Wales Centre for Public Policy
Canolfan Polisi Cyhoeddus Cymru

Expert opinion on eliminating profit from the care of children looked after

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Summary

The Welsh Government commissioned WCPP to gather experts' opinions on its proposal to legislate to eliminate private profit from the care of children looked after; specifically in relation to the following questions:

- How does the profit motive influence the quality and nature of care provision and the experience and outcomes of children and young people being looked after?
- To what extent and how would the proposal contribute to the sustainability and stability of provision and the maintenance or improvement of outcomes?
- To what extent may the proposal be considered a proportionate measure?
- Is the proposal necessary to achieve the sustainability and stability of services for children looked after and the maintenance or improvement of their outcomes?

Between 5th and 19th January 2024, the Centre conducted 16 interviews with a range of experts to gather their views.

There was agreement among those interviewed that the current system is dysfunctional. There are major and longstanding issues around sufficiency and quality of provision, with consequent impacts on outcomes for children and young people.

There were divergent views on the role that profit plays in creating this dysfunction. Some saw it as a symptom of the current system, others as a cause.

Interviewees had differing interpretations of the policy intent: whether it was intended to target excessive profit making, or all profit making. There was a divergence in views as to whether it was necessary to remove all profit to ensure stability and sustainability in provision.

Only some saw the proposal as necessary. There was consensus that the elimination of profit will not adequately address the issues around sufficiency and quality by itself. Most emphasised that it has to be nested in a wider transformation agenda.

Most suggested that to address the concerns about stability and sustainability, the proposal needs to be accompanied by investment in the sector.

All interviewees raised concerns about the process of implementation, and the risk that it disrupts an already fragile landscape of provision. This could be characterised as a significant short and medium term risk to stability, with potentially harmful consequences for children and young people in care.

Introduction

The Co-operation Agreement between the Welsh Government and Plaid Cymru outlines a commitment to "put in place a framework to remove profit from the care of looked after children" (Welsh Government, 2021). This policy commitment is underpinned by a desire to ensure that public money which is invested into the care of looked after children is reinvested into improving the system itself, rather than being extracted as profit (Welsh Government, 2022).

The Welsh Government commissioned WCPP to gather expert opinion on the proposal to legislate to achieve its commitment to eliminate private profit from the care of looked after children, specifically in relation to the following questions:

- How the profit motive and associated business models may or may not influence the quality and nature of care provision and the experience and outcomes of children and young people being looked after?
- To what extent and how would the elimination of private profit (banning for-profit provision and preventing LAs from commissioning it) contribute in the short, medium and longer terms to the sustainability and stability of services for children looked after and the maintenance or improvement of their outcomes?
- To what extent implementing the commitment in relation to all independent fostering and residential provision may be considered a proportionate measure (i.e. balancing the impact upon providers with the anticipated wider system impacts)?
- Whether this approach is necessary to achieve the objectives of sustainability and stability of services for children looked after and the maintenance or improvement of their outcomes, or if there are other less intrusive/more selective means of achieving these objectives?

Between 5th and 19th January 2024, the Centre conducted 16 interviews, with a range of experts. These were identified in conversation with officials in the Welsh Government, and included representatives from academia, the third sector, and individuals and organisations that have an understanding of the landscape of provision of children's social care. The views of those directly involved in the commissioning, purchasing and provision of children's social care placements in Wales were not included, as the Welsh Government were of the view that these perspectives were well understood and already involved in and informing policy development. The pre-interview brief sent to participants can be found in the Annex.

Policy Context

A looked after child is defined as a person below the age of 18 who is under the care of a local authority continuously for a period of more than 24 hours (Welsh Government, 2024). In Wales, on 31 March 2023, there were 7,208 looked-after children of which 69% were in foster care, 10% were living in residential settings and 21% were in other settings, including those living independently, with a person who has parental responsibility or those placed for adoption (Welsh Government, 2024). Over 80% of care homes for children and young people in Wales are currently run by the private sector, with around half of fostering agencies also provided by the private, independent or voluntary sectors (Welsh Government, 2022).

In response to concerns over how the market for children's social care was functioning, the Competition and Markets Authority (CMA) launched a study into the market for children's social care in England, Wales and Scotland. This found that in all three nations the market was not functioning well and would not improve without policy intervention (Competition and Markets Authority, 2022b).

