work already completed and ongoing;
- Nationally and Internationally the Citizens Network and Dr. Simon Duffy are doing some innovative work on personalised budgets that may be worth exploring.

Questions on Chapter 3: Mandatory reporting of children and adults at risk

There are 11 questions about this chapter.

Question 3.1: What are your views on the principle of imposing a duty to report a child at risk (as defined in section 130(4) of the Social Services and Well-being (Wales) Act 2014 directly on individuals within relevant bodies?

We consider this to be a good idea because there is a need to have individual accountability within safeguarding, and this forms part of this. Safeguarding is everyone business and an onus for everyone to be responsible for safeguarding is encouraged, so as to not hide behind relevant bodies. There needs to be clarity in terms of who are the relevant partners? Local Councillors who represent their wards and are part of the Local Authority but yet they are not clearly referenced as 'relevant partners' within the Act?

Question 3.2: What are your views on the principle of imposing a duty to report an adult at risk (as defined in section 126(1) of the 2014 Act) directly on individuals within relevant bodies?

Yes, see above answer (question 3.1)

Question 3.3: What in your view would be the likely benefits, disbenefits, risks, costs, savings and equality impacts of such an approach?

Please explain your reasoning.

Awareness raising needs to be had in regards to any legislation changes. What measures are there to ensure this happens and effectively? HR policies, for example will need to be updated, reviewed and implemented. Potentially other legislation will need to be reviewed? How can we ensure its effectiveness and who would responsible for proceeding with this, especially if it is deemed a criminal act? Close guidance to help individuals to understand their responsibilities will be essential.

There are a number of potential risks that need to be considered. Will it deter people from some of the professions around children and adults? There have been high profile cases in the past where the outcome of these cases leading to a criminal prosecution and the statistics have shown less applications have been received for specific relatable careers, i.e. social worker, after these high profile cases.

There may be a negative response from teaching unions to this proposal if they feel it puts greater pressure on their members and puts their careers at risk. Could also make the teaching profession less attractive when there are already recruitment

challenges in the teacher profession (and other professions within a capacity of working with children and adults). Where would the responsibility lie in managing a failure to report the case of teachers who are employed by the governing body of a school? How would this align to the registration/fit to practice procedures already managed by the Education Workforce Council?

An added potential risk, is the impact there will be an influx in referrals being received, given the anxiety that practitioners may have around not referring. Thus creating an added pressure on services to respond. With this added demand on services to respond, it is possible there is an increased risk of missing the cases where there is a real safeguarding risk.

Question 3.4: What lessons can we learn from the duties to report in other countries?

Duties to report in others countries have had difficulty in implementing the changes and the punishment measures. Consistent approach has been of a concern in other countries and should changes in legislation be made in Wales, there is a need for a thorough consultation and implementation process. All relevant bodies must have involvement with the consultation and implementation process, to ensure that the difficulties other countries have had, this is not replicated.

Question 3.5: If individual reporting duties were to be introduced – for children and adults at risk – should these sit alongside, or replace, the existing duties on organisations under the 2014 Act?

These should sit alongside the existing duties on organisation under the 2014 Act. A need to consider institutional cultures must be explored and to highlight these institutional cultures, where there is a concern. It is difficult for sole employees to be in a position to challenge norms. Adequate training and implementing procedures/policies, with clear guidelines must be identified. Organisations also need to be accountable and therefore, changes to the organisation where institutional cultures are of a concern is essential. How will the individual reporting duties be implemented, who will be responsible for this? Need to ensure that all parties are accountable, this is to include from those persons who volunteer at a local club to senior positions within government, including politicians. The Welsh Government have a responsibility to explicitly ensure that should there be legislation changes and a duty to report a child or adult at risk is placed directly on the individuals within relevant bodies becomes law, then it is imperative politicians are also held accountable.

Question 3.6: If individual reporting duties were to be introduced, should they apply to the workforce of current 'relevant partners' under section 162 of the 2014 Act (including youth offending teams in relation to children), or more widely, for example to those working in religious or sports settings, etc., and in particular:

- (a) What are your views on this in respect of children (under the age of 18)?
- (b) What are your views on this in respect of adults?

It should apply to the workforce within relevant parties under section 162 of the act in respect of children and for adults. Aspirationally would want it to apply more widely but how would this legislation work in practice? How would it be governed?

Question 3.7: If individual reporting duties were to be introduced, which occupation types or roles should be subject to any duty (e.g. members of regulated professions; employed staff, even if they are not regulated; volunteers), and in particular:

- (a) What are your views on this in respect of children (under the age of 18)?
- (b) What are your views on this in respect of adults?

As discussed in Question 3.6, how practical is it to impose this? Preferably, would want all roles where they are in are working in a capacity with children and adults to be responsible. Could it be that all roles where there is a requirement for a DBS, have a responsibility on individual reporting duties? Again, how would this be governed?

Question 3.8: What sanctions do you think would be proportionate or appropriate for failure to comply with an individual reporting duty?

Appropriate sanctions could include the removal from professional register, acknowledgement on the DBS, work based sanctions. Many of these are already in existence within the workplace but there needs to be clear guidance between identifying poor practice opposed to criminal intent, where by an individual has failed to comply with reporting a safeguarding concern intentionally. At what point would it be deemed a criminal offence? How would it be governed, monitored?

Question 3.9: We would like to know your views on the effects that introducing individual reporting duties would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English. What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

Don't consider that it would have an effect

Question 3.10: Please also explain how you believe proposals for introducing individual reporting duties could be formulated or changed so as to have positive

effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

Bilingual opportunities promoted and having the opportunity to respond in either languages.

Question 3.11: We have asked a number of specific questions in this chapter. If you have any related issues which we have not specifically addressed, please use this space to report them.

Questions on Chapter 4: Amendments to regulation of service providers and responsible individuals

Part 2 and Schedule 1 of the Regulation and Inspection of Social Care (Wales) Act 2016 ('the 2016 Act') provides the basis on which Care Inspectorate Wales ('CIW') – on behalf of the Welsh Ministers – undertakes functions relating to the registration, regulation and inspection of 'regulated services'.

This chapter of the consultation focuses on proposed amendments to the regulatory regime for regulated services, service providers and their designated responsible individuals. These relate to a range of matters provided for within the 2016 Act, including:

- a) Identifying unregistered services
- b) Publication of annual returns
- c) Publication of inspection reports
- d) Improvement notices and cancellation of registration
- e) Responsible individuals
- f) Definition of 'Care' for children and young people

Questions on proposed amendments relating to each of these matters follow.

There are 21 questions about this chapter.

Question 4.1: *(a) Identifying unregistered services - power to obtain information:* Do you agree with the proposal to amend the 2016 Act to enable the Welsh Ministers (CIW) to require information from any person where there is reasonable cause to believe that they are providing a service which should be regulated?

In agreement with this, however further information and clarity around what constitutes a reasonable cause would be needed.

Question 4.2: *(a) Identifying unregistered services - power to obtain information:* Do you agree with the proposal to extend the offence of failing to provide information when required to do so, to include these persons?

As in Question 4.1, need to ensure there is clarity of what information is required.

Question 4.3: *(a) Identifying unregistered services - power of entry:* Do you agree with the proposal to amend the 2016 Act to remove ambiguity and make it clear that

the Welsh Ministers (CIW) have the power to enter and inspect any premises which they have reasonable cause to believe is (or has been) used as a place at or from which a service is (or has been) provided, or which is (or has been) used in connection with the provision of a regulated service?

Understand from an enforcement element that CIW need to be identifying unregistered services. Although having the ability to obtain power of entry, should it be used? Still need to have a high level of respect for the individuals potentially residing in these services and respecting their space and their environment because essentially, this is their home. In addition how would power of entry be imposed? Clarity of what information is required in obtaining power of entry when identifying unregistered services will need to be made available.

Question 4.4: (a) *Identifying unregistered services - power of entry:* Do you agree with the proposal to extend the offence of obstructing an inspector or failing to comply with a requirement imposed by an inspector, to include these circumstances?

Same views as in Question 4.4, need to ensure that any power of entry when identifying an unregistered service is done with dignity and not at a detriment to the people using the services.

Question 4.5: (b) *Publication of annual returns:* Do you agree with the proposal to amend the 2016 Act to require service providers to publish their annual returns?

Current workload for Responsible Individuals is already great and although no concern around publishing the annual returns, it is an additional administrative responsibility.

Question 4.6: (b) *Publication of annual returns:* Do you agree with the proposal to create a related offence of failing to publish an annual return?

No, anything around performance should be about the improvement of quality for services rather than punitive measures. Annual return is part of an ongoing improvement & development plan. Imposing an offence for failing to publish an annual return provides another barrier between the regulator and the enforcing agency. Could there be more opportunities of collaborative working rather than punishment?

Question 4.7: (c) *Publication of inspection reports:* Do you agree with the proposal to amend the 2016 Act to provide additional flexibility for the Welsh Ministers (CIW) to recognise circumstances where it may not be appropriate, relevant, or proportionate to prepare and/or publish an inspection report? **Yes**

Question 4.8: *(d) Improvement notices and cancellation of registration – variation of registration as a service provider:* Do you agree with the proposal to amend the 2016 Act to remove the requirement for the Welsh Ministers (CIW) to issue an improvement notice to a provider in circumstances where the provider is no longer providing that service or using that place to provide a service?

Yes

Question 4.9: *(d) Improvement notices and cancellation of registration - removal of a condition on a service provider's registration:* Do you agree with the proposal to amend the 2016 Act to enable the Welsh Ministers (CIW) to remove a condition on a service provider's registration without giving a notice of proposal (section 18) and notice of decision following notice of proposal (section 19), when the circumstances which led to the imposition of the condition no longer apply?

