

Pecyn Dogfen Gyhoeddus

Gareth Owens LL.B Barrister/Bargyfreithiwr

Chief Officer (Governance)

Prif Swyddog (Llywodraethu)



Swyddog Cyswllt:

Maureen Potter 01352 702322

maureen.potter@flintshire.gov.uk

At: Cyng Hilary McGuill (Cadeirydd)

Y Cynghorwyr: Tina Claydon, Jean Davies, Mel Buckley, Paul Cunningham, Gladys Healey, Dennis Hutchinson, Dave Mackie, Debbie Owen, Michelle Perfect, Linda Thomas and Rob Davies

Dydd Gwener, 21 Hydref 2022

Annwyl Gynghorydd,

RHYBUDD O GYFARFOD HYBRID
PWYLLGOR TROSLWG A CHRAFFU GOFAL CYMDEITHASOL AC IECHYD
DYDD IAU, 27AIN HYDREF, 2022 2.30 PM

Sylwch y bydd y cyfarfod yn dechrau am 2.30 pm.

Yn gywir

Steven Goodrum

Rheolwr Gwasanaethau Democraidd

Sylwch: Gellir mynychu'r cyfarfod hwn naill ai wyneb yn wyneb yn Siambr y Cyngor, Cyngor Sir y Fflint, Yr Wyddgrug, Sir y Fflint neu ar-lein.

Bydd y cyfarfod yn cael ei ffrydio'n fyw ar wefan y Cyngor. Bydd y ffrydio byw yn dod i ben pan fydd unrhyw eitemau cyfrinachol yn cael eu hystyried. Bydd recordiad o'r cyfarfod ar gael yn fuan ar ôl y cyfarfod ar <https://flintshire.publici.tv/core/portal/home>

Os oes gennych unrhyw ymholiadau, cysylltwch ag aelod o'r Tîm Gwasanaethau Democraidd ar 01352 702345.

R H A G L E N

1 YMDDIHEURIADAU

Pwrpas: I dderbyn unrhyw ymddiheuriadau.

2 DATGAN CYSYLLTIAD (GAN GYNNWYS DATGANIADAU CHWIPIO)

Pwrpas: I dderbyn unrhyw ddatganiad o gysylltiad a chynghori'r Aelodau yn unol a hynny.

3 COFNODION (Tudalennau 5 - 12)

Pwrpas: I gadarnhau, fel cofnod cywir gofnodion y cyfarfodydd ar 28 Gorffennaf 2022.

4 RHAGLEN GWAITH I'R DYFODOL AC OLRHAIN CAMAU GWEITHREDU (Tudalennau 13 - 22)

Adroddiad Hwylusydd Trosolwg a Chraffu yr Amgylchedd a Gofal Cymdeithasol -

Ystyried Rhaglen Gwaith i'r Dyfodol y Pwyllgor Trosolwg & Chraffu Gofal Cymdeithasol ac lechyd a rhoi gwybod i'r Pwyllgor am y cynnydd yn erbyn camau gweithredu o gyfarfodydd blaenorol.

5 ADRODDIAD BLYNYDDOL AR WEITHDREFN CWYNION A CHANMOLIAETH Y GWASANAETHAU CYMDEITHASOL 2021-22 (Tudalennau 23 - 46)

Adroddiad Prif Swyddog (Gwasanaethau Cymdeithasol) - Dirprwy Arweinydd y Cyngor a'r Aelod Cabinet Gwasanaethau Cymdeithasol a Lles

Pwrpas: Rhoi cyfle i'r aelodau graffu ar effeithlonrwydd y weithdrefn cwynion a sicrhau bod gwersi'n cael eu dysgu i wella darpariaeth gwasanaeth

6 DARPARIAETH GOFAL DYDD (Tudalennau 47 - 56)

Adroddiad Prif Swyddog (Gwasanaethau Cymdeithasol) - Dirprwy Arweinydd y Cyngor a'r Aelod Cabinet Gwasanaethau Cymdeithasol a Lles

Rhoi'r wybodaeth ddiweddaraf i'r aelodau am ddarpariaeth gofal dydd yn Sir y Fflint.

7 UN PWYNT MYNEDIAD (Tudalennau 57 - 64)

Adroddiad Prif Swyddog (Gwasanaethau Cymdeithasol) - Dirprwy Arweinydd y Cyngor a'r Aelod Cabinet Gwasanaethau Cymdeithasol a Lles

Diweddariad tîm Un Pwynt Mynediad

8 ADOLYGU AMSERLEN CYNLLUN Y CYNGOR 2022/23 (Tudalennau 65 - 70)

Adroddiad Prif Weithredwr - Arweinydd y Cyngor a'r Aelod Cabinet Addysg, y Gymraeg, Diwylliant a Hamdden

Adolygu amserlenni ar gyfer Cynllun y Cyngor 22/23 yn dilyn cais gan y Cyngor Sir ym mis Gorffennaf.

9 DATBLYGIAD CYNLLUN Y CYNGOR 2023/24 (Tudalennau 71 - 78)

Adroddiad Prif Weithredwr - Arweinydd y Cyngor a'r Aelod Cabinet Addysg, y Gymraeg, Diwylliant a Hamdden

Cyfrannu i ddatblygiad Cynllun y Cyngor.

10 NEWIDIADAU I'R DDEDDFWRIAETH SYLFAENOL (Tudalennau 79 - 176)

Adroddiad Prif Swyddog (Gwasanaethau Cymdeithasol) - Dirprwy Arweinydd y Cyngor a'r Aelod Cabinet Gwasanaethau Cymdeithasol a Lles

Rhoi'r wybodaeth ddiweddaraf i Aelodau ar newidiadau arfaethedig i'r Ddeddfwriaeth Sylfaenol gan Lywodraeth Cymru.

Sylwch, efallai y bydd egwyl o 10 munud os yw'r cyfarfod yn para'n hirach na dwy awr.

Mae'r dudalen hon yn wag yn bwrpasol

Eitem ar gyfer y Rhaglen 3

SOCIAL & HEALTH CARE OVERVIEW & SCRUTINY COMMITTEE **28 JULY 2022**

Minutes of the meeting of the Social & Health Care Overview & Scrutiny Committee of Flintshire County Council held remotely on Thursday, 28 July 2022

PRESENT: Councillor Hilary McGuill (Chair)

Councillors: Mel Buckley, Tina Claydon, Paul Cunningham, Robert Davies, Gladys Healey, Dave Mackie, Debbie Owen, and Linda Thomas

APOLOGY: Councillor Jean Davies

SUBSTITUTION: Councillor Ryan McKeown (for Michelle Perfect)

CONTRIBUTORS: Councillor Christine Jones (Deputy Leader of the Council and Cabinet Member for Social Services and Wellbeing); Chief Officer (Social Services); Senior Manager – Integrated Services and Lead Adults; Senior Manager - Safeguarding and Commissioning; Planning and Development Officer – Partnership, Development and Performance Team

IN ATTENDANCE: Community and Education Overview & Scrutiny Facilitator and Democratic Services Officers.

6. CHANGE IN ORDER OF THE AGENDA

The Chair advised that there would be a change in the order of the agenda and item 11 – Recognition of Service by Susie Lunt, and item 10 – Social Services Accolades, would be brought forward.

7. DECLARATIONS OF INTEREST (INCLUDING WHIPPING)

None were received.

8. RECOGNITION OF SERVICE BY SUSIE LUNT

The Chief Officer (Social Services) led the tributes in recognition of the work of Susie Lunt, Senior Manager – Integrated Services and Lead Adults. He gave background information and spoke of her professional and personal qualities, ability, and dedication to service. He referred to her many achievements on behalf of the Council's Social Services portfolio and cited examples of the numerous services which were held in high regard locally and in other authorities/organisations as a direct result of her work.

The Chair paid tribute to Susie Lunt and spoke of her long career in Social Services which she said was an excellent example of what could be achieved through hard work and commitment. The Chair spoke of her willingness to help and resolve all issues brought to her attention and her genuine concern and care for others. She wished her a long and healthy retirement.

Councillors Christine Jones, Paul Cunningham, David Mackie, and Gladys Healey also paid personal tributes to Susie Lunt and said her valuable

contribution would be greatly missed. Members thanked her and wished her a happy retirement.

Susie Lunt thanked Members for their comments and best wishes.

9. SOCIAL CARE ACCOLADES

The Chief Officer (Social Services) introduced two short video presentations on the following projects:

Flintshire County Council's 'Lleisiau Clwyd Voices of the Future' project

The project between Children's Social Services in Flintshire and Theatr Clwyd offers vulnerable children and their siblings the chance to spend time at Theatr Clwyd on weekends and in the school holidays. During these sessions, families can take a break from their caring role in the knowledge that their children are safe, trying out activities and having fun.

North Wales Together Learning Disability Transformation Programme, a partnership involving social care departments of the six local authorities in North Wales and Betsi Cadwaladr University Health Board.

The project aims to co-produce services with people with learning disabilities and their parents and carers. 68 projects have since been set up to support the North Wales Learning Disability Strategy 2018 to 2023 and more than 125 'roles' have been created for citizens and carers, building on their individual strengths.

The Chair paid tribute to the Chief Officer, Senior Manager – Children's Services, and Service Manager - Disability, Progression and Recovery, on the recent success of the above projects being shortlisted and highly commended in the Social Care Accolades in recognition of the national work delivered. The Chair asked that the Committee's thanks be passed to all involved in the projects.

Councillor Paul Cunningham praised the achievements of the Social Services teams which he said led the way in social services and social care. He took the opportunity to highlight the success of the 'Double Click' project and asked if a presentation on the work of 'Double Click' could be made to a future meeting of the Committee. It was agreed this would be included on the Forward Work Programme.

