

CHILDREN’S RIGHTS IMPACT ASSESSMENT

Title of proposal:	Eliminating private profit from the care of looked after children
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1. Describe and explain the impact of the proposal on children and young people.

The recommendations arising from the Eliminating Profit Programme are intended to have a positive impact on the lives of looked after children and are key to the wider transformation of services that will benefit children and young people more broadly. The commitment is in part due to the views of children and young people and what they have told Ministers, the Children’s Commissioner for Wales and Voices from Care.

Looked after children have often been affected by adverse childhood experiences (ACE’s) or early trauma and may have significant health needs. Every child entering the care system has a health assessment as part of their Part 6 (Social Services Well-being Wales Act 2014) care and support plan which sets out the child’s health and well-being needs and outcomes and how these will be met. Part 4 of the 2014 Act places a duty on the local authority to meet these care and support needs.

The implementation of the Programme will take account of the views, wishes and feelings of children and young people; promote and respect their dignity; respect their characteristics, culture and beliefs and provide the appropriate support to help them participate in the decisions that affect them.

2. Explain how the proposal is likely to impact on children’s rights.

The ‘eliminating private profit from the care of looked after children’ commitment seeks to promote the rights and principles set out in the United Nations Convention on the Rights of the Child (UNCRC). We have identified the following Articles as most relevant to the proposal:

- **Article 3** - All organisations concerned with children should work towards what is best for each child.
- **Article 6** - Governments must do all they can to ensure that children survive and develop to their full potential.
- **Article 12** - Children have the right to say what they think should happen, when adults are making decisions that affect them, and to have their opinions taken into account.
- **Article 19** - Governments should ensure that children are properly cared for, and protect them from violence, abuse and neglect by their parents or anyone else who looks after them.
- **Article 20** - Children who cannot be looked after by their own family must be looked after properly, by people who respect their religion, culture and language.
- **Article 23** - Governments must do all they can to support disabled children and their families.

- **Article 24** - Every child has the right to the best possible health. Governments must provide good quality health care, clean water, nutritious food, and a clean environment and education on health and well-being so that children can stay healthy.
- **Article 28** - Every child has the right to an education. Primary education must be free and different forms of secondary education must be available to every child.
- **Article 39** - Children who have experienced neglect, abuse, exploitation, torture or who are victims of war must receive special support to help them recover their health, dignity, self-respect and social life.

The aim of the commitment to eliminate private profit is a vitally important one: to achieve a more sustainable children's social care sector and to ensure improved services and life outcomes for looked after children by local authorities in Wales.

The current market is dysfunctional and, in the view of the Welsh Government, unsustainable in its current form. This dysfunction in the market has deleterious impacts on service provision in Wales and thereby, the well-being and life outcomes of looked after children by local authorities in Wales.

The commitment to eliminate private profit is one important part of an overall package of measures the Welsh Government is taking forward to deliver a new vision for Children's Social Care, focussed on values and needs. It is about fundamentally changing how it provides services to children and their families through community-based services that safeguard and promote the welfare of the young person.

The Welsh Government wants to see fewer children and young people entering care and improvement in the services provided to those that do enter care. We want a system-wide approach so looked after children 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.

The Welsh Government has concluded that although the potential for profit has an effect of drawing private capital and private enterprise into the area, the ability of for-profit providers to extract profit from the system puts the sustainability of the children's social care sector at risk and has an adverse effect on outcomes for children.

The Welsh Government does not therefore believe there should be a market for care for children, or that profits should be made from caring for children facing particular challenges in their lives.

The aim is to ensure that public money invested in the care of looked after children does not profit individuals or corporate entities, but instead is spent on children's services, to deliver better experiences and outcomes for care experienced young people; support service development and improvement; and further build professional development for those providing care.

Feedback from some children and young people suggests they have strong feelings about being cared for by for-profit organisations that make a profit from their experience of being in care. The Children's Commissioner for Wales and Voices from Care have also

campaigned on the issue. It was a recommendation of the former Commissioner in her annual reports and Voices from Care included the issue as a commitment in its own Senedd election manifesto.

Whilst there are risks associated with the implementation of the new arrangements which could negatively impact on children and young people, primarily associated with sufficiency of provision and placement disruption, the Welsh Government has taken steps to mitigate against these risks.

The Bill's provisions provide for a transition period to avoid disruption for children already placed with providers who will become ineligible to provide the service(s) and to allow local authorities to use available capacity in that sector during the period while local authorities are building up sufficient numbers of placements themselves and with not-for-profit providers.

The development of sufficient provision in anticipation of forecasted need will be the responsibility of Local Authorities. The Welsh Government will be offering support to them to help them accomplish this task as well as the broader mechanisms for reporting, oversight and governance so these are embedded within the other local and regional planning responsibilities. Ministers will only allow the period of transition to expire when Ministers are assured that there is sufficient provision of these not-for-profit services on a national basis.

During this transition period local authorities in Wales can apply to the Welsh Ministers for approval to place a child with a for-profit provider that does not meet the new requirements, subject to certain conditions and safeguards. This ensures that the rights of children are protected and that the impact on placement-choice is limited while the sector transitions to the new model of care. It also provides time for for-profit providers to convert to an eligible not-for-profit business model or make other business adjustments.

We will continue to engage with looked after children's representative groups and bodies from across the children's sector to inform the approach we will take to implementing the Programme.

To support the implementation, officials are developing an approach to communications about the Programme with partners from the Eliminating Profit Programme Board, including organisations representing children and young people. This will set out the key messages, tone and approach needed to ensure the intent and expectations of the Programme are conveyed to children and young people so that they will feel as involved and engaged as possible.