In Wales, the proposal to eliminate profit from the care of looked after children forms only one part of the Welsh Government's proposed transformation of children's services (Welsh Government, 2023a). The problems in the system are discussed first, before discussing this wider transformative programme, and the proposal to eliminate profit as part of this.

What are the problems with the current market?

The responsibility for children's social care services is devolved, with Welsh local authorities (LAs) holding statutory obligations in regard to the safeguarding and welfare of children, and the provision of accommodation and care. Accommodation and care is provided by LAs, but is also outsourced to independent providers (for example private and voluntary providers). In Wales in 2022, private providers of children's homes were responsible for 77% of places whereas LAs were responsible for 74% of fostering placements (Competition and Markets Authority, 2022a).

In 2022, the annual cost of children's social care services in Wales was around £350 million (Competition and Markets Authority, 2022a). In recent years, not only has the number of children looked after increased steadily, there has also been a shift in the requirement of children's services in Wales. This is attributed to the rise in the number of older children, unaccompanied asylum-seeking children, and children with complex needs entering care. Consequently, this has created a greater demand for more residential placements and specialist care.

These problems are not unique to Wales: the Competition and Markets Authority highlighted three major problems across England, Scotland and Wales:

- Children are not being placed in care and accommodation that meets their needs, largely due to a lack of appropriate and local places;
- Large private providers are making higher profits, and charging higher prices than would be expected in a well-functioning market; and,
- Some large providers have high levels of debt, which could disrupt placements of children in care if they were to go out of business.

(Competition and Markets Authority, 2022b)

As well as financial concerns about the functioning of the current market, there are also ethical concerns about the existence of a market for children's social care. These are discussed in turn.

Financial concerns

The market for children's social care is a monopsony, where the state is the only buyer for children's social care placements. In a well-functioning market, it would be expected that as competition increases through new providers entering the market, the increased choice of placements would drive down prices and reduce profit (Competition and Markets Authority, 2022b).

However, the current market allows for-profit providers to dictate pricing. Between 2010 and 2018 there was a 30% real terms increase in the money spent on provision in Wales by local authorities, in a context of decreasing real terms council budgets and increased pressure on public finances (WLGA and ADSS Cymru, 2018). As well as prices, profits are also consistently increasing (Competition and Markets Authority, 2022b). This problem is common across the UK, especially in residential care, where operating profits for the largest providers averaged 22.6% between 2016 and 2020: these profits also increased at a rate which significantly outpaced inflation (Competition and Markets Authority, 2022b). Whilst it was acknowledged that this data set only provided a small sample, profit of care home providers in Wales was higher on average across the three nations.

Profit in fostering services has declined in real terms, but the profit margins of the largest Independent Fostering Agencies (IFAs) average 19.4% (Competition and Markets Authority, 2022a).

High costs, combined with increasing numbers of looked after children, places a significant strain on the budget of LAs and available funding for other aspects of children's services (Competition and Markets Authority, 2022a). There are questions about whether delivering services in-house would reduce this strain, however. While the CMA concludes that there is some evidence suggesting that LAs could provide fostering placements more cheaply than by purchasing them from IFAs, they state that the costs to LAs of providing their own children's home placements is no less than procuring them from private providers (2022a).

Some current large private providers also carry high levels of debt as an inherent feature of their business model. Increases in interest rates and the subsequent cost to private providers of financing their debt, combined with the reliance of LAs on these providers leaves LAs susceptible to significant price rises (Competition and Markets Authority, 2022b). Moreover, such high levels of debt increase the likelihood of insolvency and the abrupt closure of facilities, with significant potential disruption and harm caused to the children placed there (Competition and Markets Authority, 2022a).

Quality of provision

The CMA also states it has not observed any substantial difference in the quality of provision between LAs and private providers (2022a). The topic of for-profit children's social care provision is under-researched, but there is a growing body of high-quality UK-based evidence which suggests an association between for-profit care and a range of negative outcomes, including: placements outside children's local area, poor placement quality, and poor placement stability and continuity (Ablitt, Jiminez and Holland, 2024). For example, research in England using Ofsted inspection data suggests that local authority providers are much more likely than for-profit providers to receive better ratings (Bach-Mortensen et al., 2022; see also Goldacre et al., 2022 and Bach-Mortensen et al., 2023).