Yes

Question 4.10: *(d) Improvement notices and cancellation of registration – power to cancel a service provider's registration:* Do you agree with the proposal to amend the 2016 Act to remove the requirement for the Welsh Ministers (CIW) to follow the improvement notice process to cancel the registration of a service provider in circumstances when the provider has already ceased to provide a regulated service?

Yes, as this will allow for making administrative processes more straightforward

Question 4.11: *(d) Improvement notices and cancellation of registration – information from providers who are cancelling their registration:* Do you agree with the proposal to create a regulation-making power under Section 14 of the 2016 Act to enable the Welsh Ministers (CIW) to require information from a service provider who is cancelling their registration and exiting the market?

Yes, as this provide an additional form of security for CIW

Question 4.12: *(d) Improvement notices and cancellation of registration – power to extend the timescale within an Improvement Notice:* Do you agree with the proposal to amend the 2016 Act to give the Welsh Ministers (CIW) the power to extend the timescale for information to be provided when improvement notices are issued?

Yes, all additional support for providers is welcomed

Question 4.13: *(d) Improvement notices and cancellation of registration – power to cancel a service provider's registration in prescribed circumstances:* Do you agree with the proposal to amend the 2016 Act to enable the Welsh Ministers (CIW) to disapply the section 16(3)(b) requirement within the improvement notice – to take particular action or provide information – in prescribed circumstances, when it would be futile to apply the requirement?

Need to have an understanding of who deems it is futile and how this decision would be made? What is the criteria and how would this be supported?

Question 4.14: *(e) Responsible individuals – making representations:* Do you agree with the proposal to amend the 2016 Act to give Responsible Individuals the right to make representations to the Welsh Ministers (CIW), against any improvement notice or cancellation of their designation, provided the representations are made within the time limit specified within the notice?

Yes

Question 4.15: *(e) Responsible individuals – sending the improvement notice to the service provider:* Do you agree with the proposal to amend the 2016 Act to require that any improvement notice served to a Responsible Individual must also be sent to the service provider?

Yes, as there may be occasions where a Responsible Individual is not available, for example; leave entitlement, sickness, jury duty

Question 4.16: *(e) Responsible individuals - Removing a Responsible Individual without making an application to designate a new Responsible Individual:* Do you agree with the proposal to amend the 2016 Act to allow a service provider to apply to the Welsh Ministers (CIW) for a variation of the conditions of their registration to remove a Responsible Individual when they are not designating a replacement Responsible Individual as part of the same application?

Agree with the proposal to amend the 2016 Act, especially as recruitment is particularly so difficult at present.

Question 4.17: *(f) Definition of ‘Care’ for children and young people:* Do you agree with the proposal to adjust the definition of ‘care’ in section 3 of the 2016 Act in order to place beyond doubt that the provision of parental-type care is recognised as being ‘care’ within the meaning of the 2016 Act?

Yes

Question 4.18: What in your view would be the likely impacts of the proposals in this chapter? You may wish to consider, for example:

- Benefits, and disbenefits;
- Costs (direct and indirect), and savings;
- Impacts upon individuals and groups with protected characteristics;
- Other practical issues.

Your views on how positive effects could be increased, or negative effects could be mitigated, would also be welcome.

Please explain your reasoning, either here or, if easier, please feel free to note any impacts specific to an individual proposal under the appropriate question above.

Yes, probably right thing to do and particularly as it is so difficult to recruit at present. The additional delays within recruitment once successful candidate appointed is also a concern.

Question 4.19: We would like to know your views on the effects that the proposals in this chapter would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English. What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

Ensuring equal opportunities for the use of the Welsh language as much as possible.

Question 4.20: Please also explain how you believe the proposals in this chapter could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

Ensuring equal opportunities for the use of the Welsh language as much as possible.

Question 4.21: We have asked a number of specific questions in this chapter. If you have any related issues which we have not specifically addressed, please use this space to report them.

It is about prioritizing and getting the balance right between regulation and the areas that need improvement compared to service improvement and what is being done well. Service providers are continuously trying to help people and do the right thing, and there must be an awareness of the pressures from health services, which are ever increasing. These increased pressures needs to be acknowledged and this is, on occasions leading to an impact on provider services and therefore, service delivery. This is an ongoing challenge. Collaborative working approach, where possible, with CIW would be beneficial.

Questions on Chapter 5: Amendments to regulation of the social care workforce

There are 9 questions about this chapter.

Question 5.1: Do you agree with the proposal to amend the 2016 Act to provide that a person who has held office as a member of Social Care Wales may be reappointed once? Please explain your reasoning.

Yes

Question 5.2: Do you agree with the proposal to amend the 2016 Act to provide Social Care Wales with the power to grant a conditional registration for a person, when they are renewing their registration, in certain circumstances? Please explain your reasoning.

Yes, provided the conditions are clear, time sensitive and clearly defined

Question 5.3: Do you agree with the proposal to amend the 2016 Act to allow a panel to review and extend interim orders as appropriate, up to the maximum of 18 months? Please explain your reasoning.

Yes but an understanding of who the panel is made up of and how many? What is criteria to be on a panel, further information providing clarity is required?

Question 5.4: Do you agree with the proposal to amend the 2016 Act to provide a Fitness to Practise panel with the ability to revoke an interim order, during review proceedings, where it is necessary and appropriate? Please explain your reasoning.

Yes, as above but ensuring there are no delays.

Question 5.5: What, in your view, would make it necessary and appropriate for a Fitness to Practise panel to revoke an interim order?

On review of information where any discrepancies have arisen, could this allow for a revoke to interim order?

Question 5.6: What in your view would be the likely impacts of the proposals in this chapter? You may wish to consider, for example:

- Benefits, and disbenefits;
- Costs (direct and indirect), and savings;
- Impacts upon individuals and groups with protected characteristics;
- Other practical issues.

Your views on how positive effects could be increased, or negative effects could be mitigated, would also be welcome.

Please explain your reasoning.

Proposed changes will seek to enhance current processes but need to ensure that there is a clarity on these changes.

Question 5.7: We would like to know your views on the effects that the proposals in this chapter would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English. What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

Promotion of bilingual opportunities

Question 5.8: Please also explain how you believe the proposals in this chapter could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

Promotion of bilingual opportunities

Question 5.9: We have asked a number of specific questions in this chapter. If you have any related issues which we have not specifically addressed, please use this space to report them.

Questions on Chapter 6: Extending the definition of social care worker to include childcare and play workers

There are 5 questions about this chapter.

Question 6.1: We would like to know your views on the proposal to extend the definition of 'social care worker' to include both childcare and play workers. In particular, are you in favour of extending the role of Social Care Wales to cover childcare and play workers working in the childcare sector?

Please explain your reasoning.

Generally supportive of the proposal in terms of raising the status and qualifications of the childcare workforce. Agree that the professionalism and heightened awareness of the sector is needed, and to highlight the importance of pedagogy, with childcare and play workers providing social care in many forms.

Early Years childcare is not currently seen as a career choice with good career prospects, wages are suppressed and lower than other sectors, including the Welsh Government funding mechanisms that are already in place. We need to consider that this could be seen as further bureaucracy and therefore costs within a sector that is already at risk could be further implicated.

Changes to primary legislation will help to make the connection between Social Care Wales and the qualifications frameworks, and training for childcare and play workers. Welcome of these changes and the training opportunities it would bring to the sector and the potential for settings and training providers to expand their scope of learning. It has become clear that childcare workforce are at the frontline of support for very young children and are often the first practitioners who develop a holistic view of the child. Childcare providers in areas of deprivation are closing down as unsustainable and this is where we need this role to flourish to keep children safe. If the impact on children is that they are further safeguarded by well qualified practitioners then the changes will be worthwhile.

Question 6.2: What in your view would be the likely impacts of the proposal? You may wish to consider, for example:

- Benefits, and disbenefits;
- Costs (direct and indirect), and savings;
- Impacts upon individuals and groups with protected characteristics;
- Other practical issues.

Your views on how positive effects could be increased, or negative effects could be mitigated, would also be welcome.

Please explain your reasoning.

The benefits to the proposed changes in legislation will improve the status of childcare roles, highlight the importance of the profession and the training levels available, thus creating a heightened awareness of Early Years roles as a valid and recognised career choice. The outcomes for children, with a focus on wider aspects of learning & development and safeguarding will prevail. The proposal to extend the definition of 'social care worker' to include both childcare and play workers will place a key emphasis of promoting the role of keeping children safe.

The disbenefits could be that there is a further burden on the sector and childcare settings are used as alternative to other forms of appropriate social care. The expectation of higher wages for more qualified staff falls on local authorities and funding for projects, as well as parents who already struggling with childcare fees. These are just some of the indirect and direct costs to consider. However, there may be opportunities of potential savings and this includes the early identification of concerns or additional needs of young children within Early Years. In the long term this could create a saving as interventions could be put in place at an earlier stage. However, costs cannot fall on settings for backfill / overtime for training, if this is to work because it would have an impact upon individuals and groups with protected characteristics, also other practical issues need to be considered in regards to costs i.e. staffing levels.

Although the proposed changes are welcome, what would not want to be seen is for people in this profession having to pay substantial registration fees and this could prevent people from joining the sector and taking up job roles within this profession. This is a sector that is already experiencing recruitment issues and also commonly pays less than the other industries, despite the importance of the roles within Early Years and the value to society.

Question 6.3: We would like to know your views on the effects that the proposal would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English. What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

An informal approach to improving the Welsh language skills of staff might be feasible (see point regarding training costs and impact). Ongoing continuing professional development expectations for staff in the sector can already be unreasonable considering the high turnover currently (practitioners are moving to retail, for example, and other higher paid jobs). There is already a significant shortage of Welsh speaking qualified applicants to the sector in Flintshire and the percentage of parents requesting Welsh medium childcare is minimal. Pressure to comply with minimum requirements for Welsh language or imposed legislation could lead to settings closing. Therefore, the sector requires further support and for people

to see it as a career of choice and provide opportunities to promote the Welsh language skills within the role. The Welsh language is very much a part of many settings now and would like to see this further supported by advisory roles to maintain quality childcare, and to support the sector with skills such as speech, language and communication in both the English and Welsh language. All the evidence shows that it is quality childcare with elements such as outdoor play that have the biggest impact. We need to ensure it is quality provision that develops, grows and is sustainable, particularly around the Programmes of Government, including universal 2 year old, 3-4 year old childcare offer and early entitlement/foundation phase.