Councillor David Macke spoke of the work and involvement of Theatr Clwyd with the community which he said was outstanding.

10. MINUTES

The minutes of the meeting held on 9 June 2022 were submitted. The minutes were approved as a correct record as moved by Councillor David Mackie and seconded by Councillor Rob Davies.

Matters arising

Following a question from the Chair, it was confirmed that the next meeting of the Digital Strategy Group would be held on 22nd August and that an update on the matter raised by Councillor Mackie concerning short term care

digital records would be provided to the Committee at the next meeting in September.

RESOLVED:

That the minutes be approved as a correct record and signed by the Chair.

11. FORWARD WORK PROGRAMME AND ACTION TRACKING

The Community and Education Overview & Scrutiny Facilitator presented the current Forward Work Programme and drew attention to the items to be considered at the next meeting of the Committee. She advised that the Chair had e-mailed all Members of the Committee to ask if they had any items for consideration on the Programme. It was agreed that when items had been received, the Social Care and Environment Facilitator would liaise with the Chair and Senior Officers during the August recess to update the Programme and present a revised version to the next meeting of the Committee in September.

During discussion it was proposed that the following items be added to the Forward Work Programme:-

- presentation from Double Click (preferably before Christmas to allow Members to order products if they wished).
- NEWCIS – a site visit and report to a Committee meeting (it was suggested that the site visit be held the day before a Committee meeting).
- SPOA – November meeting.
- Nanny Biscuit – presentation from James Hunt on the work of Nanny Biscuit at a future meeting of the Committee.
- how to become a Micro Carer

The recommendations in the report were moved by Councillor Paul Cunningham and seconded by Councillor Mel Buckley.

RESOLVED:

- (a) That the Forward Work Programme be noted;
- (b) That the Facilitator, in consultation with the Chair of the Committee be authorised to vary the Forward Work Programme between meetings, as the need arises; and
- (c) That the Committee notes the progress made in completing the outstanding actions.

12. TERMS OF REFERENCE

The Community & Education Overview & Scrutiny Facilitator introduced a report to consult on proposed changes to the Terms of Reference for the Committee. She provided background information and explained that the current Overview & Scrutiny Committee terms of reference were attached as

Appendix 1 to the report and the proposed changes to the terms of reference were shown in Appendix 2.

The Facilitator advised that the terms of reference were being submitted to each of the Overview & Scrutiny Committees during July. Following this a report would be submitted to the next meeting of the Constitution and Democratic Services Committee to provide feedback from each of the Overview & Scrutiny Committees. The terms of reference for Overview & Scrutiny Committees would then be put forward to the County Council for approval and adoption within the Constitution. The Facilitator drew attention to paragraph 1.04 in the report.

The recommendations in the report were moved by Councillor Paul Cunningham and seconded by Councillor Tina Claydon.

RESOLVED:

That the Committee support the proposed amendments to its terms of reference as set out in Appendix 2 of the report.

13. COUNCIL PLAN 2021/22

The Chief Officer (Social Services) presented the report which reflected performance in the last quarter of the Council Plan 2021/22

The out-turn report for the 2021/22 Council Plan showed 73% of activities were making good progress with 74% likely to achieve their planned outcomes. 73% of the performance indicators had met or exceeded their targets, 9% were being closely monitored and 18% were currently not meeting target. There were no performance indicators (PIs) showing a red RAG status for current performance against target, relevant to the Social & Health Care Overview & Scrutiny Committee.

Referring to pages 48 and 49 of the report, Councillor David Mackie congratulated the Chief Officer and his team on exceeding the national targets. He also commented on the achievement of the target for Safeguarding Measures (page 54 of the report).

The recommendations in the report were moved by Councillor Paul Cunningham and seconded by Councillor Gladys Healey.

RESOLVED:

- (a) That the levels of progress and confidence in the achievement of priorities within the 2021/22 Council Plan be supported;
- (b) That the overall performance against 2021/22 Council Plan performance Indicators be supported; and
- (c) That the Committee was assured by the explanations given for those areas of underperformance.

14. AUDIT WALES – NORTH WALES COUNCILS AND BETSI CADWALADR UNIVERSITY HEALTH BOARD – COMMISSIONING OLDER PEOPLE’S CARE HOME PLACEMENTS

The Senior Manager - Safeguarding and Commissioning presented the report. She provided background information and explained that the Audit Wales report on the Commissioning of Older People’s Care Home Placements by North Wales Councils and Betsi Cadwaladr University Health Board made five recommendations (as outlined in paragraph 1.10 of the report). In response to the report, each of the North Wales Local Authorities and the Health Board was asked to prepare an agreed collective management response detailing how they would work collectively to address each of the recommendations. Audit Wales asked for this collective response to be submitted by 31st January 2022. The Management Response submitted was attached as Appendix 3 to the report.

In response to comments made by the Chair regarding the complexity of funding arrangements for care homes, the Senior Manager - Safeguarding and Commissioning advised that a leaflet had been produced and was available on the Authority’s website which explained clearly the contribution individuals make to the cost of their domiciliary or residential care.

Councillor David Mackie commented that he felt there was a need to scrutinise care-home provision across North Wales as well as locally.

The recommendations in the report were moved by Councillor Gladys Healey and seconded by Councillor Mel Buckley.

RESOLVED:

- (a) That the recommendations in the Audit Wales report on Commissioning of Older People’s Care Home Placements by North Wales Councils and Betsi Cadwaladr University Health Board be noted;
- (b) That the actions in the Management Response to address these recommendations be agreed; and
- (c) That the Committee receives regular updates on the implementation of the actions going forward.

15. NORTH WALES MARKET STABILITY REPORT

The Chief Officer (Social Services) presented the report and provided background information and context.

The Senior Manager - Safeguarding and Commissioning drew attention to the information provided in sections 1.05 and 1.06 of the report.

The Chair thanked the Chief Officer for a detailed and informative report which she said was of a very high standard and asked that the Committee’s thanks be passed to Emma Murphy, Dawn Holt and Marianne Lewis who had co-produced the report.

The Chair commented on the high number of out-of-county placements in Flintshire as referred to in page 232 of the report. The Chief Officer commented on the population size in Flintshire and the additional pressures as a result of being a border county. He also referred to the challenges that could arise due to cultures and behaviours. He gave reassurance that the total number of Children Looked After were not as high as other authorities in Wales due to the good preventative services in place in Flintshire.

Councillor Dave Mackie commented on the financial pressures faced by some care home providers in Flintshire.

The recommendation in the report was moved by Councillor David Mackie and seconded by Councillor Gladys Healey.

RESOLVED:

That the North Wales Market Stability Report 2022 be approved.

16. SOCIAL SERVICES DIRECTOR'S ANNUAL REPORT

The Chief Officer (Social Services) introduced the report and provided background information and context. The purpose of the Social Services Annual Report was to set out the improvement journey and evaluate Social Services' performance in providing services to people that promote their wellbeing and support them to achieve their personal outcomes. The Chief Officer referred to the Mockingbird service, and integrated autism regional service. The Chief Officer invited the Planning and Development Officer – Partnership, Development and Performance Team to give an overview of the draft Social Services Annual Report 2021/22 which was appended to the report.

The Chair asked if support was available to provide information and assistance to individuals who wished to become a Micro-Carer. The Senior Manager - Safeguarding and Commissioning explained that the Planning and Development Officer for Micro-Care was further developing the role of Micro-Care with the aspiration that it becomes a commissioned service as well as one delivered through direct payment. She also commented on legislative boundaries and their impact on the business model, the future monitoring of Microcarers and on-going developments to support established micro-carers.

The recommendation in the report was moved by Councillor Gladys Healey and seconded by Councillor Paul Cunningham.

RESOLVED:

That the Draft Social Services Annual Report 2021/22, which includes the key developments of the past year and the priorities for next year be approved.

17. MEMBERS OF THE PUBLIC AND PRESS IN ATTENDANCE

There were no members of the press or public in attendance.

(The meeting started at 2.00 pm and ended at 3.47 pm)

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Chair

Mae'r dudalen hon yn wag yn bwrpasol

Eitem ar gyfer y Rhaglen 4



SOCIAL & HEALTH CARE OVERVIEW & SCRUTINY COMMITTEE

Date of Meeting	27 October 2022
Report Subject	Forward Work Programme and Action Tracking
Report Author	Social & Health Care Overview & Scrutiny Facilitator
Type of Report	Operational

EXECUTIVE SUMMARY

Overview & Scrutiny presents a unique opportunity for Members to determine the Forward Work programme of the Committee of which they are Members. By reviewing and prioritising the Forward Work Programme Members are able to ensure it is Member-led and includes the right issues. A copy of the Forward Work Programme is attached at Appendix 1 for Members' consideration which has been updated following the last meeting.

The Committee is asked to consider, and amend where necessary, the Forward Work Programme for the Social & Health Care Overview & Scrutiny Committee.

The report also shows actions arising from previous meetings of the Social & Health Care Overview & Scrutiny Committee and the progress made in completing them. Any outstanding actions will be continued to be reported to the Committee as shown in Appendix 2.

RECOMMENDATION

1	That the Committee considers the draft Forward Work Programme and approve/amend as necessary.
2	That the Facilitator, in consultation with the Chair of the Committee be authorised to vary the Forward Work Programme between meetings, as the need arises.
3	That the Committee notes the progress made in completing the outstanding actions.