Even when looked after children are placed within their local area, accessing the necessary care, facilities and therapies is often difficult, especially for those with complex needs or for older children. There has also been an increase in the use of unregulated placements as a last resort, where accommodation is provided, but not care (Competition and Markets Authority, 2022b).

Ethical concerns

The making of profit in a system designed to support and protect some of the most vulnerable children within society raises ethical questions. These concerns come not only from relevant stakeholders, but also from the children within the system who report negative feelings from the knowledge that profit can and is being made from their care (Cope, 2023).

How are governments looking to tackle these problems?

The problems in the market for children's social care are similar across Wales, England, and Scotland. All three governments have stated a commitment to tackle the current problems with the provision of care for looked after children.

The Welsh Government has stated its commitment to radically reform the whole children's social care system, with the goal of fewer children entering care and for the care which is provided to better meet the needs of children and young people (Welsh Government, 2023a). A key aim is for looked after children to remain close to home and part of their community. In September 2023, the Welsh Government also signed the Corporate Parenting Charter, promising to promote and safeguard the rights of looked after children and young people (Welsh Government, 2023b).

In the Welsh Government's Programme for Government, there are eight policy commitments aimed at transforming children's services in Wales (Welsh Government, 2023a). This includes the commitment to eliminate private profit from the care of looked after children. The roadmap for the transformation programme runs from July 2022 to the end of the current Senedd term in April 2026: the policy intention is that from April 2026, all new providers of children's residential and foster care will be required to be not-for-profit (Welsh Government, 2023a).

International context

The Regulation of Care (Scotland) Act 2001 states that fostering services registered in Scotland must be voluntary organisations, meaning that for-profit fostering agencies are unable to legally operate. In the initial consultation for the National Care Service for Scotland, the Scottish Government proposed that children's services would form part of the proposed service but has since stated further evidence will be required to determine this (Scottish Government, 2021; 2022).

In England, the Department for Education is working to identify pilot locations for Regional Care Cooperatives, to offer joint opportunities for local authorities to plan, commission and deliver care places, strengthening their position in the market; however, it has so far proved challenging for the government to identify regions to deliver this pilot scheme (ADCS, 2023).

Other countries also have varying levels of for-profit, public sector, and not-for-profit care provision of children's social care. For-profit organisations also comprise around 80% of the market for residential care in Sweden and Finland, whereas this is lower in Norway (45%) and Denmark (22%) where there is a larger role for the private sector and not-for-profit organisations (Shanks et al., 2021). Norway has also used secondary legislation to allow not-for-profit providers to receive priority in the procurement of placements. The central government negotiates with not-for-profit providers on behalf of municipalities, offering block contracts with a guaranteed number of beds in residential care (Shanks et al., 2021).

Research commissioned by the Scottish Government examining transformational reform of children's services finds that there is a shortage of research on the outcomes of reforms: there is a lack of comprehensive evaluations on the efficacy of reforms and their impact on the quality of services (McTier, Mackinnon and Ottaway, 2023).

The proposal to eliminate profit in Wales

The aim of the Welsh Government's proposal is to ensure that public money invested in the care of children does not profit individuals or corporate entities, but instead is entirely used "to deliver better experiences and outcomes for children and young people, supporting service development and improvement and further professional development for staff" (Welsh Government, 2022: 3). The policy proposal also references some of the ethical concerns with for-profit provision, notably, feedback from children and young people about being cared for by such organisations and that "the Welsh Government does not believe there should be a market for care for children, or that profits should be made" (Welsh Government, 2022: 3).

The Welsh Government is proposing primary legislation which will only allow not-for-profit providers to register care home and fostering services with Care Inspectorate Wales, meaning for-profit providers will not be permitted to operate within Wales (Welsh Government, 2022). This approach is similar to how the provision of for-profit foster care provision is not permitted in Scotland (in the Regulation of Care (Scotland) Act 2001

The proposed implementation timeline is new providers registering with CIW will have to have not-for-profit status from 1 April 2026. Existing "for profit" providers will be subject to transitional provisions from 1 April 2027. The transitional provisions will limit their ability to open new homes, approve new carers or take on new placements other than where the placing local authority has sought and obtained approval from Welsh Ministers. Where the placing authority is an English placing authority providers will only be able to accept placements in prescribed circumstances.