Question 6.4: Please also explain how you believe the proposal could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

As above

Question 6.5: We have asked a number of specific questions in this chapter. If you have any related issues which we have not specifically addressed, please use this space to report them.

Consultation Response Form

Your name: Stuart Bartley

Organisation (if applicable): BASE SUPPORT SERVICES

Email / Telephone number . stuart.bartley@basesupport.co.uk



Your address:



Responses to consultations may be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please place a tick in the box:

☐

Please tell us who you are responding on behalf of. For example is this your own response or is it sent on behalf of an organisation?

[I am responding on behalf of my organisation BASE SUPPORT SERVICES](#)

If you want to receive a receipt of your response, please confirm your email address-
stuart.bartley@basesupport.co.uk

Questions on Chapter 1: Eliminating profit from the care of children looked after

There are 12 questions about this chapter.

Question 1.1: Do you think that introducing provision in legislation that only allows 'not-for-profit' providers to register with CIW will support delivery of the Programme for Government commitment to eliminate profit from the care of children looked after?

Yes, but it is likely come at significant costs in both financial terms and service provision . There may well be reduced specialist care in Wales and an increased risk of children being placed in unregulated settings or placed at distance probably in England which is exactly the scenario the Welsh Gov wishes to avoid.

The transitional costs are likely to be considerable and as the CMA reported earlier in the year there is no evidence that the not-for-profit sector provides cheaper care or higher quality care.

We believe that public policy in Wales should, as far as is possible, be based upon evidence. Welsh government should make it clear that the evidence for the proposal has no substantial evidence base with regards to an improvement in outcomes for young people or savings to the taxpayer.

Question 1.2: What in your view are the likely impacts of the proposal? You may wish to consider, for example:

- Benefits, and disbenefits

Benefits:

- Government achieves its manifesto pledge

Disbenefits:

- At a time of significant challenges to Local Authorities in Wales this potentially high cost policy will put enormous planning challenges to them. Apart from the financial costs the managerial time and effort into finding properties, gaining planning permission, recruiting staff, achieving skills In this area will be enormous
- A potential decrease in the number of placements for children meaning children being placed at greater distance from home
- An increase the number of children placed in unregulated provision
- A loss of specialized knowledge, skills and leadership in residential childcare
- An increase in placement costs that will be paid by local authorities via council tax

- Reduction in investment in Wales in this sector
- Small Welsh businesses will close or be taken over by large providers
- Workforce will leave the sector due to the uncertainty this policy has created
- Residential childcare further devalued as a positive choice for children and a positive career option for adult
- Concern amongst the current residents in homes as to where they will be placed if their current home potentially closes

- Costs (direct and indirect), and savings;

As mentioned earlier the CMA report has indicated that there will be no cost savings and conversely there is likely to be a significant increase in cost – certainly in the transitional stage.

Other practical matters such as cross-border issues.

- There would appear to be a capacity crisis in the sector already. We are contacted daily by local authorities across the UK for places
- We also understand that a growing number of providers have now chosen to open new provision in England rather than Wales as they originally planned.
- We also understand that applications to open new children's homes in Wales have decreased sharply because of the uncertainty created by the elimination policy

Your views on how positive effects could be increased, or negative effects could be mitigated, would also be welcome.

- We at BASE SUPPORT SERVICES would be happy to work with WAG to ensure the prime aim of increasing positive outcomes for young people in residential care. We support the CHA aim of achieving a rebalancing of services in planned partnerships.

Please explain your reasoning.

We at BASE would endorse the statement produced by the CHA below :

- The similar values and beliefs of authorities and providers. Each strive to put the interests of the child first and provide or commission excellent care which offers the best support to enable these vulnerable children to reach their full potential.

- In our view, this is best achieved by long term contractual relationships based commitment between local authorities and providers. Designing and developing a model based on assessment and evidence based tools to understand and predict need and putting this into practice with flexible, variable block contracts allowing supportive and trusting relationships to be delivered is key.
- The commissioning and procurement vision and documents will support these core shared beliefs and objectives. Pilots will offer a blue print for long term partnerships with individual providers which can develop and grow if successful and reduce in size and scope if not successful, rather than transactional spot purchasing based on an 'us and them' approach.
- There will be an effective modern performance model with tools enabling outputs and outcomes to be measured. These will be used to build knowledge and information about current and future needs and establish what works well and what works less well.
- The model including will be co-produced with a series of pilots to identify the more effective models to further developed and others to be discarded.
- We know there are some good relationship working in Wales, which could be developed and built on that allow trust to be re-built and developed more widely.
- We are very keen that wherever possible, children's relationships with their birth families, close and distant as well as friends and other relationships within their communities should be maintained. The ability of children to make and sustain these relationships will be a key criterion for assessing the success of the care, along with other key outcomes, particularly education, mental and physical health.
- There will be fair terms and conditions including effective pricing structures. A model of flexible and variable block contracts supported by spots where needed, will allow providers to make longer term commercial plans and business decisions. Experience has demonstrated that this should enable them to offer an efficient pricing structure for flexible or soft block contracts with a separate price for the purchase of spots to augment the blocks. This model supports provider borrowing to develop new provision.
- A model where local authorities and providers work in partnership in a collaborative and trusting manner could support effective market management by local authorities, focused development of new provision and in time achieve market sufficiency. However, it will take time to develop the required trust and roll out pilots to the whole market and there needs to be an understanding that true co-production and collaboration requires a recognition that local authorities and providers share a similar vision and values and must work together to meet the needs of the vulnerable children who come into the care system to support their development into adults who are able to meet their true potential.

Question 1.3: One approach could be for the legislation to define 'not-for-profit' in terms of the types of organisation that would qualify. Do you consider that the restriction should also be expressed in terms of the way that any trading surplus is expended? What would be the effects and implications of this?

At BASE will certainly think that a definition of profit and the production of imaginative potential organizational models options would be helpful.

Question 1.4: Do you think the primary legislation should include a power for Welsh Ministers to amend the definition of 'not-for-profit' through subordinate legislation?

- Following on from 1.3 there does not appear to be a definition of 'not for profit' that identifies which type of provision is acceptable to the WG. As a relatively small organization this issue is a cause for some anxiety as Welsh Gov will appreciate

Question 1.5: What are your views on the proposed timings for the primary legislation to come into effect?

With regards to the timing is does rely heavily on current providers willingness to transition to a non for profit model relatively soon. If this does not happen (which from our observations appears to be the case) there will clearly be a scenario in which the capacity in Wales is significantly reduced.

Question 1.6: Are there any issues in relation to transition for children looked after, local authorities and service providers you would like to draw our attention to?

- As mentioned earlier just the issue of children's anxiety as to where they will eventually be placed.

Question 1.7: What are your views on the issuing of guidance to support the implementation of the primary legislation?

- Would appear to be standard good practice for government

Question 1.8: What are your views on using legislation to place a restriction on local authorities to commission placements from 'not-for-profit' organisations only?

From our observations this would put enormous pressures on Local authorities. As mentioned earlier it appears that many providers will leave this market and the challenges face by local authorities in filling this gap will be such that there will be insufficient supply.

Question 1.9: What are your views on the possibility of approaches being taken in response to these legislative proposals which would undermine the intention to eliminate profit from the care of children looked after in Wales? Are there any actions which would guard against such activity?

Question 1.10: We would like to know your views on the effects that the legislative changes to eliminate profit from the care of children looked after will have on the Welsh language, specifically on opportunities for people to use Welsh and on

treating the Welsh language no less favorably than English. What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

Question 1.11: Please also explain how you believe the legislative changes to support delivery of eliminating profit from the care of children looked after could be formulated or changed so as to have positive effects or increase

Question 1.12: This chapter has focused on how we can achieve the commitment to eliminate profit in the care of children looked after, and we have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report these.

- BASE SUPPORT SERVICES is a relatively small SME in Wales with, at present, 3 registered homes located in Cardiff. We have an excellent relationship with our local authority and an agreed terms of engagement with them. Putting the outcomes for children as the priority we believe a sensible way forward would be for the development of effective strategic commissioning and procurement as indicated by the CMA in its recent report on Wales. Alongside a planned increase in local authority owned provision over the next decade this should prevent any excessive profit in this market. We would recommend a strategic approach delivered collaboratively at local level lead by local authorities but overseen by a national framework. This would seem to use to be the most sensible and pragmatic approach which would be supported by all the key players in this environment.

Question 2.1: We have outlined our proposals to introduce further voice and control for adults receiving Continuing Health Care (CHC) in Wales. Do you agree or disagree with these proposals? Please explain your reasoning.

Question 2.2: What in your view are the likely impacts of the proposal?

You may wish to consider, for example:

- Benefits, and disbenefits;
- Costs (direct and indirect), and savings;

- Impacts upon individuals and groups with protected characteristics;
- Other practical matters such as cross-border issues or transition to the new arrangements.

Your views on how positive effects could be increased, or negative effects could be mitigated, would also be welcome.

Please explain your reasoning.

Question 2.3: What lessons can we learn from other countries' practice in this area?

Question 2.4: Do you believe there are any other or complementary approaches we should be considering to achieve the same effect? If so, please outline below.

Question 2.5: We will work to ensure that any legislative change is supported by robust guidance to help both payment recipients and practitioners understand how the system will operate. Can you identify anything that it would be helpful to include in this guidance? What other support should be provided?