REPORT DETAILS

1.00	EXPLAINING THE FORWARD WORK PROGRAMME AND ACTION TRACKING
1.01	Items feed into a Committee's Forward Work Programme from a number of sources. Members can suggest topics for review by Overview & Scrutiny Committees, members of the public can suggest topics, items can be referred by the Cabinet for consultation purposes, or by County Council or Chief Officers. Other possible items are identified from the Cabinet Work Programme and the Improvement Plan.
1.02	<p>In identifying topics for future consideration, it is useful for a 'test of significance' to be applied. This can be achieved by asking a range of questions as follows:</p> <ol style="list-style-type: none">1. Will the review contribute to the Council's priorities and/or objectives?2. Is it an area of major change or risk?3. Are there issues of concern in performance?4. Is there new Government guidance of legislation?5. Is it prompted by the work carried out by Regulators/Internal Audit?6. Is the issue of public or Member concern?
1.03	In previous meetings, requests for information, reports or actions have been made. These have been summarised as action points. Following a meeting of the Corporate Resources Overview & Scrutiny Committee in July 2018, it was recognised that there was a need to formalise such reporting back to Overview & Scrutiny Committees, as 'Matters Arising' was not an item which can feature on an agenda.
1.04	It was suggested that the 'Action tracking' approach be trialled for the Corporate Resources Overview & Scrutiny Committee. Following a successful trial, it was agreed to extend the approach to all Overview & Scrutiny Committees.
1.05	The Action Tracking details including an update on progress is attached at Appendix 2.

2.00	RESOURCE IMPLICATIONS
2.01	None as a result of this report.

3.00	CONSULTATIONS REQUIRED / CARRIED OUT
3.01	In some cases, action owners have been contacted to provide an update on their actions.

4.00	RISK MANAGEMENT
4.01	None as a result of this report.

5.00	APPENDICES
5.01	Appendix 1 – Draft Forward Work Programme Appendix 2 – Action Tracking for the Social & Health Care OSC.

6.00	LIST OF ACCESSIBLE BACKGROUND DOCUMENTS
6.01	Minutes of previous meetings of the Committee as identified in Appendix 2. Contact Officer: Margaret Parry-Jones Overview & Scrutiny Facilitator Telephone: 01352 702427 E-mail: Margaret.parry-jones@flintshire.gov.uk

7.00	GLOSSARY OF TERMS
7.01	Improvement Plan: the document which sets out the annual priorities of the Council. It is a requirement of the Local Government (Wales) Measure 2009 to set Improvement Objectives and publish an Improvement Plan.

Mae'r dudalen hon yn wag yn bwrpasol

Forward Work Programme

Date of meeting	Subject	Purpose of Report	Scrutiny Focus	Responsible / Contact Officer	Submission Deadline
30 November 10.00 am	Betsi Cadwaladr University Health Board	BCUHB are invited to attend on an annual basis – partnership working.	Partnership working	Facilitator	
8 December 2022 2.00 pm	Council Plan 2022-23 Mid-Year Performance Reporting Double click MTFS & Budget Setting 23-24	To review the levels of progress in the achievement of activities and performance levels identified in the Council Plan. To receive a presentation on the work of Double Click. That the Committee reviews and comments on the Social Services cost pressures and overall budget strategy, and advises on any areas of cost efficiency it would like to see explored further	Performance monitoring Awareness raising/assurance Consultation	Chief Officer – Social Services Chief Officer – Social Services Chief Officer – Social Services	
19 January 23 2.00 pm	Growing Places and Hft Update How to become a Micro Carer	To receive an update. To raise awareness of the Micro Care initiative.	Monitoring Awareness raising	Chief Officer – Social Services Chief Officer – Social Services	
2 March 23 2.00 pm	Social Work and OT Students (Growing our	To receive a report on the development of Social Workers and	Performance monitoring	Chief Officer – Social Services	

Tudalen 18

	Own) Nanny Biscuit – to be confirmed	Occupational Therapists from within the workforce. To receive a presentation on the work of the local community organisation that provides a wide range of support to vulnerable people.	Awareness raising	Facilitator	
20 April 23 2.00 pm	North East Wales Community Equipment Service (NEWCES) plus visit in advance of meeting.	To receive a progress report on the North East Wales Equipment Service.	Performance monitoring	Chief Officer – Social Services	
8 June 23 2.00pm					
29 June 2023 2pm Joint meeting with Education, Youth & Culture OSC	Safeguarding in Education Additional Learning Needs and Education Tribunal (Wales) Act 2018 Looked After Children in Flintshire	To provide an update on the discharge of statutory safeguarding duties in schools and the Education portfolio. To include information on Relationship and Sexual Education and how this was contributing to reducing harm. To outline the approach to the identification and commissioning of post 16 education for Flintshire’s young people. To provide an update on the provision for Looked After Children.	Assurance Assurance Assurance	Chief Officer – Education, Youth and Culture Chief Officer – Education, Youth & Culture Chief Officer – Social	

		To include an update on the challenges, positive working and how young people were supported through the pilot to provide funding directly to looked after children leaving care.		Services	
20 July 10.00 am	Council Plan 2022-23 Year End Performance	To review the levels of progress in the achievement of activities and performance levels identified in the Council Plan.	Performance Monitoring	Chief Officer – Social Services	

Regular Items

Month	Item	Purpose of Report	Responsible/Contact Officer
	Safeguarding	To provide Members with statistical information in relation to Safeguarding - & Adults & Children	Chief Officer (Social Services)
May	Educational Attainment of Looked After Children	Education officers offered to share the annual educational attainment report with goes to Education & Youth OSC with this Committee.	Chief Officer (Social Services)
May	Corporate Parenting	Report to Social & Health Care and Education & Youth Overview & Scrutiny.	Chief Officer (Social Services)
Sept	Comments, Compliments and Complaints	To consider the Annual Report	Chief Officer (Social Services)
	Betsi Cadwaladr University Health Board Update	BCUHB are invited to attend on an annual basis – partnership working.	Facilitator

Mae'r dudalen hon yn wag yn bwrpasol

Action tracking from Social & Health Care OSC September 2022

Item/Date	Discussion	Action	By whom	Status
Minutes	Following a question from the Chair, it was confirmed that the next meeting of the Digital Strategy Group would be held on 22 nd August and that an update on the matter raised by Councillor Mackie concerning short term care digital records would be provided to the Committee at the next meeting in September.	Update to be provided at the September meeting.	Craig Macleod	

Mae'r dudalen hon yn wag yn bwrpasol

Eitem ar gyfer y Rhaglen 5



SOCIAL AND HEALTH CARE OVERVIEW AND SCRUTINY COMMITTEE

Date of Meeting	27 October 2022
Report Subject	Annual report on the Social Services Complaints and Compliments Procedure 2021-22
Cabinet Member	Deputy Leader of the Council and Cabinet Member for Social Services and Wellbeing
Report Author	Chief Officer for Social Services
Type of Report	Operational

EXECUTIVE SUMMARY

The Social Services and Wellbeing Act (Wales) 2014 and Social Services Complaints Procedure Regulations 2014, requires Local Authorities to maintain a representations and complaints procedure for social services functions (referred to as the “procedure” from now on). The Welsh Government expects each Local Authority to report annually on its operation of the procedure.

There was the slightest of increases in complaints made about Adult Social Care this year. Of the 2,020 people with a care and support plan on 31st March 2022, 46 individuals complained about the service they received (2%). This compares to 45 complaints last year (2021-21) and 60 complaints during 2019-20.

In recognition of the quality and valued care and support received from Adult Social Care staff, 251 compliments were received were recorded during the year across the Service.

There was a small fall in the number of complaints received during the year regarding Children’s Social Services: 44 complaints from the total of 2,391 children and families who received care and support (less than 2%). This compares to 48 complaints received last year (2020-21) and 30 complaints during 2019-20). Complaints about the Service are comparable year on year going back previous years.

There were 204 compliments about the work of Children’s Services.

All complaints are scrutinised and used to improve both services as part of a ‘lessons learned’ process.

RECOMMENDATIONS

1	That Members scrutinise the effectiveness of the complaints procedure with lessons being learnt to improve service provision.
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REPORT DETAILS

1.00	EXPLAINING THE NUMBER OF COMPLAINTS RECEIVED, THE ISSUES RAISED AND THEIR OUTCOMES
1.01	Feedback in the form of compliments and complaints from service users, their family or carers can highlight where services are working well or where services need changing. Flintshire County Council wants to learn from this feedback and use the experiences to improve services for everyone who uses them.
1.02	As part of our day to day business staff deal with questions, concerns, problems, dissatisfaction, and general feedback which frequently includes praise. We encourage staff to listen to people, to explain decisions, to clarify where misunderstandings have arisen and to take action to put things right where they can. This approach enables us to provide a responsive and effective service. However, we recognise that there will also be complaints that we need to listen to, address and learn from.
1.03	Our assessment is that Social Services has a robust complaints procedure in place. We welcome complaints and want to ensure service users, carers and families are listened to, their views acted upon, and that receive a timely and open response. Staff and Managers work hard to resolve problems as soon as they arise, and advocacy is actively promoted. As part of our wider approach to quality assurance all complaints are reviewed to bring together information about the overall quality of services, to identify trends, and action required including any lessons learned to avoid similar issues arising again.
1.04	<u>Overview of complaints: Adult Social Care</u>
1.05	<p>This year has seen a small increase in the number of complaints made about Adult Social Care. Of the 2,020 people with a care and support plan from Adult Social Care, 46 individuals complained about the service they received (less than 2%).</p> <p>This small increase in complaints continues against the backdrop of the unprecedented challenges and demands placed upon public health and social services as the COVID pandemic enters its third year.</p> <p>It is pleasing to note that of the 46 complaints received, only 1 complaint was escalated to an independent investigation at Stage 2 of the procedure.</p>

