



Llywodraeth Cymru
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Removing profit from the care of children looked after: general briefing July 2024

An overview of the policy to remove profit from the care of children looked after, accompanied by frequently asked questions.

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General briefing

The Welsh Government's programme for government contains a commitment to remove profit from the care of children looked after. This is one of a number of commitments to deliver a new vision for Children's Social Care, focussed on values and needs. It is about fundamentally changing how we provide services to children and their families through community-based services that safeguard and promote the welfare of the young person.

We want to see fewer children and young people entering care. For those young people looked after by their local authority, we want a system-wide approach so they remain close to home, can continue to be part of their community and for any stay in care to be as short as possible; consistent with best meeting their needs and supporting better outcomes.

Removing profit from care is about transitioning to a not-for-profit model of care in Wales. Our aim is to ensure that public money invested in accommodation for care experienced children is not extracted out as profit, but instead any surpluses are reinvested back into children's services to support better outcomes, sustainable services, and the professional development of those caring for children.

The voice of the child and the best interests of children and young people are of utmost importance. Our commitment is in part a response to what some children and young people themselves have told us. They are opposed to being cared for by privately owned organisations that make a profit from their experience of being in care and where commercial interests may affect how they are looked after.

Delivering this commitment is not about like for like replacement of one provider by another. It is about rebalancing the shape, type and scale of provision; we will look at the balance between residential, foster care, kinship care and special

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guardianship orders. This will include models of care, wrap-around support and models of ownership, as part of our wider vision for children's services to make it needs-based, integrated, local and affordable.

We recognise this is a complex commitment to deliver big changes. We have established a robust programme of work with partners across the sector to deliver these in a way that minimises disruption, mitigates risks and safeguards the welfare and wellbeing of those in care.

We will do everything we can to avoid destabilising placements for children and will work closely with the sector to carefully transform how we best care for children in Wales.

The Health and Social Care Wales (Bill)

The Health and Social Care (Wales) Bill which was introduced into the Senedd on 20 May sets out the legislative changes that will be required to support delivery of our commitment to remove profit.

The bill will restrict the making of profit in the provision of care home services provided wholly or mainly to children, secure accommodation services (this is a change made since consultation for future-proofing purposes) and fostering services. These services are referred to as 'restricted children's services'.

The bill will also impose a requirement on a registered provider of these restricted services (other than a local authority) to be a "not-for-profit entity". A not-for-profit entity will be:

- (a) a charitable company limited by guarantee without a share capital
- (b) a charitable incorporated organisation
- (c) a charitable community benefit society

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(d) a community interest company limited by guarantee without a share capital

A not-for-profit entity will also be required to have objects or purposes that primarily relate to the welfare of children. Regulations will also enable Welsh Ministers to determine other 'public good(s)' which a not-for-profit entity's objects or purposes must primarily relate.

In order to ensure the policy is not undermined by practices which go against its spirit and intention the bill will also provide that unreasonable or disproportionate payments or financial arrangements made by a not-for-profit entity for the benefit of a person who is connected to the entity can be taken into account by Welsh Ministers when deciding if a provider is a fit and proper person to be registered.

In order to mitigate disruption to the lives of children in existing residential and foster care placements, transitional arrangements will allow a registered for-profit provider of a restricted children's service) to continue operating after the provisions have come into force, subject to conditions imposed by regulations. Welsh Ministers will have a power, exercised through regulations, to bring the registration of for-profit providers to an end at an appropriate time.

The bill will require a local authority to secure sufficient accommodation provided by not-for-profit entities, either within, or near, to its area. A local authority will also be required to prepare an annual sufficiency plan setting out (among other matters) how it will take steps towards reducing and finally removing, where possible, dependence on for-profit providers. This plan will be subject to approval by the Welsh Ministers and must be published.

The bill will also require a local authority to place a child in accommodation provided by a not-for-profit entity unless it considers that is inconsistent with a child's well-being. Where that is the case, it will be able to place the child in a "supplementary" (for-profit) placement. However, this will require the approval of Welsh Ministers.

There will be similar approval requirements applying to placements with providers in England (other than placements with accommodation provided by a local authority, for which permission need not be requested).

Frequently asked questions

Q: What are the timescales for implementing the proposed changes?

The intention is for the relevant provisions of the bill to be brought into effect so that new providers registering with Care Inspectorate Wales will have to have not-for-profit status from 1 April 2026.