Question 2.6: We would like to know your views on the effects that introducing direct payments for continuing NHS healthcare would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English. What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

Question 2.7: Please also explain how you believe our proposals for introducing direct payments for continuing NHS healthcare could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

Question 2.8: We have asked a number of specific questions in this chapter. If you have any related issues which we have not specifically addressed, please use this space to report them.

Questions on Chapter 3: Mandatory reporting of children and adults at risk

There are 11 questions about this chapter.

Question 3.1: What are your views on the principle of imposing a duty to report a child at risk (as defined in section 130(4) of the Social Services and Well-being (Wales) Act 2014 directly on individuals within relevant bodies?

Question 3.2: What are your views on the principle of imposing a duty to report an adult at risk (as defined in section 126(1) of the 2014 Act) directly on individuals within relevant bodies?

Question 3.3: What in your view would be the likely benefits, disbenefits, risks, costs, savings and equality impacts of such an approach?

Please explain your reasoning.

Question 3.4: What lessons can we learn from the duties to report in other countries?

Question 3.5: If individual reporting duties were to be introduced – for children and adults at risk – should these sit alongside, or replace, the existing duties on organisations under the 2014 Act?

Question 3.6: If individual reporting duties were to be introduced, should they apply to the workforce of current 'relevant partners' under section 162 of the 2014 Act (including youth offending teams in relation to children), or more widely, for example to those working in religious or sports settings, etc., and in particular:

- (a) What are your views on this in respect of children (under the age of 18)?
- (b) What are your views on this in respect of adults?

Question 3.7: If individual reporting duties were to be introduced, which occupation types or roles should be subject to any duty (e.g. members of regulated professions; employed staff, even if they are not regulated; volunteers), and in particular:

- (a) What are your views on this in respect of children (under the age of 18)?
- (b) What are your views on this in respect of adults?

Question 3.8: What sanctions do you think would be proportionate or appropriate for failure to comply with an individual reporting duty?

Question 3.9: We would like to know your views on the effects that introducing individual reporting duties would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English. What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

Question 3.10: Please also explain how you believe proposals for introducing individual reporting duties could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

Question 3.11: We have asked a number of specific questions in this chapter. If you have any related issues which we have not specifically addressed, please use this space to report them.

Questions on Chapter 4: Amendments to regulation of service providers and responsible individuals

Part 2 and Schedule 1 of the Regulation and Inspection of Social Care (Wales) Act 2016 ('the 2016 Act') provides the basis on which Care Inspectorate Wales ('CIW') – on behalf of the Welsh Ministers – undertakes functions relating to the registration, regulation and inspection of 'regulated services'.

This chapter of the consultation focuses on proposed amendments to the regulatory regime for regulated services, service providers and their designated responsible individuals. These relate to a range of matters provided for within the 2016 Act, including:

- a) Identifying unregistered services
- b) Publication of annual returns
- c) Publication of inspection reports
- d) Improvement notices and cancellation of registration
- e) Responsible individuals
- f) Definition of 'Care' for children and young people

Questions on proposed amendments relating to each of these matters follow.

There are 21 questions about this chapter.

Question 4.1: *(a) Identifying unregistered services - power to obtain information:* Do you agree with the proposal to amend the 2016 Act to enable the Welsh Ministers (CIW) to require information from any person where there is reasonable cause to believe that they are providing a service which should be regulated?

Question 4.2: *(a) Identifying unregistered services - power to obtain information:* Do you agree with the proposal to extend the offence of failing to provide information when required to do so, to include these persons?

Question 4.3: *(a) Identifying unregistered services - power of entry:* Do you agree with the proposal to amend the 2016 Act to remove ambiguity and make it clear that the Welsh Ministers (CIW) have the power to enter and inspect any premises which they have reasonable cause to believe is (or has been) used as a place at or from

which a service is (or has been) provided, or which is (or has been) used in connection with the provision of a regulated service?

Question 4.4: *(a) Identifying unregistered services - power of entry:* Do you agree with the proposal to extend the offence of obstructing an inspector or failing to comply with a requirement imposed by an inspector, to include these circumstances?

Question 4.5: *(b) Publication of annual returns:* Do you agree with the proposal to amend the 2016 Act to require service providers to publish their annual returns?

Question 4.6: *(b) Publication of annual returns:* Do you agree with the proposal to create a related offence of failing to publish an annual return?

Question 4.7: *(c) Publication of inspection reports:* Do you agree with the proposal to amend the 2016 Act to provide additional flexibility for the Welsh Ministers (CIW) to recognise circumstances where it may not be appropriate, relevant, or proportionate to prepare and/or publish an inspection report?

Question 4.8: *(d) Improvement notices and cancellation of registration – variation of registration as a service provider:* Do you agree with the proposal to amend the 2016 Act to remove the requirement for the Welsh Ministers (CIW) to issue an improvement notice to a provider in circumstances where the provider is no longer providing that service or using that place to provide a service?

Question 4.9: *(d) Improvement notices and cancellation of registration - removal of a condition on a service provider's registration:* Do you agree with the proposal to amend the 2016 Act to enable the Welsh Ministers (CIW) to remove a condition on a service provider's registration without giving a notice of proposal (section 18) and notice of decision following notice of proposal (section 19), when the circumstances which led to the imposition of the condition no longer apply?

Question 4.10: *(d) Improvement notices and cancellation of registration – power to cancel a service provider's registration:* Do you agree with the proposal to amend the

2016 Act to remove the requirement for the Welsh Ministers (CIW) to follow the improvement notice process to cancel the registration of a service provider in circumstances when the provider has already ceased to provide a regulated service?

Question 4.11: *(d) Improvement notices and cancellation of registration – information from providers who are cancelling their registration:* Do you agree with the proposal to create a regulation-making power under Section 14 of the 2016 Act to enable the Welsh Ministers (CIW) to require information from a service provider who is cancelling their registration and exiting the market?

Question 4.12: *(d) Improvement notices and cancellation of registration – power to extend the timescale within an Improvement Notice:* Do you agree with the proposal to amend the 2016 Act to give the Welsh Ministers (CIW) the power to extend the timescale for information to be provided when improvement notices are issued?

Question 4.13: *(d) Improvement notices and cancellation of registration – power to cancel a service provider's registration in prescribed circumstances:* Do you agree with the proposal to amend the 2016 Act to enable the Welsh Ministers (CIW) to disapply the section 16(3)(b) requirement within the improvement notice – to take particular action or provide information – in prescribed circumstances, when it would be futile to apply the requirement?

Question 4.14: *(e) Responsible individuals – making representations:* Do you agree with the proposal to amend the 2016 Act to give Responsible Individuals the right to make representations to the Welsh Ministers (CIW), against any improvement notice or cancellation of their designation, provided the representations are made within the time limit specified within the notice?

Question 4.15: *(e) Responsible individuals – sending the improvement notice to the service provider:* Do you agree with the proposal to amend the 2016 Act to require that any improvement notice served to a Responsible Individual must also be sent to the service provider?

Question 4.16: *(e) Responsible individuals - Removing a Responsible Individual without making an application to designate a new Responsible Individual:* Do you

agree with the proposal to amend the 2016 Act to allow a service provider to apply to the Welsh Ministers (CIW) for a variation of the conditions of their registration to remove a Responsible Individual when they are not designating a replacement Responsible Individual as part of the same application?

Question 4.17: *(f) Definition of 'Care' for children and young people:* Do you agree with the proposal to adjust the definition of 'care' in section 3 of the 2016 Act in order to place beyond doubt that the provision of parental-type care is recognised as being 'care' within the meaning of the 2016 Act?

Question 4.18: What in your view would be the likely impacts of the proposals in this chapter? You may wish to consider, for example:

- Benefits, and disbenefits;
- Costs (direct and indirect), and savings;
- Impacts upon individuals and groups with protected characteristics;
- Other practical issues.

Your views on how positive effects could be increased, or negative effects could be mitigated, would also be welcome.

Please explain your reasoning, either here or, if easier, please feel free to note any impacts specific to an individual proposal under the appropriate question above.

Question 4.19: We would like to know your views on the effects that the proposals in this chapter would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English. What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

Question 4.20: Please also explain how you believe the proposals in this chapter could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

Question 4.21: We have asked a number of specific questions in this chapter. If you have any related issues which we have not specifically addressed, please use this space to report them.

Questions on Chapter 5: Amendments to regulation of the social care workforce

There are 9 questions about this chapter.

Question 5.1: Do you agree with the proposal to amend the 2016 Act to provide that a person who has held office as a member of Social Care Wales may be reappointed once? Please explain your reasoning.

Question 5.2: Do you agree with the proposal to amend the 2016 Act to provide Social Care Wales with the power to grant a conditional registration for a person, when they are renewing their registration, in certain circumstances? Please explain your reasoning.

Question 5.3: Do you agree with the proposal to amend the 2016 Act to allow a panel to review and extend interim orders as appropriate, up to the maximum of 18 months? Please explain your reasoning.

Question 5.4: Do you agree with the proposal to amend the 2016 Act to provide a Fitness to Practise panel with the ability to revoke an interim order, during review proceedings, where it is necessary and appropriate? Please explain your reasoning.

Question 5.5: What, in your view, would make it necessary and appropriate for a Fitness to Practise panel to revoke an interim order?

Question 5.6: What in your view would be the likely impacts of the proposals in this chapter? You may wish to consider, for example:

- Benefits, and disbenefits;
- Costs (direct and indirect), and savings;
- Impacts upon individuals and groups with protected characteristics;
- Other practical issues.

Your views on how positive effects could be increased, or negative effects could be mitigated, would also be welcome.

Please explain your reasoning.

Question 5.7: We would like to know your views on the effects that the proposals in this chapter would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English. What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

Question 5.8: Please also explain how you believe the proposals in this chapter could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

Question 5.9: We have asked a number of specific questions in this chapter. If you have any related issues which we have not specifically addressed, please use this space to report them.