1.06	All complaints received across the Service are scrutinised to see if anything further could have been done to alleviate a complaint being made in the first place: broadly speaking there were no such instances where a complaint could have been avoided. Every effort is made by social work staff and Managers to resolve issues/concerns quickly with service users and families. See Appendix 1 for a summary of complaints grouped into themes.																																												
1.07	Older People Services is the largest part of Adult Social Care and receives the largest number of complaints, taking into account the challenges the Service faces with increased demand.																																												
1.08	<table border="1" data-bbox="360 645 1139 2096"> <thead> <tr> <th data-bbox="360 645 596 763">Service</th> <th data-bbox="596 645 778 763">2021-22</th> <th data-bbox="778 645 960 763">2020-21</th> <th data-bbox="960 645 1139 763">2019-20</th> </tr> </thead> <tbody> <tr> <td data-bbox="360 763 596 882">Older People Services</td> <td data-bbox="596 763 778 882">17</td> <td data-bbox="778 763 960 882">22</td> <td data-bbox="960 763 1139 882">17</td> </tr> <tr> <td data-bbox="360 882 596 1001">Older People – Provider</td> <td data-bbox="596 882 778 1001">2</td> <td data-bbox="778 882 960 1001">1</td> <td data-bbox="960 882 1139 1001">12</td> </tr> <tr> <td data-bbox="360 1001 596 1232">Learning Disability Community Team</td> <td data-bbox="596 1001 778 1232">2</td> <td data-bbox="778 1001 960 1232">1</td> <td data-bbox="960 1001 1139 1232">3</td> </tr> <tr> <td data-bbox="360 1232 596 1368">Learning Disability Provider</td> <td data-bbox="596 1232 778 1368">0</td> <td data-bbox="778 1232 960 1368">0</td> <td data-bbox="960 1232 1139 1368">0</td> </tr> <tr> <td data-bbox="360 1368 596 1552">Mental Health and Substance Misuse</td> <td data-bbox="596 1368 778 1552">0</td> <td data-bbox="778 1368 960 1552">2</td> <td data-bbox="960 1368 1139 1552">3</td> </tr> <tr> <td data-bbox="360 1552 596 1653">Disability Service</td> <td data-bbox="596 1552 778 1653">7</td> <td data-bbox="778 1552 960 1653">3</td> <td data-bbox="960 1552 1139 1653">4</td> </tr> <tr> <td data-bbox="360 1653 596 1715">Safeguarding</td> <td data-bbox="596 1653 778 1715">0</td> <td data-bbox="778 1653 960 1715">0</td> <td data-bbox="960 1653 1139 1715">2</td> </tr> <tr> <td data-bbox="360 1715 596 1856">Other (inc. Business Support etc.)</td> <td data-bbox="596 1715 778 1856">6</td> <td data-bbox="778 1715 960 1856">5</td> <td data-bbox="960 1715 1139 1856">7</td> </tr> <tr> <td data-bbox="360 1856 596 2020">Registered Residential Provider</td> <td data-bbox="596 1856 778 2020">7</td> <td data-bbox="778 1856 960 2020">6</td> <td data-bbox="960 1856 1139 2020">7</td> </tr> <tr> <td data-bbox="360 2020 596 2096">Registered Domiciliary</td> <td data-bbox="596 2020 778 2096">4</td> <td data-bbox="778 2020 960 2096">3</td> <td data-bbox="960 2020 1139 2096">4</td> </tr> </tbody> </table>	Service	2021-22	2020-21	2019-20	Older People Services	17	22	17	Older People – Provider	2	1	12	Learning Disability Community Team	2	1	3	Learning Disability Provider	0	0	0	Mental Health and Substance Misuse	0	2	3	Disability Service	7	3	4	Safeguarding	0	0	2	Other (inc. Business Support etc.)	6	5	7	Registered Residential Provider	7	6	7	Registered Domiciliary	4	3	4
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		Providers				
		Integrated Autism Svc.	1	2	1	
		Total number of complaints	46	45	60	
1.09	<p>Broadly speaking the complaint themes are broken down into the following areas with the number received in brackets).</p> <ul style="list-style-type: none"> • Dignity (3 complaints) • Communication (7 complaints) • Timeliness of our decisions or actions (3 complaints) • Disagreements with our decisions or actions (9 complaints) • Quality of care (13 complaints) • Charges applied or financial issues (6 complaints) • Hospital discharges (4 complaints) • Process issues (8 complaints) • Lack of advice/assistance (4 complaints) <p><i>* Note that often one complaint contains more than one theme</i></p>					
1.10	<p>A range of methods are used to resolve complaints including:</p> <ol style="list-style-type: none"> a. A video conference meeting or telephone conversation with the complainant to discuss their concerns. b. Involving Advocates. c. A written explanation as to the reasons for a decision d. An apology where appropriate e. Action taken to review a decision f. Independent investigation (Stage 2 of the procedure) 					

1.11	<p>The Regulations place a duty to discuss and resolve any complaint within 10 working days and write formally to the complainant confirming the outcomes.</p> <table border="1" data-bbox="304 253 1367 499"> <thead> <tr> <th data-bbox="304 253 584 353">Adult Social Care</th> <th data-bbox="584 253 844 353">2021-22</th> <th data-bbox="844 253 1106 353">2020-21</th> <th data-bbox="1106 253 1367 353">2019-20</th> </tr> </thead> <tbody> <tr> <td data-bbox="304 353 584 499">Within timescale at Stage 1</td> <td data-bbox="584 353 844 499">89%</td> <td data-bbox="844 353 1106 499">89%</td> <td data-bbox="1106 353 1367 499">87%</td> </tr> </tbody> </table>	Adult Social Care	2021-22	2020-21	2019-20	Within timescale at Stage 1	89%	89%	87%
Adult Social Care	2021-22	2020-21	2019-20						
Within timescale at Stage 1	89%	89%	87%						
1.12	<p>The Service has consistent response times to complaints and always strives to ensure the ten day timescale is met. There are circumstances, however, when a timely response isn't possible. The complainant is kept informed of the progress of their complaint and complaints are often responded to or resolved shortly the ten day timescale.</p>								
1.13	<p><u>Stage 2 (Independent Investigation)</u></p>								
1.14	<p>1 complaint was escalated to Stage 2 of the procedures this year, compared to the 4 complaints last year and 3 complaints the year before that.</p> <p>All complaints that progress to Stage 2 are scrutinised to see if anything further could have been done to resolve the complaint formally at Stage 1. See appendix 3 for a summary of the Stage 2 investigations and their outcomes.</p>								
1.15	<p><u>Ombudsman</u></p>								
1.16	<p>The Ombudsman made 5 enquiries regarding Adult Social Care cases this year. One complaint regarding a family not being informed in a timely manner of decisions regarding their loved one's care home fees as a result of an ongoing dispute between the Local Authority and Health was upheld.</p> <p>We apologised for their experience and issued financial redress. We will take up outstanding monies owed to the care home and the inter-agency dispute process with Health separately.</p> <p>The remaining 4 enquiries were closed with no further action taken or needed by the Local Authority.</p>								
1.17	<p><u>Lessons Learned</u></p>								
1.18	<p>Learning from complaints is important and we use the findings and outcomes to inform policy and practice in delivering services (known as the 'lessons learned' process). Examples of action taken on issues raised as a result of complaints to Adult Social Care include:</p> <ul style="list-style-type: none"> • We reviewed what equipment etc. can be purchased via direct payment monies so we now have clarity for service users. • We needed to be clearer with families etc. about outcomes following a Safeguarding meeting. We specifically record arrangements for feeding back on the outcome of the meeting to the individual or their families at the end of each safeguarding meeting. The agreed 								

