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Evidence from: Nationwide Association of Fostering Providers

Senedd Cymru | Welsh Parliament

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

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

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

General principles of the Bill

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

(This consultation response refers only to the remove profit programme)

Welsh Government was elected with a stated objective to remove profit from children's services and so has a democratic mandate to follow this through. The principle is often stated as being based on the views of children. We believe that the evidence published to support this claim is very weak. Whilst it may be true that some young people when asked specifically express objections, for most young people it is not one of the key issues that they raise about their care. As a principle, 'remove profit' fails to recognise the significant contribution made to the lives of children in foster care by independent fostering agencies (IFA) of all shapes and sizes. The principle will also not address the key barriers to improving foster care for children, including insufficient numbers of the kinds of foster carers needed by children.

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

Yes

No

Don't know

Don't have a view

Please outline your reasons for your answer to question 1

Legislation is not required as removing profit in foster care will not improve services for children. The focus should instead be on better commissioning by local authorities, closer regional working and a new spirit of collaboration between local authorities and IFAs.

3. What are your views on Part 1, Chapter 1 of the Bill (sections 1-13), which makes provision intended to restrict the extraction of profit by providers of children's care home services, secure accommodation services and fostering services

The wider context of the role that IFAs play for children in care is key here. The impact of profit (or removing profit) is not a single issue and cannot be considered in isolation. It is an issue that sits in a complex and interconnected system, not just in Wales, but across England and Wales, and the wider UK.

IFAs have consistently shown over time that they offer excellent quality care for children. Children overwhelmingly report how happy they are with IFA foster care. Inspection reports also support this view. IFAs have developed to offer services that local authorities have been unable to provide. NAFAP's recent report, [Outcomes from Fostering](#), shows that the children living with IFA foster carers have higher needs than those living with local authority foster carers. Yet, despite this, those children make at least as good progress - a remarkable achievement. This is in no small part due to the consistent and professional support offered to IFA foster carers. The service offered by IFAs cannot be easily replaced or replicated by local authorities. Children in foster care would have fared much worse had it not been for IFAs.

Most IFAs are small private sector companies, though there are also not for profit agencies and larger companies, started by foster carers or social workers to provide services that local authorities were unable to provide, often taking on loans to start and develop their agencies. Profit (or surplus) is a part of reinvesting in service development and in managing financial investment at a time when the public sector has been unable to invest. And many make very small levels of profit. IFAs have taken on the risk of this investment when the public sector is not placed to. They have also invested widely in their local communities - employment, offices, supporting local charities.

There is a widespread mis-understanding of the costs of foster care. Local authorities typically fail to fully cost their own services. Providing high quality services for children with the highest needs costs more. Local authorities have funded the Children's Commissioning Consortium Cymru (4Cs) for a number of years to ensure value for money from IFAs. Their continued funding of 4Cs might imply that 4Cs have achieved this. Profit in IFAs does not lead to higher fees to local authorities. The fees charged by IFAs are not linked to that IFA being for-profit or not-for-profit. This might be counter-intuitive for some, but it is largely the case.

By giving prospective foster carers a choice between working for a local authority or an IFA, it is more possible to maximise the numbers of people who take on the challenge of

caring for children. Recruiting foster carers is very challenging. However, experience tells us that IFAs retain and recruit foster carers, in general, better than local authorities. This is not about spending. This is because of the high quality support they offer and how they work closely with local authorities to ensure that children and foster carers are right for each other (the 'match').

Taking steps to remove profit risks losing these huge gains - for children and for effective public spending.

4. What are your views on Part 1, Chapter 2 of the Bill (sections 14-22 and schedule 1), which makes a number of amendments in relation to social care services, social care workers and local authority social services, intended to ensure that the 2014 and 2016 Acts can operate fully and effectively

5. What are your views on Part 2 of the Bill (sections 23-26 and schedule 2), which relates to health care, and makes amendments to the National Health Service (Wales) Act 2006 in order to enable the introduction of direct payments within NHS Continuing Healthcare

6. What are your views on Part 3 of the Bill (sections 27-30) which contains a number of general provisions, including in relation to regulations, interpretation, consequential and transitional provisions, and coming into force provisions

Implementation and impact of the Bill

7. Are there any potential barriers to the implementation of the Bill's provisions? If so, what are they, and are they adequately taken into account in the Bill and the accompanying Explanatory Memorandum and Regulatory Impact Assessment?