Questions on Chapter 6: Extending the definition of social care worker to include childcare and play workers

There are 5 questions about this chapter.

Question 6.1: We would like to know your views on the proposal to extend the definition of 'social care worker' to include both childcare and play workers. In particular, are you in favour of extending the role of Social Care Wales to cover childcare and play workers working in the childcare sector?

Please explain your reasoning.

Question 6.2: What in your view would be the likely impacts of the proposal? You may wish to consider, for example:

- Benefits, and disbenefits;
- Costs (direct and indirect), and savings;
- Impacts upon individuals and groups with protected characteristics;
- Other practical issues.

Your views on how positive effects could be increased, or negative effects could be mitigated, would also be welcome.

Please explain your reasoning.space to report them.

Consultation Response Form

Your name: George Parish-Wallace (Policy Officer)

Organisation (if applicable): Alzheimer's Society Cymru

Email / Telephone number: [REDACTED]

Your address:

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Responses to consultations may be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please place a tick in the box:

☐

Please tell us who you are responding on behalf of. For example is this your own response or is it sent on behalf of an organisation?

The response is on behalf of Alzheimer's Society Cymru.

If you want to receive a receipt of your response, please confirm your email address, here: [REDACTED]

Questions on Chapter 1: Eliminating profit from the care of children looked after

There are 12 questions about this chapter.

Question 1.1: Do you think that introducing provision in legislation that only allows ‘not-for-profit’ providers to register with CIW will support delivery of the Programme for Government commitment to eliminate profit from the care of children looked after?

N/A

Question 1.2: What in your view are the likely impacts of the proposal? You may wish to consider, for example:

- Benefits, and disbenefits;
- Costs (direct and indirect), and savings;
- Impacts upon individuals and groups with protected characteristics;
- Other practical matters such as cross-border issues.

Your views on how positive effects could be increased, or negative effects could be mitigated, would also be welcome.

Please explain your reasoning.

N/A

Question 1.3: One approach could be for the legislation to define ‘not-for-profit’ in terms of the types of organisation that would qualify. Do you consider that the restriction should also be expressed in terms of the way that any trading surplus is expended? What would be the effects and implications of this?

N/A

Question 1.4: Do you think the primary legislation should include a power for Welsh Ministers to amend the definition of ‘not-for-profit’ through subordinate legislation?

N/A

Question 1.5: What are your views on the proposed timings for the primary legislation to come into effect?

N/A

Question 1.6: Are there any issues in relation to transition for children looked after, local authorities and service providers you would like to draw our attention to?

N/A

Question 1.7: What are your views on the issuing of guidance to support the implementation of the primary legislation?

N/A

Question 1.8: What are your views on using legislation to place a restriction on local authorities to commission placements from 'not-for-profit' organisations only? In particular:

- Do you think it would support us to deliver the commitment to eliminate profit from the care of children looked after in Wales?
- What would be the benefits, disbenefits and other implications of such an approach?
- What would be an appropriate timescale for implementing such an approach, if it were to be adopted in Wales?

N/A

Question 1.9: What are your views on the possibility of approaches being taken in response to these legislative proposals which would undermine the intention to eliminate profit from the care of children looked after in Wales? Are there any actions which would guard against such activity?

N/A

Question 1.10: We would like to know your views on the effects that the legislative changes to eliminate profit from the care of children looked after will have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favorably than English. What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

N/A

Question 1.11: Please also explain how you believe the legislative changes to support delivery of eliminating profit from the care of children looked after could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and

no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

N/A

Question 1.12: This chapter has focused on how we can achieve the commitment to eliminate profit in the care of children looked after, and we have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

N/A

Questions on Chapter 2: Introducing direct payments for Continuing NHS healthcare

There are 8 questions about this chapter.

Question 2.1: We have outlined our proposals to introduce further voice and control for adults receiving Continuing Health Care (CHC) in Wales. Do you agree or disagree with these proposals? Please explain your reasoning.

Alzheimer's Society Cymru strongly agrees with and supports the suggested changes to the NHS (Wales) Act 2006 to allow direct payments for continuing health care (CHC) for adults living with dementia in Wales.

The introduction of direct payments through Local Health Boards (LHBs) or Local Authorities will provide adults living with dementia more control to choose and plan the care they receive in order to meet their individual needs as part of a rights-based, person-centered approach. The use of direct payments also advances the principles of 'Voice, Choice and Control' as enshrined in the Social Services and Well-Being (Wales) Act 2014 (the 2014 Act).

Question 2.2: What in your view are the likely impacts of the proposal?

You may wish to consider, for example:

- **Benefits, and disbenefits;**
- **Costs (direct and indirect), and savings;**
- **Impacts upon individuals and groups with protected characteristics;**
- **Other practical matters such as cross-border issues or transition to the new arrangements.**

Your views on how positive effects could be increased, or negative effects could be mitigated, would also be welcome.

Please explain your reasoning.

The use of direct payments will provide greater fairness and continuity for those living with and affected by dementia, ensuring that their voice can better shape the care they receive to meet individual needs and provide greater control and choice.

Direct payments will also enhance health outcomes and service-user experience as the management and delivery of care can be tailored to meet individual needs, while being easier to manage and understand and providing greater control for service-users. The use of direct payments will also enhance choice and planning as part of a person-centred approach that places the service-user at the centre of care.

In addition, the use of direct payments will allow for relatives, family members and unpaid carers to be formally recognised and included within the CHC planning process, providing service-users with a greater sense of comfort and assurance around the provision of care from those that know them best in-line with the Welsh Government's National Framework for Continuing NHS Healthcare for Adults.

The use of direct payments will ultimately lead to a more seamless CHC system that recognises, protects and supports the role of unpaid carers in the delivery of care, enhance support for those living with dementia while potentially reducing demand on frontline clinical services in meeting complex needs through a more targeted approach to care planning and delivery.

Question 2.3: What lessons can we learn from other countries' practice in this area?

N/A

Question 2.4: Do you believe there are any other or complementary approaches we should be considering to achieve the same effect? If so, please outline below.

N/A

Question 2.5: We will work to ensure that any legislative change is supported by robust guidance to help both payment recipients and practitioners understand how the system will operate. Can you identify anything that it would be helpful to include in this guidance? What other support should be provided?

As an organisation that supports all those living with and affected by dementia, including unpaid carers, we understand that the process of navigating the healthcare system and making arrangements for CHC is often complex and time-consuming, especially for those living with a form of dementia.

Service-users have highlighted that the current CHC system is not appropriate for people living with dementia due to the complex nature of the application and appeals process which can be challenging to navigate and fully understand and time-consuming.

As we have previously highlighted, service users need access to CHC funding at a time of need. To be able to have access to the information they need without having to read documents that are overly technical and long would enable them to become more informed about the support available, make better decisions, and better aid professionals in providing information required for applications and assessments.

In addition, care assessments are generally conducted by health and social care professionals, often using generic guidance documents without consulting or involving professionals with experience of dementia or those that know them best which can lead to a blanket approach to assessments and the planning and delivery of care to meet complex needs.

Alzheimer's Society Cymru calls for access to independent, experienced support and advocacy to help people living with and affected by dementia to navigate the application process and for assessments. In addition, we call for the inclusion of a health or social care professional with experience and specific training in planning dementia care pathways to ensure that complex needs and personal preferences are fully incorporated into the CHC planning process.

Any information, support and guidance to facilitate equality of access to the CHC process should also be made available to unpaid carers where appropriate as included in the Welsh Government's Unpaid Carers Charter published on 27 September and for all communities on an equal basis, including ethnic minority groups.

More widely, we highlight the general issue around the lack of performance data, clear processes, guidance and timelines for decision-making within the current NHS CHC system.

A simple step-by-step guide to the application and delivery of CHC care would assist service-users on the dementia pathway while also allowing for the sharing of best practice to improve the interface between CHC and direct payments, service-user experiences and health and care outcomes.

Any guide, support and advice designed to facilitate a more accessible and simplified CHC process would need to be equally accessible to minority groups and available in the language of choice.

Question 2.6: We would like to know your views on the effects that introducing direct payments for continuing NHS healthcare would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English. What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

Alzheimer's Society Cymru would like the amended legislation and any accompanying guidance developed from this consultation to take into account that when a bilingual person has a diagnosis of dementia, it is often proficiency in a second language that is lost first.

We call for the CHC system and any accompanying guidance to commit to ensuring that dementia and language are taken into account to allow people to live in congruent linguistic

communities in order to prevent them from becoming excluded, or vulnerable to neglect or sub-optimal care due to a linguistic barrier. Access to CHC services through the medium of Welsh needs to become an 'Active Offer' and considered throughout planning and delivery of continuing healthcare as part of a more effective system that reaches more people.

Question 2.7: Please also explain how you believe our proposals for introducing direct payments for continuing NHS healthcare could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

The direct payments would need to provide funding for care in the Welsh language where there is service-user demand as a first language. The availability of care in the language of choice would need to be accessible and clearly communicated to service-users, including unpaid carers, across all communities in Wales to ensure the individual needs of those whose speak Welsh as a first language or ethnic minority groups whose first language is not English are met.

Question 2.8: We have asked a number of specific questions in this chapter. If you have any related issues which we have not specifically addressed, please use this space to report them.

N/A

Questions on Chapter 3: Mandatory reporting of children and adults at risk

There are 11 questions about this chapter.

Question 3.1: What are your views on the principle of imposing a duty to report a child at risk (as defined in section 130(4) of the Social Services and Well-being (Wales) Act 2014 directly on individuals within relevant bodies?

N/A

Question 3.2: What are your views on the principle of imposing a duty to report an adult at risk (as defined in section 126(1) of the 2014 Act) directly on individuals within relevant bodies?

N/A

Question 3.3: What in your view would be the likely benefits, disbenefits, risks, costs, savings and equality impacts of such an approach?