	actions are reviewed after three months to make sure that they have happened.																												
1.22	<u>Compliments</u>																												
1.23	It is pleasing to report that Adult Social Care received 251 compliments during the year, showing the high regard in which care and support was delivered during the ongoing challenging and demanding time. Compliments are received in the form of cards, letters or emails from service users or their families when they recognise staff have done “over and above” what is expected. See Appendix 4 for a summary of some of the compliments received across service areas.																												
1.24	<u>Overview of Complaints: Children’s Social Services</u>																												
1.25	<p>There was a small fall in the number of complaints received during the year regarding Children’s Social Services: 44 complaints from the total 2,391 of children and families who received care and support (less than 2%). This compares to 48 complaints received last year (2020-21) and 30 complaints during 2019-20). Complaints about the Service are comparable year on year going back previous years.</p> <p>There were 204 compliments about the work of Children’s Services.</p> <p>Again this number should be considered against the number of children and families (2,391) who received care and support from the Service. See appendix 2 for further details about these complaints.</p>																												
1.26	<p>2 young people complained during the year, with 1 young person being supported by their Advocate.</p> <table border="1"> <thead> <tr> <th>Service</th> <th>2020-21</th> <th>2019-20</th> <th>2018-19</th> </tr> </thead> <tbody> <tr> <td>Protection And Support, And Resources</td> <td>30</td> <td>35</td> <td>24</td> </tr> <tr> <td>Fostering Service</td> <td>3</td> <td>0</td> <td>1</td> </tr> <tr> <td>Child to Adult Team (also formerly C.I.D.S.)</td> <td>8</td> <td>11</td> <td>2</td> </tr> <tr> <td>Safeguarding Unit</td> <td>1</td> <td>0</td> <td>1</td> </tr> <tr> <td>Flying Start</td> <td>0</td> <td>0</td> <td>0</td> </tr> <tr> <td>Other (including commissioned providers)</td> <td>2</td> <td>2</td> <td>2</td> </tr> </tbody> </table>	Service	2020-21	2019-20	2018-19	Protection And Support, And Resources	30	35	24	Fostering Service	3	0	1	Child to Adult Team (also formerly C.I.D.S.)	8	11	2	Safeguarding Unit	1	0	1	Flying Start	0	0	0	Other (including commissioned providers)	2	2	2
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	Total Number of Complaints	44	48	30								
	<p>As explained earlier, a range of methods are used to resolve complaints. These include:</p> <ol style="list-style-type: none"> a. A meeting or conversation with the complainant to discuss their concerns b. Involving Advocates. c. A written explanation as to the reasons for a decision d. An apology where appropriate e. Action taken to review a decision f. Independent investigation (Stage 2 of the procedure) 											
	<p>Broadly speaking the complaint themes are broken down into the following areas (with the number received in brackets).</p> <ul style="list-style-type: none"> • Communication (10 complaints) • Disagreements with our decisions or actions (12 complaints) • Contact (5 complaints) • Process issues (16 complaints) • Lack of advice/assistance (10 complaints) • Staff (2 complaints) • Placement/fostering issues (2 complaints) <p><i>* Note that often one complaint contains more than one theme</i></p>											
1.27	<p>Of the 44 Stage 1 complaints received, 38 out of 44 complaints were responded to within timescale (86%). The 6 late complaints were responded shortly outside timescale.</p> <table border="1" data-bbox="304 1514 1369 1720"> <thead> <tr> <th data-bbox="304 1514 679 1615">Social Services for Children</th> <th data-bbox="679 1514 922 1615">2020-21</th> <th data-bbox="922 1514 1145 1615">2019-20</th> <th data-bbox="1145 1514 1369 1615">2018-19</th> </tr> </thead> <tbody> <tr> <td data-bbox="304 1615 679 1720">Within timescale at Stage 1</td> <td data-bbox="679 1615 922 1720">86%</td> <td data-bbox="922 1615 1145 1720">90%</td> <td data-bbox="1145 1615 1369 1720">93%</td> </tr> </tbody> </table>				Social Services for Children	2020-21	2019-20	2018-19	Within timescale at Stage 1	86%	90%	93%
Social Services for Children	2020-21	2019-20	2018-19									
Within timescale at Stage 1	86%	90%	93%									
1.28	<u>Stage 2 (Independent Investigation)</u>											
1.29	<p>3 complaints proceeded to Stage 2 of the procedure and independent investigation during the year, a fall compared to last year's 5 complaints. These were complex cases involving difficult family or personal dynamics. A summary of these Stage 2 complaints is described in Appendix 3.</p>											

1.30	<u>Ombudsman</u>
1.31	7 enquiries were made by the Ombudsman's office during the year, 3 separate enquiries made by the same person. None were taken forward.
1.32	<u>Lessons Learned</u>
1.33	The lower number of complaints received has meant a limited number of lessons to be learned across the Service: <ul style="list-style-type: none"> • A recruitment drive into the Service will mean a quicker turnaround times for mediation between families etc.
1.34	<u>Compliments</u>
1.35	Children's Social Services recorded 204 compliments this year. The compliments highlighted the good work of staff during another challenging and demanding year. Compliments are made by families, the Courts and other public bodies. They were in the form of cards, emails, texts or letters. See appendix 4 for a summary of some of the messages received.

2.00	RESOURCE IMPLICATIONS
2.01	The Regulations state all Stage 2 complaints involving both Adult and Children's Social Services are commissioned to Independent Investigators (and an Independent Person for Children's Social Services as set out in the Children Act, 1989). The cost of this year was £8,794.25. The cost for Stage 2 complaints for the period 2020-21 was £12,552.25. The cost for 2019-20 was £11,031.02.

3.00	CONSULTATIONS REQUIRED / CARRIED OUT
3.01	None undertaken.

4.00	RISK MANAGEMENT
4.01	No risks identified.

5.00	APPENDICES
5.01	Appendix 1: Summary of complaints categorised into themes (Adult Social Care)
5.02	Appendix 2: Summary of complaints categorised into themes (Children's Social Services)

5.03	Appendix 3: Summary of Stage 2 independent complaint investigations and their outcomes (both Children and Adult Social Services)
5.04	Appendix 4: Summary of compliments received across service areas (both Children and Adult Social Services).

6.00	LIST OF ACCESSIBLE BACKGROUND DOCUMENTS
6.01	<p>'A guide to handling complaints and representations by Local Authority Social Services', August 2014 (Welsh Government).</p> <p>Contact Officer: Ian Maclaren, Complaints Officer for Social Services</p> <p>Telephone: 01352 702623</p> <p>E-mail: ian.maclaren@flintshire.gov.uk</p>

7.00	GLOSSARY OF TERMS
7.01	<p>Stage 2 complaint: the Regulations stipulate that where a complainant remains dissatisfied with their response from the Council, consideration must be given to progressing the complaint further in the statutory procedure, i.e. to Stage 2. An independent investigation is commissioned using a shared North Wales 'pool' of retired social care Officers.</p>

Mae'r dudalen hon yn wag yn bwrpasol

Adult Social Care

Summary of complaints by theme (2021-22)

Complaints relating to dignity

X complained about the standard of care provided to Y whilst X had been in hospital. X returned to find Y in a spoiled bed and a spoiled mattress.

Having reviewed Y's case there is a pattern that Y refuses to have his continence products changed. We explained that staff have recorded on many occasions that Y declines personal care and pad changes. Y takes himself back to bed frequently, it is recorded that Y will say 'I'm going back to bed', or when staff go back to the next visit Y will be in bed. Y will take his pad off himself on occasions leaving it on the floor and this is generally when staff find that the bed is wet.

Complaints relating to communication

X complained we had not involved or invited them to any recent meetings. Y is forgetful and doesn't remember when a meeting is scheduled or its purpose.

We apologised if not inviting them to the meeting had caused unnecessary upset but this was not seen as a contentious meeting and it had been called by Health professionals. We invite family members to meetings and we will let family know of all meetings that will take place in relation to Y. However we cannot be in a position in which routine meetings are delayed because we are unable to accommodate a family member attending. We also drew their attention to reports from staff that one family member is regularly complaining and highlighted their hostile behaviour toward some staff which is unacceptable.

Complaints relating to timeliness of our decisions or actions

X raised concerns about the appropriateness of Y's placement in a residential home as their physical and mental health are deteriorating.

There was a lot of work taking place already at the time the complaint was made and Y returned home with a package of care shortly afterwards and is reported to be happy with carers.

Complaints relating to disagreements with our decisions or actions

X complained their direct payments and support had been cancelled due to their admission to hospital with no reason why.

We have sought to speak with X on a number of occasions about her direct payment support, but she has not engaged with us. If X engaged, it would have enabled us to share our ongoing concerns regarding their suitability as an employer of Personal Assistants and their responsibility in the management of the direct payment. We don't believe the arrangement is working as X is not complying with direct payment legislation. Personal Assistants will be paid for their work undertaken.

Complaints relating to charges applied or financial issues

X complained of mixed messages from recent assessments - either Y can return home or they require residential care. Y's home has been sold but they have received mixed communication re. costs.

We reviewed the case and found that Y liked it at the home they were in and wanted to stay as Y felt unsure about living in an apartment on her own. We respected Y's views so she was turned down for a Council care home. Y and family were advised about the implications of self-funding and the charges they were expected to pay. There have been plenty of conversations with family about the costs for all to make an informed decision as well as ample opportunity for family to explore other options.

Complaints relating to hospital discharges

X complained Y has been waiting to be discharged from hospital but there have been delays and some confusion whether Y's placement should be Section 117 aftercare funded or C.H.C. funded.

We explained the journey of our involvement from the time Y's case was allocated for discharge. This included the delays with the hospital ward completing the necessary paperwork, the complicated processes around Section 117 funding, EMI Nursing funding, Y's residence outside Flintshire and Health's preference for residence within Wales. There is currently an agreement in place for 50/50 funding between us and Health for the family's home of preference. We apologised for any unnecessary upset that we caused during this time.

Complaints relating to the quality of care from a home or carer

X complained about the home's lack of duty of care towards Y including: no consideration given to Y's deafness or poor eyesight meaning their behaviours deteriorated and Y became frightened. A safeguarding concern was also raised about over-sedation causing injury.

The home provided a comprehensive response including appropriate information was provided and documented in relation to Y's communication and mental health/behavioural needs, and the home communicated with the G.P. and Community Mental Health Team about her situation. We also shared the outcome of

a safeguarding investigation as X complained Y had fallen after being over-sedated and dragged from her bed on one occasion. There was no evidence of either allegation.

Complaints relating to a lack of support

X complained Y was being passed from pillar to post between Services without any regard for his mental wellbeing. X is trying to get the support that Y requires and without a diagnosis that is proving to be very difficult.

We apologised for her experience but advised the Integrated Autism Service was not a statutory service and could not assess/support anyone who had moderate to severe mental health difficulties. We recognised the complexity of Y's presentation and we issued a separate letter following consultation with a Health professional as to their findings and determining how future support should be delivered. More recently, we have again contacted the C.M.H.T. to offer consultation and a joint assessment which Y failed to attend.

Complaints relating to process issues

X complained we were blocking Y's discharge from hospital to a local home and he hadn't been given a reason why.

We explained the complexities of the current situation with X, advising Y should go into residential placement whilst family sourced live-in care. We explained that we need to try and get Y home directly in order to comply with her wishes. We explained the difficulties that we have in relation to retaining the package of care and that if we don't have a date for discharge, we can't ask Panel to extend the retainer on the package.

Complaints relating to the impact of COVID

X complained we weren't consistently applying respite care funding. Their respite was funded in June but not for August.