Under the proposed legislation providers will still be permitted to generate an operating surplus (the money they make over and above their costs) provided this is reinvested into the system rather than extracted as profit.

The Welsh Government intends to use existing statutory guidance on the commissioning of care to support its proposal. The National Framework for the

Commissioning of Care and Support in Wales is set out in a statutory Code of Practice for local authorities under the Social Services and Well-Being Act 2014 and will be revised to support the transition to not-for-profit provision of care (Welsh Government, 2023c).

Expert opinion on proposal

Between 5th and 19th January 2024, the Centre conducted 16 interviews, with a range of experts. These were identified in conversation with officials in the Welsh Government, and included representatives from academia, third sector, and individuals and organisations that have an understanding of the landscape of provision of children's social care.

Interviewees were given the choice about whether to be anonymised or not. Participants who chose to not be anonymised are listed in the table below; other participants were academics and practitioners with experience in the provision and commissioning of care for looked after children from across the UK.

Interviewee	**Organisation**
Professor Bruce Adamson	University of Glasgow
Dr Anders Bach-Mortensen	University of Oxford
Professor John Devaney	University of Edinburgh
Anthony Douglas	Independent consultant
Kathy Evans	Former CEO of Children England
Dr Benjamin Goodair	University of Oxford
Professor Sally Holland	Cardiff University
Professor Rick Hood	Kingston University
Helen Mary Jones	Voices from Care Cymru
Dr Ellie Ott	Centre for Evidence and Implementation
Emma Smale	Innovation Unit

What follows summarises the key findings from the interviews. Where appropriate, evidence referred to by experts is referenced. Where no evidence is available we delineate between consensus and divergence in expert opinion.

Main themes from the interviews

Three key themes emerged from the interviews with experts: concerns about the current system, the role of profit in creating or maintaining issues in the current system, and the potential implications of transitioning to a not-for-profit system.

The current system is not working

There was consensus that there are major and longstanding issues around the quality and sufficiency of placements for children looked after, with consequent impacts on outcomes.

The current system relies on there being a market for the provision of children's social care placements but the market is not functioning properly (as confirmed by the CMA review). The selection of placements is often, by necessity, being made based on availability, rather than what best meets the needs of the child. As the need for placements far exceeds their availability, there is concern that the 'sellers-market' drives up costs to LAs, without leading to improvements in the quality of care. The following concerns were also expressed:

- The use of out of area placements is increasing due to the lack of availability, with consequent impacts on the quality of care (discussed further below).
- There are significant workforce issues, with both pay and retention being raised, and a suggestion that there is increasing dependence on agency staff supplied by unregulated providers.
- The extraction of excessive profit is exacerbating funding challenges across the system (not just children's social care, but the wider system of support for children and families).
- Private finance companies (e.g. hedge funds) are entering the market because there is an opportunity to make profit, rather than because they want the best outcomes for children.

The role of profit in the current system

While there was consensus that the current system is dysfunctional, there were divergent views on the role that profit plays in creating this dysfunction. In part, this reflects the fact that the relationship between for-profit provision and the nature and quality of provision, and consequent outcomes for children and young people, is not well understood. Experts noted the challenges of observing and measuring behaviours that maximise profit at the expense of quality, and the challenge of applying evidence from countries with different social care systems to Wales.

However, as noted above, there is a growing body of high-quality UK-based evidence which suggests an association between for-profit care and a range of negative outcomes, which some interviewees raised. The interviews explored the relationship between profit / profit-making and the following:

- The ethics of the 'commodification' of children and young people
- Out of area placements and placement availability
- Quality of care
- Workforce issues

These are considered in turn, before returning to the differing views on whether profit is a driving factor in the dysfunction of the current system.

The ethics of the 'commodification' of children and young people

A number of interviewees echoed many in the sector, and some children and young people in care, in raising moral and ethical concerns about there being a market for the provision of children's social care, where what is 'traded' is children and young people. This is not just an abstract concern. It has the potential to impact the wellbeing of children and young people in care, who can feel like those providing care are doing it for the money (and in some cases report being told as much by providers). Some linked this to the UN Convention on the Rights of the Child and the obligation of the State to focus on the rights of the child and the provision of appropriate support.