Please explain your reasoning.

N/A

Question 3.4: What lessons can we learn from the duties to report in other countries?

N/A

Question 3.5: If individual reporting duties were to be introduced – for children and adults at risk – should these sit alongside, or replace, the existing duties on organisations under the 2014 Act?

N/A

Question 3.6: If individual reporting duties were to be introduced, should they apply to the workforce of current ‘relevant partners’ under section 162 of the 2014 Act (including youth offending teams in relation to children), or more widely, for example to those working in religious or sports settings, etc., and in particular:

(a) What are your views on this in respect of children (under the age of 18)?

N/A

(b) What are your views on this in respect of adults?

N/A

Question 3.7: If individual reporting duties were to be introduced, which occupation types or roles should be subject to any duty (e.g. members of regulated professions; employed staff, even if they are not regulated; volunteers), and in particular:

(a) What are your views on this in respect of children (under the age of 18)?

N/A

(b) What are your views on this in respect of adults?

N/A

Question 3.8: What sanctions do you think would be proportionate or appropriate for failure to comply with an individual reporting duty?

N/A

Question 3.9: We would like to know your views on the effects that introducing individual reporting duties would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no

less favourably than English. What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

As above, Alzheimer's Society Cymru would like any potential extension of reporting duties and any accompanying guidance developed following this consultation to take into account that when a bilingual person has a diagnosis of dementia, it is often proficiency in a second language that is lost first.

We call for the safeguarding process and any accompanying guidance to commit to ensuring that all language needs are taken into account to allow relevant partners and service-users to report 'at risk' adults in the Welsh language where necessary to prevent Welsh-language speakers from becoming excluded from reporting in the medium or Welsh due to a linguistic barrier.

We reiterate the importance of all aspects of the safeguarding process being equally accessible to Welsh-language speakers and included as an 'Active Offer' as part of a more effective safeguarding system that is accessible to all.

Question 3.10: Please also explain how you believe proposals for introducing individual reporting duties could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

As above, we would like any extension of reporting duties to factor in the language needs of service-users and all those involved in the provision of care.

By ensuring that the language needs of service-users and carers are taken into account, the system will support people to live and work in congruent linguistic communities and prevent them from being excluded or isolated due to a linguistic barrier. Access to services through the medium of Welsh needs to become an 'Active Offer' and considered throughout the registration process in addition to the administration, planning and delivery of care.

Question 3.11: We have asked a number of specific questions in this chapter. If you have any related issues which we have not specifically addressed, please use this space to report them.

N/A

Extension of Section 126(1) of the 2014 Act to include unpaid carers

N/A

Questions on Chapter 4: Amendments to regulation of service providers and responsible individuals

Part 2 and Schedule 1 of the Regulation and Inspection of Social Care (Wales) Act 2016 ('the 2016 Act') provides the basis on which Care Inspectorate Wales ('CIW') – on behalf of the Welsh Ministers – undertakes functions relating to the registration, regulation and inspection of 'regulated services'.

This chapter of the consultation focuses on proposed amendments to the regulatory regime for regulated services, service providers and their designated responsible individuals. These relate to a range of matters provided for within the 2016 Act, including:

- a) Identifying unregistered services
- b) Publication of annual returns
- c) Publication of inspection reports
- d) Improvement notices and cancellation of registration
- e) Responsible individuals
- f) Definition of 'Care' for children and young people

Questions on proposed amendments relating to each of these matters follow.

There are 21 questions about this chapter.

Question 4.1: (a) *Identifying unregistered services - power to obtain information:* Do you agree with the proposal to amend the 2016 Act to enable the Welsh Ministers (CIW) to require information from any person where there is reasonable cause to believe that they are providing a service which should be regulated?

N/A

Question 4.2: (a) *Identifying unregistered services - power to obtain information:* Do you agree with the proposal to extend the offence of failing to provide information when required to do so, to include these persons?

N/A

Question 4.3: (a) *Identifying unregistered services - power of entry:* Do you agree with the proposal to amend the 2016 Act to remove ambiguity and make it clear that the Welsh Ministers (CIW) have the power to enter and inspect any premises which they have reasonable cause to believe is (or has been) used as a place at or from which a service is (or has been) provided, or which is (or has been) used in connection with the provision of a regulated service?

N/A

Question 4.4: (a) *Identifying unregistered services - power of entry:* Do you agree with the proposal to extend the offence of obstructing an inspector or

failing to comply with a requirement imposed by an inspector, to include these circumstances?

N/A

Question 4.5: (b) *Publication of annual returns*: Do you agree with the proposal to amend the 2016 Act to require service providers to publish their annual returns?

N/A

Question 4.6: (b) *Publication of annual returns*: Do you agree with the proposal to create a related offence of failing to publish an annual return?

N/A

Question 4.7: (c) *Publication of inspection reports*: Do you agree with the proposal to amend the 2016 Act to provide additional flexibility for the Welsh Ministers (CIW) to recognise circumstances where it may not be appropriate, relevant, or proportionate to prepare and/or publish an inspection report?

N/A

Question 4.8: (d) *Improvement notices and cancellation of registration – variation of registration as a service provider*: Do you agree with the proposal to amend the 2016 Act to remove the requirement for the Welsh Ministers (CIW) to issue an improvement notice to a provider in circumstances where the provider is no longer providing that service or using that place to provide a service?

N/A

Question 4.9: (d) *Improvement notices and cancellation of registration - removal of a condition on a service provider's registration*: Do you agree with the proposal to amend the 2016 Act to enable the Welsh Ministers (CIW) to remove a condition on a service provider's registration without giving a notice of proposal (section 18) and notice of decision following notice of proposal (section 19), when the circumstances which led to the imposition of the condition no longer apply?

N/A

Question 4.10: (d) *Improvement notices and cancellation of registration – power to cancel a service provider's registration*: Do you agree with the proposal to amend the 2016 Act to remove the requirement for the Welsh Ministers (CIW) to follow the improvement notice process to cancel the registration of a service provider in circumstances when the provider has already ceased to provide a regulated service?

N/A

Question 4.11: (d) *Improvement notices and cancellation of registration – information from providers who are cancelling their registration:* Do you agree with the proposal to create a regulation-making power under Section 14 of the 2016 Act to enable the Welsh Ministers (CIW) to require information from a service provider who is cancelling their registration and exiting the market?

N/A

Question 4.12: (d) *Improvement notices and cancellation of registration – power to extend the timescale within an Improvement Notice:* Do you agree with the proposal to amend the 2016 Act to give the Welsh Ministers (CIW) the power to extend the timescale for information to be provided when improvement notices are issued?

N/A

Question 4.13: (d) *Improvement notices and cancellation of registration – power to cancel a service provider's registration in prescribed circumstances:* Do you agree with the proposal to amend the 2016 Act to enable the Welsh Ministers (CIW) to disapply the section 16(3)(b) requirement within the improvement notice – to take particular action or provide information – in prescribed circumstances, when it would be futile to apply the requirement?

N/A

Question 4.14: (e) *Responsible individuals – making representations:* Do you agree with the proposal to amend the 2016 Act to give Responsible Individuals the right to make representations to the Welsh Ministers (CIW), against any improvement notice or cancellation of their designation, provided the representations are made within the time limit specified within the notice?

N/A

Question 4.15: (e) *Responsible individuals – sending the improvement notice to the service provider:* Do you agree with the proposal to amend the 2016 Act to require that any improvement notice served to a Responsible Individual must also be sent to the service provider?

N/A

Question 4.16: (e) *Responsible individuals - Removing a Responsible Individual without making an application to designate a new Responsible Individual:* Do you agree with the proposal to amend the 2016 Act to allow a service provider to apply to the Welsh Ministers (CIW) for a variation of the conditions of their registration to remove a Responsible Individual when they

are not designating a replacement Responsible Individual as part of the same application?

N/A

Question 4.17: (f) Definition of ‘Care’ for children and young people: Do you agree with the proposal to adjust the definition of ‘care’ in section 3 of the 2016 Act in order to place beyond doubt that the provision of parental-type care is recognised as being ‘care’ within the meaning of the 2016 Act?

N/A

Question 4.18: What in your view would be the likely impacts of the proposals in this chapter? You may wish to consider, for example:

- Benefits, and disbenefits;
- Costs (direct and indirect), and savings;
- Impacts upon individuals and groups with protected characteristics;
- Other practical issues.

Your views on how positive effects could be increased, or negative effects could be mitigated, would also be welcome.

Please explain your reasoning, either here or, if easier, please feel free to note any impacts specific to an individual proposal under the appropriate question above.

It is important that any amendments that provide additional powers are clearly communicated to care providers, carers and service-users to ensure that they are aware of any changes to regulation as part of a rights-based approach that enhances the safeguarding system.

Question 4.19: We would like to know your views on the effects that the proposals in this chapter would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English. What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

Alzheimer’s Society Cymru would like any amendments around the registration and reporting clauses to take into account the need to meet service-user language needs, including for those living with dementia, their family, relatives and carers.

We would like the any accompanying guidance to commit to ensuring that dementia and language are taken into account to allow people to live in congruent linguistic communities in and prevent them from becoming lonely, socially isolated, or vulnerable to abuse or neglect due to a linguistic barrier.

Access to inspection reports or other information published in the public domain through the medium of Welsh needs to become an 'Active Offer' and considered throughout the planning and implementation of any changes to the existing regulatory and quality assurance system.

The use of language of choice to meet the needs of service-users and registered carers should also include any written correspondence to CIW.

Question 4.20: Please also explain how you believe the proposals in this chapter could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

N/A

Question 4.21: We have asked a number of specific questions in this chapter. If you have any related issues which we have not specifically addressed, please use this space to report them.

N/A

Questions on Chapter 5: Amendments to regulation of the social care workforce

There are 9 questions about this chapter.