We explained no respite care was being provided for holidays given the pandemic except on an emergency/carer crisis basis (hence agreement to their June respite). Any respite arrangement made was seen as a private arrangement and would not be funded by ourselves.

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Children's Social Services

Summary of complaints by theme (2022-23)

Complaints relating to contact

X complained why contact had been reduced and changed, and they weren't aware of the plans for the children.

We reminded X why telephone contact had been reduced because of their own erratic behaviour and making promises to the children which they didn't keep. We reassured X the children's contact with their sister remained the same as previously. X missed the last review as they were away on holiday but knows the plan for the children, but X was reminded again what the plan was.

Complaints relating to communication

X complained we weren't listening to them, that we had formed our own opinion of them, X was not given updates and we could be difficult to reach. We had also asked X's partner to leave the home when there was no risk posed by them.

We did not agree with X's view and explained the role of the Social Worker was to access the information shared by the Police and formulate the risks and needs of the family members involved. All messages during the week were responded to. We are listening to X's views but balance these against our concerns for their daughter. We reminded X why their partner had been asked to leave the home given the Police referral and our ongoing concerns.

Complaints relating to a lack of advice or support

X complained they weren't listened to at Conference a year ago. Their children were placed on the Register last year but during that time and since, they have received no support.

We did not share X's views. Conference minutes record X participated and shared her views at the meeting. We reminded X that after the children were de-registered X was of the view the family no longer needed support and disengaged with services.

Complaints relating to disagreements with our decisions or actions

X complained that we weren't impartial in terms of their son's case and we took their ex-partner's side on issues such as contact. X also complained we hadn't addressed a safeguarding concern they had raised.

We explained our actions about X's safeguarding concern and that there is a consistent view that the events do not meet safeguarding thresholds. Police also visited. We will work with X about how their son is supported by all parties so that there is consistency in supporting and reassuring him. We will meet again with X and her family to explore how their son can be supported collectively. The Social Worker won't be changed as she has a positive and appropriate relationship with X's son, and there are high levels of review and management oversight.

Complaints relating to staff

X complained they weren't given the opportunity to share their views at a mediation meeting and that it was poorly chaired.

We reminded X that the Mediator had met separately with both parents before the main meeting. They were both given the opportunity to contribute within the Mediation session and the Mediator supported exploring different options for moving forward. However it is entirely up to the parties involved whether they are willing to negotiate and reach an agreement with each other, with the support of the Mediator, and unfortunately an agreement cannot always be reached. We offered to hold another session with a different Mediator.

Complaints relating to process

X complained we were encouraging them to pick up their children for contact as X would be in breach of bail conditions and likely place them on remand. X said they are banned from attending core group meetings and they never receive minutes or updates about the children.

We reminded X that their bail conditions ended some time ago so he could collect the children if a third party was present. X is not banned from attending meetings and we send copies of minutes etc. to the family home.

Complaints relating to foster placements

X complained their foster placement was supposed to be anonymous but after being asked against their wishes to transport a young person to contact, the placement's anonymity may have been breached as family members saw X and the car X drives).

We agreed that X will not transport for contact in the future. X was indeed asked to transport but they could have said no and this was made quite clear to them at the time. However supporting contact with transport is something we expect carers to do, if safe, as it is in the best interest of the children. Family support/contact team have worked hard to maintain X's anonymity. However the young person looked after is of an age where she can disclose her address with her parents.

Complaints made by young people

X questioned why we intervened with their parent when parent was drunk, that X's contact now had to be supervised, that X wasn't in control of their own life and they felt they were spoken with unprofessionally.

We spoke with X and had a positive and lengthy discussion about contact and parent's drinking as well among a number of ongoing matters. It appears that X's parent may have misunderstood some of the points raised in the Schedule of Expectations, particularly around their drinking. X was also reassured that if contact is successful the next couple of occasions we would look at going back to unsupervised contact and X was satisfied with that approach.

Mae'r dudalen hon yn wag yn bwrpasol

Summary of independent investigations and their outcomes at Stage 2

Adult Social Care

X complained about the Physical Disability Service in terms of its failure to consult with them in the course of decision-making about their sister's discharge from hospital. The complaint was upheld and we apologised. We provided an assurance that X will be involved in all decision-making in relation to their sister's care. The Stage 2 found that in all other respects of the case we had acted reasonably.

A long-standing complaint involving the Council and Health about Mr & Mrs X's Continuing Health Care funding and residential costs was upheld by the Ombudsman. We apologised for our shortcomings in the whole process and issued financial redress. There are lessons to be learned that we will take forward with Health.

Children's Social Services

X complained about the Child To Adult Team and that it had failed to ensure their children's welfare was paramount. They also raised concerns about the children's removal from the child protection register when they were at continuing risk of significant harm from their partner. The complaints were not upheld.

X complained about the Targeted Support Team complained about 14 separate issues regarding its case management. The main areas of the complaints were not upheld but 5 were partly upheld about:

- advice given about accessing copies of records and we didn't show a copy of a referral with parents.
- That we made no reference to concerns from parents about their son's bullying in one of our records.
- That we didn't record an incident in a timely manner (though family were informed verbally in a timely manner).
- 2 emails weren't recorded on PARIS.

X complained about the Children First Contact Team and how their case was handled following an incident between X and their son. None of the 5 elements complained about were upheld.

Mae'r dudalen hon yn wag yn bwrpasol

Examples of compliments received during 2021-22

Compliments received from service users, their families and other public bodies including Health and the Court Services are shared with all staff via email and a selection are included in the staff bulletin.

Adult Social Services:

Single Point of Access: “Thank you so much for all your help yesterday and this hospital update. It’s so kind and you’ve done so much to help, thank you for the bottom of my heart!”

Older People Localities: “Can I please take this opportunity to thank for everything that you have done for us as a family. I cannot express how much I felt supported from you both. I know I was really fussy about where (dad) was placed but I know you will understand that you just want the best for your family member. The pandemic has been such a challenge, but my experience is that the service from social services and the package of care that you sourced was second to none despite the difficult world we’ve been in”.

Hospital Social Work Teams: “I just wanted to say thank you for everything you have done and are doing. You say you haven’t done much, but you really have, and your kindness means so much to all the family who just adore their Mum and want the best for her, and you have shown so much kindness and care throughout”.

O.T.: “I wanted to personally thank you for everything you have done for me and my husband, you are one of the best, I really can’t thank you enough. I’m grateful for everything you did, you went overboard to help us. It really means the world that we can at last have some quality of life”.

Reviewing Team: “Many thanks for the useful informative time you spent with us today. Also for your empathy, giving us information to make us think ‘outside the box’ in managing X’s care that we appreciate so much”.

Older People Provider Service:

Llys Gwenffrwd: “Thank you so much for what you all do for my mum. You are all diamonds!”

Llys Raddington: ““Thank you all so very much for your care and kindness shown towards my nan. We are so grateful to each and every one of you for looking after her”.

Plas Yr Ywen: “Thank you all for the care, thoughtfulness and kindness shown to mum on moving day. A potentially anxious day was made so much smoother by all the attention to mum had on her arrival”.

Llys Eleanor: "Thank you for the care and affection you showed to my dad. Thank you for enabling me to see him as a fun loving, mischief maker in his later years of life. The importance your time and considerations make each day, supporting those folks who have chosen Llys Eleanor to live".

Marleyfield home: "Thank you for the loving care and attention you gave to our mum. She was very happy at Marleyfield and we are very grateful to you all".

Croes Atti: "I cannot thank each and every one of you enough for all the love, care and support you gave my mum and myself. Diolch!".

Llys Jasmine: "How impressive and dedicated your caring team are. All of them have made my life here much improved. Also my health has much improved thanks to the daily happiness and dedication shown to us. Their presence fills our day with joy and laughter as they work as a team and a very happy bunch of girls. They provide us with much laughter and music each and every day".

Ty Trefynnon: "Just to tell you how wonderful you have been keeping me in touch with my mum. I can't thank you enough".

Homecare/Reablement: "I'd like to extend an enormous thank you to you for your time, patience and care in dealing with X. On arrival, you were faced with a most challenging situation which I can imagine would not have been dealt with by many as professionally as you have. What you had to deal with and the actions you took today demonstrates your skill, understanding and dedication to your job. You have gone above and beyond your duties... and would be lost without you."

Learning Disability Community Team: "X went on to express his gratitude for the assistance and support provided by your team, stating they were 'stuck between a rock and a hard place' but you went over and above to support Y".

Learning Disability Provider Service: "X always had such positive things to say about you and hearing how happy Y has been in STC. He said it sounds like a real family feel there and he was so grateful to see how much Y enjoyed it. I wasn't sure if you'd ever heard that from X, but the work you and your team put in had allowed X to feel settled and content about Y in his last few years. The biggest of thanks to you all for that!".

Child to Adult Team: "Can I just say a massive thank you, you have really made a difference to X. I know that X is so proud of the young man he has turned into, and a lot of that is down to you.... X is thriving....you have shown the way with a limited amount of fuss and made it really easy for me and and at times it was really difficult especially managing X's needs. He has finally started to shine"

Physical Disability Service: "I would like to thank you as we had a referral for a lady in Holywell, we needed social worker advice and support and you were so approachable and supportive. This was joint working at its best with the patient/client at the centre. I look forward to working with you again".

Mental Health and Substance Team: “You have done some amazing work with X around a long awaited and difficult home move. It will not be news to you but your knowledge, commitment and tenacity are amazing. I am very grateful for her support with X and I am sure X would be if they truly understood what has gone on in the background to make her safe”.