Out of area placements and placement availability

The shortage of available placements is leading to an increased use of out of area placements. There may be times when out of area provision is considered the best thing for the child, depending on their individual circumstance and need. However, some children are being placed out of area due to the lack of alternative options. Placing children far from their social networks can have negative impacts on their wellbeing. And there are concerns that it can also impact public services in the area in which they are placed. For example, where placements break down, children may run away, with a consequent impact on policing.

There was consensus that the for-profit motive can influence placement availability and location of provision. There is a financial incentive to run at capacity and to operate from locations where property is cheap, rather than where there is 'need', which is in turn creating hotspots where the level of supply of residential care is higher than the demand. That providers are forced to run at full capacity to remain viable, or motivated to do so to maximise profit margins, also contributes to a lack of local provision. Lack of capacity can lead to inappropriate placements, out-of-area placements, and worse outcomes for children.

Quality of care

There were divergent views about whether outcomes for children placed with for-profit providers are different. Some doubted whether there was any difference in outcomes for those in placements run by for-profit providers; and argued that in foster care, the for-profit sector has improved support to foster carers, and that this has driven up the quality of support provided by not-for-profit and public providers.

Many suggested that the presence of for-profit providers has failed to raise the quality of care, create more choice, provide stability or sustainability. A small number of interviewees pointed to emerging evidence connecting for-profit provision with undesirable outcomes. One study analysed Ofsted inspection reports and showed that quality of provision (as assessed by Ofsted inspections) is lower in for-profit providers (Bach-Mortsensen et al., 2022). Another study found that children in care accommodated by private provision were more likely to re-enter care (Goldacre et al., 2022).

Workforce issues

There were divergent views on the influence of profit on the workforce. Many suggested that creating and maintaining a valued and well-paid workforce is a challenge for the whole social care sector. The push to drive down cost to maximise profit does not help to maintain a well-paid, professionalised workforce that is capable of dealing with high levels of need and risk.

Research conducted by interviewees showed that private providers are more likely to break laws on availability and numbers of staff, and that private providers of residential care hire fewer care workers per child (Bach-Mortensen et al., 2022). A Department for Education report also found that staff conditions have also been found to be worse in the private sector (Thornton et al., 2015).

A few experts suggested that excessive profit is also being extracted by providers of agency staff. Agency staff providers can charge higher fees to regulated social care providers; the cost then gets passed on to the local authority. This dynamic may exacerbate wider workforce challenges around pay, conditions, recruitment and retention. Currently there is a reliance on agency staff to fill staff shortages and meet demand for provision.

The role of profit and the market in the dysfunction of the current system

As noted above, some of those interviewed were of the view that profit-making was a cause of the dysfunction in the system, with some suggesting that it was the market itself that was a cause. For those who made this argument, the following concerns were raised:

- A system that uses market forces relies on cost as a proxy for quality, and this means that there will always be a tension between care (and the relationships needed to underpin high-quality care), and the incentives created by the need to compete on cost. Is it possible to have children and young people at the centre of decision making in such a system?
- There is no incentive to reduce numbers of children and young people in care, or to lower prices, as the profit-incentive embedded in business models depends on these factors.

However, this was not a view held by all the experts interviewed. Some expressed the view that profit is not a problem, in and of itself. Where the majority of the operating surplus is reinvested into the system, some interviewees had no problem with owners also extracting a small proportion of this as profit. They noted that there is a distinction between small independent organisations extracting a small profit, and providers owned by private equity funds which extract excessive profit. The notion that profit is 'bad' was viewed by some as overly simplistic.

Moreover, some highlighted that the current landscape of provision has evolved over many years, with private providers responding to the decisions and behaviours in the public sector; which has not made the strategic decision to invest over a sustained period in order to ensure appropriate provision, and instead has benefited from (and indirectly paid for) private investment. The extraction of excessive profit was therefore considered by some to be a symptom of a system where there was a historic legacy of insufficient investment and a current lack of provision.

Despite this uncertainty about the role of profit, there was general support for the need to tackle excessive profits.

Potential implications of eliminating profit

While experts had differing views as to whether profit was a cause or a symptom of the current challenges, there was consensus that the elimination of profit will not adequately address the structural and systemic issues around sufficiency and quality by itself. Most interviewees emphasised that any effort to eliminate profit has to be nested in a wider transformation agenda.