Existing for profit providers will be subject to restrictions from 1 April 2027, to be set out in regulations. These will allow a registered for-profit provider of a restricted children's service to continue operating, subject to requirements and conditions. This may include imposing conditions to restrict providers who are subject to the transitional provisions to only providing places for children whose placement has been approved by Welsh Ministers under section 81B of the Social Services and Well-being (Wales) Act 2014, or to limit the circumstances in which such providers may accept placements from local authorities in England (for example to circumstances where the placement is necessary to allow siblings to be accommodated together).

The end of the period during which existing for-profit providers will be able to operate will also be set out in subsequent regulations. This will be determined by a range of factors including the speed of replacement of for-profit by not-for-profit provision and the time at which placement disruption for children and service providers can best be avoided or minimised.

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Q: Is there a definition of not-for-profit?

By 'not for profit' we mean a form of ownership and management whereby any surpluses made, after operational and other agreed outgoings, will be reinvested into the service or held as reserves for charitable purposes.

A not-for-profit entity will be:

- (a) a charitable company limited by guarantee without a share capital
- (b) a charitable incorporate organisation
- (c) a charitable registered society
- (d) a community interest company limited by guarantee without a share capital

Q: Was there consultation on the proposed legislation?

In August 2022, the Welsh Government launched a consultation on proposals for primary legislation to underpin the commitment to remove profit from the care of children looked after. [A summary of the responses to the consultation can be found here.](#)

Q: Who have you engaged with in developing the provisions within the Health and Social Care (Wales) Bill?

Given the scale of work required to deliver the commitment, a programme board is in place chaired by the Chief Social Care Officer for Wales. Representatives from private sector children's care homes and fostering organisations alongside representation from the public and third sector providers have been brought together to work with the government, service commissioners, Care Inspectorate Wales, the Children's Commissioner for Wales, trade unions and Voices from Care.

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The purpose of the board is to help shape and monitor delivery and implementation and to assess and mitigate risks to inform our approach and to secure market stability. The programme board will continue to meet on a regular basis.

We have also established 4 new stakeholder workstreams under the programme board to drive progress. These cover:

- expanding and developing new local authority / regional provision (including consideration of how to address issues related to operating without registration and immediate pressures)
- expanding and developing new not-for-profit provision
- transitioning independent / private sector
- planning transition for individual children and young people

Q: How much will this cost?

We are investing an additional £68m into the sector during 2022 to 2025 to help local authorities build in-house and not-for-profit residential and foster care provision, help move children out of residential care where that is appropriate, and to provide locally based and designed services, including specialist provision for children with more complex needs.

Whilst the Welsh Government faces a challenging and unclear financial position for 2025 to 2026 and beyond it is anticipated that ministers will want to make some financial provision for ongoing support of this agenda.

A Regulatory Impact Assessment (RIA) has been developed for the bill and this identifies the financial implications over a 10-year appraisal period, from the year 2025 to 2026 to the year 2034 to 2035. The RIA assesses the costs and benefits of two main options: business as usual and introducing the provisions of the bill.

Initial cost estimates for the transition will generally fall over a three-year period (from the year 2025 to 2026 to the year 2027 to 2028). The extent of these will vary according to the number of providers that will opt to continue providing services. We estimate transition costs to local authorities at between £185.7 million and £245.5 million in that period. Of this, the majority would be capital costs of about £107.1 million to £142.8 million.

These are considerable investments but they will prove beneficial in the long-term. We anticipate those savings will amount to between £184m and £253.9m between 2025 to 2026 and 2034 to 2035.

However, it is important to note that whilst it has been necessary for the purpose of making the cost calculations to assume a like-for-like replacement of placements, we would not expect this to be the case as the removing profit policy sits in a wider context of moving the sector away from reliance on residential placements and towards other forms of meeting children's needs.

This means that the future requirements for residential care placements for children may well be smaller than projected and consequently that the costs of establishing provision will be less than set out above.

Q. Are there any plans to extend the proposals to other social care services?

We will need to take stock of the experiences and impact of our reforms before determining whether they should be extended to other children's social care services.

There are no plans to make amendments to care and support arrangements for adults. There are fundamental, material, structural and other differences between children's and adult social care which mean it is necessary to treat the two parts of the sector differently.

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