Integrated Autism Service: “We have recently been through the assessment process with your team and found your support and guidance, what is a difficult and highly emotional situation, so much easier. You showed interest in our family. I knew from that moment you were good listeners, really empathetic and genuine people who wished to help families like ours to understand ourselves better. We could not speak more highly of our experience with IAS”.

N.E.W.C.E.S.: “Your drivers delivered some equipment to parents today and they wanted to pass on their thanks. They said they were lovely and polite. They were extremely helpful”.

Safeguarding: “I’d like to thank you very much for giving me such a thorough account of how X is. These past few months have been extremely challenging and, due to the pandemic, I’ve not been able to see X as often as I would like, it is very reassuring that you have completed such a thorough assessment, it is very much appreciated and has put my mind at rest”.

Financial Assessment and Charging Team: “I did not realise the wealth of information that you and your colleagues have accumulated to help us looking after our loved ones here in Flintshire. We are so fortunate. Thank you so much for the info and always ready to help”.

Contracts and Commissioning Team: “Thank you all for all the support this year. We are so grateful for everything that you have done for us. Rest assure, we brag at every opportunity on how great the FCC team is, and what social care should mean. You all are just the best”.

Direct Payments Team: “Your ladies have been so helpful at all times. Flintshire leads the way and your staff cannot be praised enough in mentoring, helping with budgets, employment contracts etc. and setting up a portal so we can access Carers looking for employment. I am most grateful for all your help”.

Children’s Social Services:

Protection and Support, and Resources: “X has undertaken some fantastic preventative work with both parents and managed to get them both on board with accessing the relevant support services. She has gone above and beyond at times to make sure that both parents have been able to attend important meetings etc. X has been successful in achieving a really positive outcome for this family”.

“It is practically impossible to verbalise the wonderful job X has done with this... She worked with the family in (another country) to ensure they completed the correct COVID documentation... The situation at the airport was tense. X stayed calm while

supporting an upset Y. X liaised with the (foreign) all within a short period of time. X did an absolutely wonderful job in the unexpected situation that was presented. So grateful that she was the person who was providing support to Y on her travels.”

“I just want to say thank you for all the advice you have given me from the start because everything you have said has turned out to be right so far. The advice you gave me has guided me all through this and reminded me exactly what and who I'm fighting for. I know I gave you a hard time at the start but I've realised you were the only one being honest with me. I just wanted to say thank you anyway for everything”.

Safeguarding: “Thank you to your staff for their professionalism and support. We had a particularly difficult situation and you handled a challenging situation really supportively and professionally. With a moment’s notice your staff rushed around and stepped in at the last moment to ensure the young person was released the day after. Again you were very helpful and professional.

Early Years and Family Support, and Family Information Service

“Thanks for your time. We will all work together. You are an inspiration for the services you have developed/supported”.

“Thank you for all of the support you have and continue to give us, especially during the COVID pandemic. We really are grateful for all you do to help and support us”.

Eitem ar gyfer y Rhaglen 6



SOCIAL & HEALTH CARE OVERVIEW & SCRUTINY COMMITTEE

Date of Meeting	27 th October 2022
Report Subject	Day Service Provision
Cabinet Member	Deputy Leader of the Council and Cabinet Member for Social Services and Wellbeing
Report Author	Chief Officer (Social Services)
Type of Report	Operational

EXECUTIVE SUMMARY

This report will examine the provision of Day Care opportunities for Older people in Flintshire. The report will focus on the past three years and include the impact of the pandemic on the ability to sustain and provide formal Day Care for Older people and adults.

RECOMMENDATIONS

1	Members understand the current availability of day care provision available to adults in Flintshire.
2	Members support the continued commitment to provide and increase day care choice and options across Flintshire.

REPORT DETAILS

1.00	EXPLAINING THE DAY CARE PROVISION
1.01	Flintshire currently have two formal Day Services operational for Older people. Formal day care is usually for a period of a full day with lunch as part of the experience The criteria to access the service is to support informal carers and to provide a full day of respite for the carer. Opportunities to reduce social isolation and loneliness are offered in a wider arena and can be accessed following a “what matters conversation”.

1.02	<p>Croes Atti Day Centre is located on Prince of Wales Avenue in Flint. The centre is next to the residential care home and is a separate building. The Day Centre offers day care for a maximum of eight people a day and it is currently operational four days a week and has two dedicated members of staff providing activities and support for the people who attend. Predominately the criteria to access formal Day Care is to support respite for those who care for the people who attend.</p> <p>Marleyfield Day Centre is located within the residential care home in Buckley and has recently been refurbished. Marleyfield Day centre has capacity to support eight people per day.</p>
1.03	<p>Both Marleyfield and Croes Atti Day Centres were closed in March 2020 in accordance with national advice in relation to the Covid 19 pandemic and in line with the national lockdown.</p> <p>The staff team were redeployed within other critical front-line services including residential care homes and extra care facilities.</p>
1.04	<p>Croes Atti Day Centre remained closed until 9th November 2020 when the service tentatively reopened. Following the reopening the take up of the service was slow with people who used to attend fearful of being in a group setting. The service during the winter months of 2020 was working under strict Covid 19 guidelines and supporting a maximum of three people per day to ensure that rules relating to physical distancing were adhered to. The service was closed again due to second national lockdown following Christmas 2020.</p>
1.05	<p>Formal Day care services remained closed until September 2021. When the service reopened late September, it was for three days per week supporting a maximum of eight people. The service closed again following an increase in Covid 19 cases and the emergence of the Omicron variant of Covid 19 on December 22nd, 2021.</p> <p>Croes Atti Day Care has been open and operational since 8th March 2022, initially for three days, Tuesday Thursday and Friday. We extended the service to open on a Wednesday in September 2020</p> <p>A waiting list was held prior to opening on the fourth day and now supports five people on a Friday</p>
1.06	<p>Report Detail</p>
1.07	<p>The work to build the Marleyfield extension started in April 2020 and continued until May 2021 with residents moving to their new accommodation in September 2021. Marleyfield, like a number of other care homes experienced a number of Covid 19 outbreaks among residents and staff and this has been a factor in the reopening of day care services at Marleyfield.</p>
1.08	<p>Generally, the requests for traditional formal day care are reporting to be low. Requests to support carer respite in the form of Day Care have been accommodated at Croes Atti Day Care as there hasn't been the demand required to open up facilities at Marleyfield in Buckley. To date there is still capacity at Croes Atti to accommodate more people, Croes Atti is staffed but is still not at capacity with vacancies available on a number of days.</p>

1.09	There has been a decline in attendance at formal Day Services over the past few years. Prior to Marleyfield Day Centre closing due to Covid 19 and the refurbishment, there were between five to ten vacant places each day with attendance varying from nine to thirteen people a day out of a possible eighteen to twenty-three places available.
1.10	Services for younger dementia have a regular day at Croes Atti Day Care since relocating from the Old Brewery in Shotton, numbers attending have fallen to three people a week with no current new requests/referrals
1.11	Staffing in social care remains a significant challenge, the support team in day services is a small team, and some have found alternative employment since the pandemic.
1.12	Due to the low numbers of attendees and the staffing levels available it is currently financially viable to have one centre open. We have had a waiting list open with a view to reopening Marley field day services, when there is a demand. The list has been opened since July 2022 and is monitored regularly. Currently we have no names on that list.

2.00	RESOURCE IMPLICATIONS
2.01	The experience of the recent pandemic has forced us all to look at how we support the most vulnerable people in society and their carers in different ways. Experiences in which people feel safe and comfortable. Many people have struggled to be in larger groups such as formal day care, families are anxious about resuming previous routines.
2.02	A number of innovative ways to provide support to individual and respite for carers have been explored. Volunteers' groups have emerged providing drop in opportunities for people to meet and socialise, many of these groups are signposted to when individuals contact Single Point of Access looking to reduce social isolation.
2.03	The use of remote technology has also risen enabling people to connect with each other and stay in touch, developing new friendships and generally improve well-being.
2.04	The provision of a Direct Payment option has also been encouraged to enable individuals pay for support in a way that best meets individual outcomes.
2.05	Flintshire continues to work in partnership Newcis, an organisation setup to support the needs of carers, provide opportunities for regular respite for carers in a format individual to that person's outcome. Wider Day Care opportunities are available for people with learning disabilities and physical disabilities and those managing their mental health. Many of these services have run where safe and in accordance with social distancing throughout the past two and a half years albeit on a very limited scale. They have been supported and run-in partnership with Flintshire.