‘Sustainability’ and the need for investment

Most suggested that for the elimination of profit to succeed in addressing the concerns about stability and sustainability, it needs to be accompanied by investment in the sector, with some experts expressing scepticism about whether the necessary investment will be made. Some potential areas requiring funding include:

- Increasing capacity and capability in order to manage the transition (including consideration of what support is needed to enable third sector providers to scale up, and smaller private providers to become not-for-profit).
- Investment to support improvements in the volume and quality of placements;
- ‘Renationalisation’ of some provision, including bringing in the knowledge and skills needed to run the facilities and services that children and young people need;
- Investment in preventative and ‘upstream’ services to support children and young people and their families;
- Investment to manage increased costs of more localised residential care (i.e. to cover the higher cost of housing).

Therefore, experts suggested that, to assess the impacts of the proposed reforms on ‘sustainability’ (if defined in financial terms), further work is needed. The anticipated ‘savings’ from eliminating profit may not be sufficient to cover the required investment. More information about both the structure of the current market, and the potential investment needs over the short, medium and longer term is needed.

‘Stability’ and concerns about managing the transition

All interviewees raised concerns about the risks which might arise during, and as a consequence of, the transition to a not-for-profit system. There is a risk that the process of implementation and the transition away from the current system disrupts an already fragile landscape of provision. This could be characterised as a significant short and medium term risk to stability, with potentially harmful consequences for children and young people in care.

Specific concerns included:

- Existing providers may choose to scale back investment, or withdraw from providing placements altogether, with consequent impacts on existing and future placement provision.
- Smaller providers may not have the expertise or be able to bear the costs of transitioning to not-for-profit status and therefore are at risk of closing down

completely, or of being purchased by larger providers with ownership structures still connected to profit making.

- Any impacts on the availability of placements may lead to an increase in unregulated placements.
- The potential for a loss of workforce, as some choose to leave the sector.
- Some were particularly concerned about impacts of any instability in the system on children with more complex needs.

The planned timescales were highlighted by several interviewees as being challenging, given the scale of change needed. And for smaller providers, capacity and capability (especially over a short timeframe) may be a barrier to managing the transition to not-for-profit. Some argued, therefore, for the need for a sophisticated plan for managing the process of implementation and transition, that includes plans for private sector exit. This links to the point about investment – there will need to be support for the implementation of the proposal at multiple levels of the system.

The potential for unintended consequences and loop holes

Some of those interviewed raised questions about potential unintended consequences and loop holes. For example:

- If the aim is to have ongoing investment in the sector by non-state actors, this will require an operating surplus to be made. This, in turn, creates challenges about how to define this, and how to ensure ongoing investment. And where this investment is supported by a loan against future operating surpluses, how would the policy avoid profit being extracted as loan repayments?
- There has been some suggestion that, in other systems, profit is being extracted from not-for-profit providers by investors encouraging certain business practices (e.g. a for-profit shell company charging management fees). How will the policy prevent these or similar practices?
- All providers could be not-for-profit, but still heavily reliant on agency staff recruited through for-profit agencies; with the consequence that profit would still be extracted from the system.
- How will the policy account for cross-border issues, particularly providers based in Wales, but not registered to provide placements in Wales? Will providers with buildings in both England and Wales be able to offer both for-profit and not-for-profit provision?
- Is there a risk that the change is disruptive for smaller providers (some of whom leave the sector) but has a superficial impact on larger providers, who

change their legal status but with minimal impact on their placements practices, or profit making?

- Where current providers choose to exit the market, how will capital assets (e.g. existing residential facilities) be managed? And is there a risk that this creates loop holes (e.g. former providers 'renting out' residential care facilities to not-for-profit providers, and in so doing extracting profit)?

The need for a systemic response

Most experts emphasised the need for a comprehensive and coordinated effort at reform. Alongside the need for investment, and for a comprehensive plan for implementation and transition, some stressed the need to review commissioning practices, and the role and function of regulatory bodies. Some argued that the focus on eliminating profit should not consume too much capacity, bandwidth, or investment, at the expense of that wider transformation agenda.

Summary of expert views

Overall, experts held the view that there was a need to tackle excessive profits being made from children's social care – but there was some divergence in opinion in response to the questions raised. A summary of expert responses to each of the four research questions is presented below:

How the profit motive and associated business models may or may not influence the quality and nature of care provision and the experience and outcomes of children and young people being looked after?