Question 5.1: Do you agree with the proposal to amend the 2016 Act to provide that a person who has held office as a member of Social Care Wales may be reappointed once? Please explain your reasoning.

N/A

Question 5.2: Do you agree with the proposal to amend the 2016 Act to provide Social Care Wales with the power to grant a conditional registration for a person, when they are renewing their registration, in certain circumstances? Please explain your reasoning.

N/A

Question 5.3: Do you agree with the proposal to amend the 2016 Act to allow a panel to review and extend interim orders as appropriate, up to the maximum of 18 months? Please explain your reasoning.

N/A

Question 5.4: Do you agree with the proposal to amend the 2016 Act to provide a Fitness to Practise panel with the ability to revoke an interim order, during review proceedings, where it is necessary and appropriate? Please explain your reasoning.

N/A

Question 5.5: What, in your view, would make it necessary and appropriate for a Fitness to Practise panel to revoke an interim order?

N/A

Question 5.6: What in your view would be the likely impacts of the proposals in this chapter? You may wish to consider, for example:

- Benefits, and disbenefits;
- Costs (direct and indirect), and savings;
- Impacts upon individuals and groups with protected characteristics;
- Other practical issues.

Your views on how positive effects could be increased, or negative effects could be mitigated, would also be welcome.

Please explain your reasoning.

N/A

Question 5.7: We would like to know your views on the effects that the proposals in this chapter would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English. What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

As above, we would like the any reforms to registration to commit to ensuring that the language needs of service-users and carers are taken into account to allow people to live and work in congruent linguistic communities.

Access to services through the medium of Welsh, including any publication or augmented reporting rights, need to become an 'Active Offer' and considered throughout the registration process in addition to the planning and delivery of care.

Question 5.8: Please also explain how you believe the proposals in this chapter could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use

the Welsh language and on treating the Welsh language no less favourably than the English language.

Any additional guidance to the registration process following the suggested amendments to the 2016 Act should also be available in the Welsh language to meet the needs of carers and service-users whose first language is not English.

Question 5.9: We have asked a number of specific questions in this chapter. If you have any related issues which we have not specifically addressed, please use this space to report them.

N/A

Questions on Chapter 6: Extending the definition of social care worker to include childcare and play workers

There are 5 questions about this chapter.

Question 6.1: We would like to know your views on the proposal to extend the definition of ‘social care worker’ to include both childcare and play workers. In particular, are you in favour of extending the role of Social Care Wales to cover childcare and play workers working in the childcare sector?

Please explain your reasoning.

Question 6.2: What in your view would be the likely impacts of the proposal? You may wish to consider, for example:

- Benefits, and disbenefits;
- Costs (direct and indirect), and savings;
- Impacts upon individuals and groups with protected characteristics;
- Other practical issues.

Your views on how positive effects could be increased, or negative effects could be mitigated, would also be welcome.

Please explain your reasoning.

N/A

Question 6.3: We would like to know your views on the effects that the proposal would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English. What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

N/A

Question 6.4: Please also explain how you believe the proposal could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

N/A

Question 6.5: We have asked a number of specific questions in this chapter. If you have any related issues which we have not specifically addressed, please use this space to report them.

N/A

Proposed changes to legislation on social care and continuing health care

Q1. Question 1.1: Do you think that introducing provision in legislation that only allows 'not-for-profit' providers to register with CIW will support delivery of the Programme for Government commitment to eliminate profit from the care of children looked after?

Yes

Q2. Question 1.2: What in your view are the likely impacts of the proposal? You may wish to consider, for example: Benefits, and disbenefits Costs (direct and indirect), and savings Impacts upon individuals and groups with protected characteristics Other practical matters such as cross-border issues Your views on how positive effects could be increased, or negative effects could be mitigated, would also be welcome.

Please explain your reasoning.

The benefits are that all money made goes back to helping those who need it. A likely drawback is a lack of funding for services.

Q3. Question 1.3: One approach could be for the legislation to define 'not-for-profit' in terms of the types of organisation that would qualify.

Do you consider that the restriction should also be expressed in terms of the way that any trading surplus is expended?

What would be the effects and implications of this?

Yes. As above

Q4. Question 1.4: Do you think the primary legislation should include a power for Welsh Ministers to amend the definition of 'not-for-profit' through subordinate legislation?

Yes but this would also need to be open to consultation

Q5. Question 1.5: What are your views on the proposed timings for the primary legislation to come into effect?

Realistic

Q6. Question 1.6: Are there any issues in relation to transition for children looked after, local authorities and service providers you would like to draw our attention to?

A lack of funding and multi agency working

Q7. Question 1.7: What are your views on the issuing of guidance to support the implementation of the primary legislation?

Clear, accessible guidance is necessary

Q8. Question 1.8: What are your views on using legislation to place a restriction on local authorities to commission placements from 'not-for-profit' organisations only?

In particular: Do you think it would support us to deliver the commitment to eliminate profit from the care of children looked after in Wales? What would be the benefits, disbenefits and other implications of such an approach? What would be an appropriate timescale for implementing such an approach, if it were to be adopted in Wales?

Its a good idea but you need to make sure that there is enough funding in place to support these organisations

Q9. Question 1.9: What are your views on the possibility of approaches being taken in response to these legislative proposals which would undermine the intention to eliminate profit from the care of children looked after in Wales?

Are there any actions which would guard against such activity?

As above

Q10. Question 1.10: We would like to know your views on the effects that the legislative changes to eliminate profit from the care of children looked after will have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favorably than English.

What effects do you think there would be?

How could positive effects be increased, or negative effects be mitigated?

No comment

Q11. Question 1.11: Please also explain how you believe the legislative changes to support delivery of eliminating profit from the care of children looked after could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

No comment

Q12. Question 1.12: This chapter has focused on how we can achieve the commitment to eliminate profit in the care of children looked after, and we have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

No Response

Q13. Question 2.1: We have outlined our proposals to introduce further voice and control for adults receiving Continuing Health Care (CHC) in Wales.

Do you agree or disagree with these proposals?

Please explain your reasoning.

Agree. People should have a voice and control in their care as long as any support they need to access this is provided

Q14. Question 2.2: What in your view are the likely impacts of the proposal?

You may wish to consider, for example: Benefits, and disbenefits Costs (direct and indirect), and savings Impacts upon individuals and groups with protected characteristics Other practical matters such as cross-border issues or transition to the new arrangements Your views on how positive effects could be increased, or negative effects could be mitigated, would also be welcome.

Please explain your reasoning.

Capacity needs to be carefully taken into account.

Q15. Question 2.3: What lessons can we learn from other countries' practice in this area?

No Response

Q16. Question 2.4: Do you believe there are any other or complementary approaches we should be considering to achieve the same effect?

If so, please outline below.

No Response

Q17. Question 2.5: We will work to ensure that any legislative change is supported by robust guidance to help both payment recipients and practitioners understand how the system will operate.

Can you identify anything that it would be helpful to include in this guidance?

What other support should be provided?

Visual guides, e.g. flowcharts. The Wales Safeguarding app is a good example

Q18. Question 2.6: We would like to know your views on the effects that introducing direct payments for continuing NHS healthcare would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.

What effects do you think there would be?

How could positive effects be increased, or negative effects be mitigated?

No comment

Q19. Question 2.7: Please also explain how you believe our proposals for introducing direct payments for continuing NHS healthcare could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

No comment

Q20. Question 2.8: We have asked a number of specific questions in this chapter. If you have any related issues which we have not specifically addressed, please use this space to report them.

No Response

Q21. Question 3.1: What are your views on the principle of imposing a duty to report a child at risk (as defined in section 130(4) of the Social Services and Well-being (Wales) Act 2014 directly on individuals within relevant bodies?

Good idea but the need for robust training might be a barrier for some organisations - the costs should be covered by WG

Q22. Question 3.2: What are your views on the principle of imposing a duty to report an adult at risk (as defined in section 126 (1) of the 2014 Act) directly on individuals within relevant bodies?

As above

Q23. Question 3.3: What in your view would be the likely benefits, disbenefits, risks, costs, savings and equality impacts of such an approach?

Please explain your reasoning.

No Response

Q24. Question 3.4: What lessons can we learn from the duties to report in other countries?

No Response

Q25. Question 3.5: If individual reporting duties were to be introduced – for children and adults at risk – should these sit alongside, or replace, the existing duties on organisations under the 2014 Act?

Alongside

Q26. Question 3.6: If individual reporting duties were to be introduced, should they apply to the workforce of current 'relevant partners' under section 162 of the 2014 Act (including youth offending teams in relation to children), or more widely, for example to those working in religious or sports settings, etc., and in particular:

(a) What are your views on this in respect of children (under the age of 18)?

(b) What are your views on this in respect of adults?

More widely for children. Adult settings would depend on the context - maybe a risk assessment for the likelihood of vulnerability?

Q27. Question 3.7: If individual reporting duties were to be introduced, which occupation types or roles should be subject to any duty (e.g. members of regulated professions; employed staff, even if they are not regulated; volunteers), and in particular:

(a) What are your views on this in respect of children (under the age of 18)?

(b) What are your views on this in respect of adults?

members of regulated professions and employees for both - for children this should be extended to volunteers

Q28. Question 3.8: What sanctions do you think would be proportionate or appropriate for failure to comply with an individual reporting duty?

Mandatory refresher training for first 'offences'. Reporting to membership bodies where appropriate.

Q29. Question 3.9: We would like to know your views on the effects that introducing individual reporting duties would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.

What effects do you think there would be?

How could positive effects be increased, or negative effects be mitigated?

No comment

Q30. Question 3.10: Please also explain how you believe proposals for introducing individual reporting duties could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

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No Response

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Depends on the service being provided

Q35. Question 4.4: (a) Identifying unregistered services - power of entry: Do you agree with the proposal to extend the offence of obstructing an inspector or failing to comply with a requirement imposed by an inspector, to include these circumstances?