NAFP's IFA members care for 96% of children living with IFAs across the UK. IFAs are committed to continued delivery of their fostering services in Wales if possible and, of course, being legally compliant in the process. This is good news for children and for public spending. But the bill makes it more difficult for them to do this than it probably needs to.

The prescribed models of organisational governance identified in the bill are not sufficient for an easy transition to not-for-profit for current private IFAs. It is unclear as to why only these structures have been chosen. Additional simpler and less costly structures, such as a not-for-profit company limited by guarantee (as with NAFP), would better support an efficient transition. There are also for-profit structures, such as employee owned trusts, widely accepted as 'ethical', that have not been included where the blunt definition of 'profit' is the only criteria. It is also unclear why it was even necessary to list acceptable models. An alternative or addition would be to invite approval from IFAs of the best model for them to support the way in which they see as best to their unique service.

It is possible that either an existing or new not-for-profit IFA might look to buy a current private IFA from its owners. In this case, it would be challenging to secure such loans - they would need to look to commercial lenders. The not-for profit iFA would have to pay debt/loan interest on these funds.

As the IFAs recoup their costs from the fees charged to local authorities, the costs of transition to new structures and additional interest payments would be reflected in these fees.

8. Are any unintended consequences likely to arise from the Bill?

There is likely to be a loss of foster carers during transition. We have seen this when an IFA changes its ownership. Some foster carers see this as the appropriate time to retire or to change to a different role in their lives. They may well continue to care for children currently living with them, but choose not to take on any further children in the event of children moving on.

In a sad example for children in Wales, the Foster Care Cooperative, one of the larger not-for-profit IFAs, decided to stop offering services in Wales during the implementation of Government's remove profit programme. This decision may have been influenced by the toxic environment stirred up by the programme. It has made it more difficult for local authorities and their IFA partners to work together. Foster carers from The Foster Care Charity were invited to transfer to Barnardo's fostering service (foster carers are self-employed). It is inevitable that there would be losses of foster carers during this change.

Funds for marketing recruitment alone are not the answer to this loss. The investment in Foster Wales to recruit local authority foster carers is unlikely to offset this loss. Fewer foster carers means less choice for children in an already challenging environment. This is potentially disastrous.

In passing responsibility for sufficiency to local authorities, the bill fails to acknowledge the huge pressures on local authorities to achieve this. Any investment in early support for families is likely to take many years before this results in fewer children in care. In some ways, it is setting up local authorities to fail.

9. What are your views on the appropriateness of the powers in the Bill for Welsh Ministers to make subordinate legislation (as set out in Chapter 5 of Part 1 of the Explanatory Memorandum?)

10. What are your views on the Welsh Government's assessment of the financial and other impacts of the Bill as set out in Part 2 of the Explanatory Memorandum?

In their study of independent children's services, the Competition & Markets Authority (CMA) did not recommend removing, capping or limiting profit. They did not find evidence that limiting for-profit provision would result in better outcomes for children and local authorities in the long term (page 83, paragraph 4.98). IFAs offer very good services, whatever their organisational model.

11. What are your views on the Welsh Government's integrated impact assessments (set out in Part 2 of the Explanatory Memorandum), including the Children's Rights Impact Assessment

Development of the policy and legislative proposals

12. What are your views on the approach taken by the Welsh Government to the development of the policy and legislative proposals reflected in the Bill.

Among any other issues, please consider in particular the approach to engaging and consulting with stakeholders

Any other issues

13. Are there any other issues that you would like to raise about the Bill, the accompanying Explanatory Memorandum and Regulatory Impact Assessment, or any related matters?