All experts agreed that the profit-motive and associated business models had some influence on the quality and nature of provision.

For some, there was little difference in quality or outcomes between for-profit and not-for-profit provision; and a distinction to be made between for-profit providers that reinvest in provision, and those that do not. Some highlighted positive influences (e.g. on the quality of support provided to foster carers).

Most raised concerns, specifically in relation to:

- The ethics of the 'commodification' of children and young people
- Out of area placements and placement availability
- Emerging evidence of poorer quality of care in for-profit placements
- Workforce issues

And this, in turn, was seen to impact on the experience and outcomes of children and young people looked after.

Despite the uncertainty about the role of profit, there was general support for the need to tackle excessive profit making, but divergent views on the extent to which profit is a cause or consequence of the current system.

To what extent and how would the elimination of private profit contribute in the short, medium and longer terms to the sustainability and stability of services for children looked after and the maintenance or improvement of their outcomes?

All experts raised concerns about the potential for short and medium term risks to stability, with potentially harmful consequences for children and young people in care. Some argued for a sophisticated plan for managing the process of implementation and transition, that includes plans for private sector exit.

The impact on sustainability will depend on the level of investment in the sector. Most experts agreed that increased investment is necessary. However, without further work to establish the potential costs and anticipated 'savings', experts said that it would be difficult to determine the level of necessary investment, and therefore the impact of the proposal on sustainability.

To what extent implementing the commitment in relation to all independent fostering and residential provision may be considered a proportionate measure (i.e. balancing the impact upon providers with the anticipated wider system impacts)?

Some argued that it was a proportionate measure. Most suggested that whether it was a proportionate measure depended upon how it was implemented, and the extent to which concerns about implementation (i.e. risks to stability and sustainability) were addressed.

Whether this approach is necessary to achieve the objectives of sustainability and stability of services for children looked after and the maintenance or improvement of their outcomes, or if there are other less intrusive/more selective means of achieving these objectives?

Interviewees were unclear on the policy intent: whether it was targeting excessive profit making, or all profit making.

Experts had divergent views as to whether the elimination of profit is necessary.

But there was consensus that the elimination of profit will be insufficient to adequately address long term issues around sufficiency, sustainability and quality, which are structural and systemic.

Discussion

There is clear consensus that the current system of provision of services for children looked after is not working, and that excessive profits are being made. The case for reform is, it would seem, compelling.

Similarly, there is a degree of consensus that addressing the issues faced by the current system, requires action on multiple fronts – level of funding and strategic investment, workforce, regulation, commissioning practices. And at multiple levels – from individual placement decisions, through to the actions of local, regional and national bodies.

This means that, on its own, the proposal to eliminate profit will be insufficient to address the issues faced (indeed, as outlined above, this proposal is part of a package of reform being pursued by the Welsh Government). It also suggests that reform efforts can be usefully characterised as seeking to bring about change in a complex system – one where multiple actors are interacting and making decisions in response to the behaviours of others in the system, and learning and adapting their behaviour in response to their experience. This framing can be used to interpret the findings from the interviews conducted:

- Excessive profit-making has emerged over a number of years, through the interaction between commissioners and providers. A lack of investment by the public sector to ensure appropriate provision over a sustained period has prompted private sector investment. The public sector has benefited from this in the form of availability of placements, but has also funded it by paying for the profits that both enable the private sector investment and 'reward' the risk-taking inherent in the investment.
- The impact of eliminating profit is highly uncertain, with much depending on how different actors react to the change, the way these decisions interact with each other, and how this changes and evolves over time. As well how the intervention interacts with other interventions (i.e. the wider reform agenda). Outcomes will emerge and change over time, and avoiding the risk of poor outcomes will require sustained and focused input from a range of actors (i.e. on trying to 'steer' the system).
- Given the fragility of the current system, its complexity, and the uncertainty about the impacts of the proposed reforms, experts are concerned about the risks to the stability of the system.