As above

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As above

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Please explain your reasoning, either here or, if easier, please feel free to note any impacts specific to an individual proposal under the appropriate question above.

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What effects do you think there would be?

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No Response

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No Response

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Please explain your reasoning.

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No Response

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Please explain your reasoning.

No Response

Q64. Question 6.2: What in your view would be the likely impacts of the proposal? You may wish to consider, for example: Benefits, and disbenefits Costs (direct and indirect), and savings Impacts upon individuals and groups with protected characteristics Other practical issues Your views on how positive effects could be increased, or negative effects could be mitigated, would also be welcome.

Please explain your reasoning.

No Response

Q65. Question 6.3: We would like to know your views on the effects that the proposal would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.

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No Response

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No Response

Q67. Question 6.5: We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:

No Response

Submit your response

Q68. You are about to submit your response. Please ensure you are satisfied with the answers you have provided before sending.

Name:

Organisation (if applicable): -

E:mail:

Telephone: -

Your address: -

Q69. If you want to receive a receipt of your response, please provide an email address.

Email address

No Response

Q70. Responses to consultations may be made public. To keep your response anonymous (including email addresses) tick the box.

Keep my response anonymous

Proposed changes to legislation on social care and continuing health care

Q1. Question 1.1: Do you think that introducing provision in legislation that only allows 'not-for-profit' providers to register with CIW will support delivery of the Programme for Government commitment to eliminate profit from the care of children looked after?

No Response

Q2. Question 1.2: What in your view are the likely impacts of the proposal? You may wish to consider, for example: Benefits, and disbenefits Costs (direct and indirect), and savings Impacts upon individuals and groups with protected characteristics Other practical matters such as cross-border issues Your views on how positive effects could be increased, or negative effects could be mitigated, would also be welcome.

Please explain your reasoning.

No Response

Q3. Question 1.3: One approach could be for the legislation to define 'not-for-profit' in terms of the types of organisation that would qualify.

Do you consider that the restriction should also be expressed in terms of the way that any trading surplus is expended?

What would be the effects and implications of this?

No Response

Q4. Question 1.4: Do you think the primary legislation should include a power for Welsh Ministers to amend the definition of 'not-for-profit' through subordinate legislation?

No Response

Q5. Question 1.5: What are your views on the proposed timings for the primary legislation to come into effect?

No Response

Q6. Question 1.6: Are there any issues in relation to transition for children looked after, local authorities and service providers you would like to draw our attention to?

No Response

Q7. Question 1.7: What are your views on the issuing of guidance to support the implementation of the primary legislation?

No Response

Q8. Question 1.8: What are your views on using legislation to place a restriction on local authorities to commission placements from 'not-for-profit' organisations only?

In particular: Do you think it would support us to deliver the commitment to eliminate profit from the care of children looked after in Wales? What would be the benefits, disbenefits and other implications of such an approach? What would be an appropriate timescale for implementing such an approach, if it were to be adopted in Wales?

No Response

Q9. Question 1.9: What are your views on the possibility of approaches being taken in response to these legislative proposals which would undermine the intention to eliminate profit from the care of children looked after in Wales?

Are there any actions which would guard against such activity?

No Response

Q10. Question 1.10: We would like to know your views on the effects that the legislative changes to eliminate profit from the care of children looked after will have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favorably than English.

What effects do you think there would be?

How could positive effects be increased, or negative effects be mitigated?

No Response

Q11. Question 1.11: Please also explain how you believe the legislative changes to support delivery of eliminating profit from the care of children looked after could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

No Response

Q12. Question 1.12: This chapter has focused on how we can achieve the commitment to eliminate profit in the care of children looked after, and we have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

No Response

Q13. Question 2.1: We have outlined our proposals to introduce further voice and control for adults receiving Continuing Health Care (CHC) in Wales.

Do you agree or disagree with these proposals?

Please explain your reasoning.

Hospice UK welcomes the ambition to increase the voice, choice and control of citizens receiving CHC and supporting them to lead the lives they wish. However, the proposals currently lack detail on how this will be delivered for people with life-limiting illnesses, the impact it will have on existing health and social care workforce pressures, and the role hospices and other third parties can play organising care.

This is particularly important for people with palliative care needs and their families who are often reliant on packages of care at end of life. This is especially relevant considering demand for palliative care in the community (including people's homes and care homes) is forecast to double by 2040, while hospital deaths are expected to decline by more than 50% in the same period.

Q14. Question 2.2: What in your view are the likely impacts of the proposal?

You may wish to consider, for example: Benefits, and disbenefits Costs (direct and indirect), and savings Impacts upon individuals and groups with protected characteristics Other practical matters such as cross-border issues or transition to the new arrangements Your views on how positive effects could be increased, or negative effects could be mitigated, would also be welcome.

Please explain your reasoning.

We consulted with member hospices in Wales and they generally agreed with the proposals' aims, however, they queried how these will be delivered and raised the following questions and concerns:

- The CHC proposals could work for long-term packages of care but may have problems with palliative and end of life care patients who have limited time and who are more susceptible to delays in care packages.
- Current delays in getting CHC packages to people with a palliative and end of life care need are already a serious challenge, largely due to chronic shortages of carers and health support workers. One hospice described waits of 6-8 weeks for packages of care for hospice patients, with some dying before they actually received them. These proposals need careful thought on how they will impact existing and future health and social care workforce pressures.
- Hospices had concerns about how relatives are going to have the capacity to organise care, particularly with the stresses, strains and time pressures facing people and families at end of life. They highlighted the key role third parties can play in helping organise care and believe the proposals need to fully consider the role of hospices as providers of CHC direct payments.
- Hospices highlighted how many families they work with aren't aware of the existing choices they have, never mind providing them with more options. How these proposals are communicated, promoted and delivered is of vital importance and we recommend involving people with lived experience in this process.

Q15. Question 2.3: What lessons can we learn from other countries' practice in this area?

We asked Hospice UK colleagues in England how the introduction of PHBs had impacted palliative and end of life care. Generally speaking the feeling was that PHBs never really took off for adults with a palliative and end of life care need. It was felt that they were more applicable to longer-term care for children and young people and generally worked better for people receiving PHB before they'd received a palliative diagnosis.

This raises an important challenge for the CHC proposals in Wales to consider: how can they be more accessible to people with limited time and significant care needs?

Colleagues in England also described people struggling to organise their own PHB care due to the stresses and strains of having a palliative and end of life care need. They said there was limited evidence of hospices acting as a brokerage helping to organise care and that the CHC proposals in Wales should consider this going forward.

Q16. Question 2.4: Do you believe there are any other or complementary approaches we should be considering to achieve the same effect?

If so, please outline below.

No Response

Q17. Question 2.5: We will work to ensure that any legislative change is supported by robust guidance to help both payment recipients and practitioners understand how the system will operate.

Can you identify anything that it would be helpful to include in this guidance?

What other support should be provided?

No Response

Q18. Question 2.6: We would like to know your views on the effects that introducing direct payments for continuing NHS healthcare would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.

What effects do you think there would be?

How could positive effects be increased, or negative effects be mitigated?

No Response

Q19. Question 2.7: Please also explain how you believe our proposals for introducing direct payments for continuing NHS healthcare could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

No Response

Q20. Question 2.8: We have asked a number of specific questions in this chapter. If you have any related issues which we have not specifically addressed, please use this space to report them.

No Response

Q21. Question 3.1: What are your views on the principle of imposing a duty to report a child at risk (as defined in section 130(4) of the Social Services and Well-being (Wales) Act 2014 directly on individuals within relevant bodies?

No Response

Q22. Question 3.2: What are your views on the principle of imposing a duty to report an adult at risk (as defined in section 126 (1) of the 2014 Act) directly on individuals within relevant bodies?

No Response

Q23. Question 3.3: What in your view would be the likely benefits, disbenefits, risks, costs, savings and equality impacts of such an approach?

Please explain your reasoning.

No Response

Q24. Question 3.4: What lessons can we learn from the duties to report in other countries?

No Response

Q25. Question 3.5: If individual reporting duties were to be introduced – for children and adults at risk – should these sit alongside, or replace, the existing duties on organisations under the 2014 Act?

No Response

Q26. Question 3.6: If individual reporting duties were to be introduced, should they apply to the workforce of current 'relevant partners' under section 162 of the 2014 Act (including youth offending teams in relation to children), or more widely, for example to those working in religious or sports settings, etc., and in particular:

(a) What are your views on this in respect of children (under the age of 18)?

(b) What are your views on this in respect of adults?

No Response

Q27. Question 3.7: If individual reporting duties were to be introduced, which occupation types or roles should be subject to any duty (e.g. members of regulated professions; employed staff, even if they are not regulated; volunteers), and in particular:

(a) What are your views on this in respect of children (under the age of 18)?

(b) What are your views on this in respect of adults?

No Response

Q28. Question 3.8: What sanctions do you think would be proportionate or appropriate for failure to comply with an individual reporting duty?

No Response

Q29. Question 3.9: We would like to know your views on the effects that introducing individual reporting duties would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.

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No Response

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Q65. Question 6.3: We would like to know your views on the effects that the proposal would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.

What effects do you think there would be?

How could positive effects be increased, or negative effects be mitigated?

No Response

Q66. Question 6.4: Please also explain how you believe the proposal could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language

No Response

Q67. Question 6.5: We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:

No Response

Submit your response

Q68. You are about to submit your response. Please ensure you are satisfied with the answers you have provided before sending.

Name: Matthew Brindley

Organisation (if applicable): Hospice UK

E:mail: [REDACTED]

Telephone: [REDACTED]

Your address: [REDACTED]

Q69. If you want to receive a receipt of your response, please provide an email address.

Email address

[REDACTED]

Q70. Responses to consultations may be made public. To keep your response anonymous (including email addresses) tick the box.

No Response