Framing reform as an effort to change a complex system also emphasises how crucial the process of implementation will be to achieving positive outcomes. WCPP's work on policy implementation highlights that, for a policy to succeed, policy makers need to attend to the degree of policy ambiguity, and the degree of alignment between the proposal and the implementation context (Baan et al, 2023). Some degree of policy ambiguity and misalignment is inevitable, especially when dealing with a complex issue, but nonetheless interviewees have echoed those who responded to the Welsh Government's consultation (see annex below) in highlighting some potential areas of ambiguity and misalignment in the proposed policy, and the risks that these create. This raises some issues of particular note:

Ambiguity about the policy intent

The interviews highlighted a degree of uncertainty about the policy intent. For some, the elimination of profit was a step towards removing the market for care[1], pursued in response to those who argue that the market leads to the 'commodification' of children and young people looked after. Others saw it as a response to excessive profit-making.

One way of interpreting the interviews is that they highlight the importance of clarity around the intent. If the goal is to remove the market, then the approach to the implementation of the proposals should reflect this; and a wider range of measures would be needed to support the transition.

It is important to design an intervention that fully reflects the features of the current system that have led to and continue to drive the generation of excessive profits. Otherwise, the risk is that the intervention affects a change in the system, but without tackling the problems that led to the excessive profits being made such as the challenges of sufficiency and quality in provision. Better understanding the drivers of excessive profit may support the development of alternative or complementary interventions to achieve the system reform needed.

Misalignment with the implementation context

Experts saw significant risks that the proposal, unless implemented well, will destabilise the current system. Some expressed scepticism that the system is ready for the scale and pace of change required by the proposal; with many arguing that more information about the 'implementation context' is needed to be able to have

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[1] This is one interpretation of the Government's statement that it "does not believe that there should be a market for care" (Welsh Government, 2022: 3). The proposal would only be a step towards this because the elimination of profit does not necessitate a renationalisation of provision and therefore a removal of the market.

confidence that the resources and buy-in necessary to successfully implement the policy are in place.

The areas identified through this work include – better understanding the existing landscape of provision; defining the likely scale of investment needed; changing commissioning behaviours and associated budgeting practices; and ensuring alignment with the role and function of regulatory bodies. There is a related question, highlighted through the consultation, about how the impacts of the proposal are monitored (Welsh Government, 2023d); specifically how to ensure that providers making operating surpluses are reinvesting these, without profit being extracted through potential loopholes. Investment in developing the capacity and capability to undertake this kind of monitoring of accounts will be needed.

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Annex

Pre-Interview Brief: **Welsh Government commitment to Eliminate Profit from the Care of Children Looked After**

Overview

1. Our Programme for Government contains a number of commitments that set out our vision for children's services in Wales. Our ambition is for whole system change and, at its heart, we want to see more children and young people being enabled to live with their families and in their home neighbourhoods with many fewer needing to enter care. We also want to ensure the period that young people are in care is as short as possible.
2. We are committed to keeping families together. Our vision is to redesign how we look after children and young people so we can do the best for our young people, their families and communities by providing services that are locally based, locally designed and locally accountable.
3. As part of the Co-operation Agreement between the Welsh Government and Plaid Cymru, there is a clear commitment to '**eliminate private profit from the care of children looked after'** as a key component of this radical agenda**.**
4. Feedback from children and young people suggests they have a strong antipathy to being cared for by privately owned organisations that make a profit from their experience of being in care. The Welsh Government is sympathetic to that view. Welsh Government is also concerned that the current market in children's services is or may be making unjustified and unsustainable demands on the public purse. The future care of children that are looked after in Wales will be provided by public sector, charitable or not-for-profit organisations.
5. The aim is to ensure that public money invested in the care of children does not profit individuals or corporate entities, but instead is entirely used to support these services: to deliver better experiences and outcomes for young people; to support service development and to develop sustainable and affordable children's care services into the future.

Legislative Proposal

6. Between August and November 2022, the Welsh Government consulted on proposed changes to primary legislation relating to social care and continuing NHS healthcare. The consultation contained a number of proposals in relation to eliminating profit.
7. There were 153 responses and a wide range of views expressed across the sector to the proposals. The summary of responses to the consultation exercise was published in June 2023.
8. In effect, the proposed legislation will make it unlawful for anyone to operate a residential care home service for children or foster care service ('regulated services') in Wales for profit and will prescribe the kinds of organisational bodies that can operate these regulated services. The mechanism of the law will rely on the existing registration requirements for regulated children's services. The proposals contain an extensive set of arrangements to manage the transition to these requirements and include a commitment to leave undisturbed any current placement when the changes come into force, as well as sufficient flexibility for placing authorities to exercise their statutory functions with regard to any child or young person.

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