	Please see detail in appendices of a range of day opportunities that are currently available.
2.06	When at full capacity the total annual costs for day care at Marleyfield and Croes Atti are £53,690 and £60,446 respectively. This equates to a daily rate of £32.18 for Marleyfield and a daily rate of £39.18 for Croes Atti.
2.07	A programme to support Mental health wellbeing can be found here www.flintshirewellbeing.org.uk

3.00	IMPACT ASSESSMENT AND RISK MANAGEMENT
3.01	None

4.00	CONSULTATIONS REQUIRED / CARRIED OUT
4.01	None

5.00	APPENDICES
5.01	Learning Disabilities
5.02	Physical Disabilities
5.03	A range of options and attendance numbers

6.00	CONTACT OFFICER DETAILS
6.01	Contact Officer: Telephone: 01352 701415 E-mail: Janet. Bellis @ Flintshire@ gov.uk

7.00	GLOSSARY OF TERMS
7.01	NEWCIS North East Wales Carer Information service

Weekly Day Care Rates/Attendance

Service user ID	No of days Attendance	Daily Rate per person	Weekly rate per person
1	3	£ 94.08	£ 282.24
2	2	£ 42.00	£ 84.00
3	2	£ 42.00	£ 84.00
Total	7	£ 178.08	£ 450.24

Number of attendees	3
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Weekly Day Care Rates/Attendance

Service user ID	No of days Attendance	Daily Rate per person
1	2	£55.00
2	1	£55.00
3	2	£55.00
4	3	£55.00
5	1	£55.00
6	2	£55.00
7	2	£55.00
8	2	£55.00
9	2	£55.00
10	1	£55.00
11	1	£55.00
12	3	£55.00
TOTAL		

Weekly rate per person
£110.00
£55.00
£110.00
£165.00
£55.00
£110.00
£110.00
£110.00
£110.00
£55.00
£55.00
£165.00
£1,210.00

No of Attendees	12
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Overview of support currently provided:	Number of people supported	Notes:
Service Provided		
Hwb Cyfle	36	
Monday	37	
Tuesday	36	
Wednesday	38	
Thursday	40	
Friday		
Hwb Dyffryn*	20	
Monday	21	
Tuesday	21	
Wednesday	20	
Thursday	19	
Friday		
Greenfield	5	
Valley/Allotments/Walking group*	6	
Monday	4	
Tuesday	4	
Wednesday		
Thursday		
Friday		
Tri-Ffordd	14	
Monday	9	
Tuesday	11	
Wednesday	12	
Thursday	13	
Friday		
Abbey Upcycling	14	
Monday	12	
Tuesday	12	
Wednesday	12	
Thursday	13	
Friday		
Creffttau Cariad	3	
Monday	3	
Tuesday	Closed	
Wednesday	3	
Thursday	3	
Friday		

Supported Employment	94
Caffi Dai	5
Monday	6
Tuesday	6
Wednesday	6
Thursday	5
Friday	

Eitem ar gyfer y Rhaglen 7



SOCIAL & HEALTH CARE OVERVIEW & SCRUTINY COMMITTEE

Date of Meeting	Thursday 27 th October, 2022
Report Subject	Social Services Single Point of Access for Adults (SPOA)
Portfolio Holder	Deputy Leader of the Council and Cabinet Member for Social Services and Wellbeing
Report Author	Chief Officer (Social Services)
Type of Report	Operational

EXECUTIVE SUMMARY

The purpose of this report is to inform Members of the type and quantity of work undertaken by the Single Point of Access for Adult social services enquiries (SPOA). The SPOA team provide the public and professionals with a first point of contact for Adult social services, offering advice, information and assistance, taking referrals and signposting to appropriate services and teams.

RECOMMENDATIONS

1	That members accept this report as relevant information in relation to the Single Point of Access for Adult social services
2	That members take due regard to the variety of activity across Single Point of access and note the continuing development and improvement in service provision.

REPORT DETAILS

1.00	BACKGROUND
1.01	The Flintshire Single Point of Access for adult social services is located in Preswylfa, a BCUHB office in Mold. The location of the team was planned to bring health and social care closer together at the first point of contact. Appendix 1 gives a picture of the type and amount of work undertaken at SPOA. The team has a number of key work areas, described below.
1.02	Agency reports – reports come in every day from agencies, including emergency services, alerting social services of incidents that have occurred in the community. Wherever a person suspected to be an adult at risk has contact with police, for example, a CID16 report is submitted by the police to social services. Each of these is checked against our records, and where appropriate and, within data protection guidelines, the information is passed on to the relevant team within social services or other agencies. Over two thousand reports are received each year.
1.03	Advice and information – a key part of SPOA’s function is to give advice and information about services to the public and to other professionals. This includes signposting to appropriate agencies where social services for adults are not the appropriate service to help resolve the query. There is a daily presence within SPOA from Flintshire Voluntary Services Council who offer a social prescribing service, helping people engage with voluntary and third sector services. The FLVC staff also help provide food bank vouchers and other ways of helping residents have enough food. Between April 2021 and March 2022, 1242 contacts were made with the adult social prescribing service, helping divert calls and enquiries which otherwise would have come to statutory services.
1.04	Early intervention / preventative services – SPOA provides early help to reduce the need for more intensive, and expensive, help later on. Community assessment officers take lower need social care referrals for reablement packages and longer-term care needs. Telecare officers provide advice about technology-based solutions which can help people manage in their own homes, for example using prompts from electronic devices as a reminder to take medication. SPOA works with Care and Repair to provide rails and ramps and have a list of trusted contractors to help with home maintenance and repair. Referrals are also made to the sensory impairment team and to the Deaf Support Network.
1.05	Care and support – the highest number of contacts made year on year are referrals for care and support from social services for adults, including social work and occupational therapy support. SPOA officers apply the Social Services and Well-being Act principles from the outset and have a conversation to find out what matters to the individual being referred, looking at

	<p>the strengths the person has, and what outcomes they would wish to see. The officer will identify key areas of risk and are skilled in passing the information to the right team. This will include safeguarding referrals. As part of strategic working with colleagues in BCUHB, the SPOA officers also take referrals from health colleagues on behalf of the Community Resource Team (CRT). The CRT provide an emergency response for GPs and other professionals to support people who have sudden changes in their health and are at risk of hospital admission. The team also provides fast access to equipment to help keep the resident safe at home.</p>
1.06	<p>Follow-up - Once a referral has been received SPOA tells the referrer what will happen following their contact with us. It is important that agencies do not assume that responsibility for ensuring the person's welfare and safety is not taken over by social services as soon as the referral has been made.</p>
1.07	<p>Carers - Carers are informed of their eligibility for an assessment in their own right and are given information about the support that is available from NEWCIS, the North East Wales Carers' Information Service. In 2021-2022 NEWCIS received 1,719 contacts from our staff, an increase of 6% on the previous year.</p>
1.08	<p>Staffing –</p> <ul style="list-style-type: none"> 1 team manager 1 senior social worker 1 senior occupational therapist 9 SPOA Officers 6 Community Assessment Officers – Community Assessment Officers deal with lower need referrals for reablement packages 7 Enablement Officers – Enablement Officers deal with lower need referrals for equipment and adaptations for people with a physical disability 3 ½ social prescribers (FLVC) 3 Administrative staff
1.09	<p>There is currently an issue about the telephone system in place at SPOA. As the team work from BCUHB premises, the main telephone number is a Health one. We have asked BCUHB communications to change the recorded message that they have attached to the number, as several callers have pointed out that the current message gives the impression that there is no one in the office, when in fact all our SPOA officers are busy with other calls. This discussion is ongoing.</p>

2.00	RESOURCE IMPLICATIONS		
2.01	The overall budget requirement for the SPOA team is a net requirement of £806,382. This includes external CHC funding for two Community Assessment Officers of £70,232.		
	Team Manager	£58,646	
	Senior Social Worker	£53,150	
	senior occupational therapist	£53,150	
	9 (7.5 FTE) SPOA Officers	£205,815	
	6 Community Assessment Officers	£140,464	(includes CHC funding)
	7 (6.6 FTE) Enablement Officers	£231,766	
	3 (2.31 FTE) Administrative staff	£63,391	
	Total	£806,382	

3.00	CONSULTATIONS REQUIRED / CARRIED OUT		
3.01	N/A		

4.00	RISK MANAGEMENT		
4.01	N/A		

5.00	APPENDICES		
5.01	SPOA Contracts		

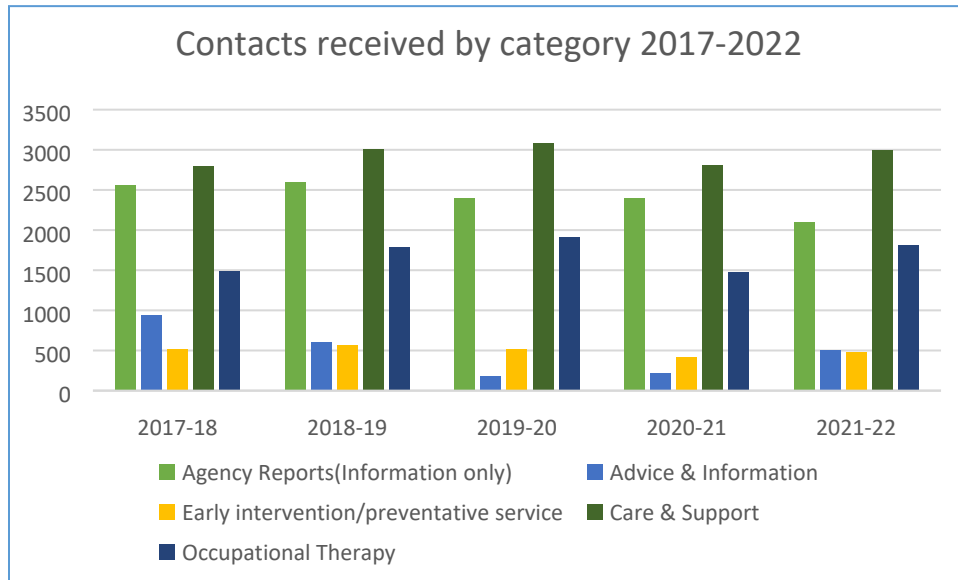
6.00	LIST OF ACCESSIBLE BACKGROUND DOCUMENTS		
6.01	Contact Officer: Christopher Phillips, Service Manager for Older People Contact: 01352 702540 E-mail: christopher.phillips@flintshire.gov.uk		

7.00	GLOSSARY OF TERMS		
7.01	Adult at risk - s126(1) of the Social Services and Well-being (Wales) Act 2014 defines an adult at risk as an adult who:		

	<p>Is experiencing or is at risk of abuse or neglect,</p> <p>Has needs for care and support (whether or not the authority is meeting any of those needs), and</p> <p>As a result of those needs is unable to protect himself or herself against the abuse or neglect or the risk of it.</p>
7.02	<p>Care and Repair – Care and Repair North East Wales is a not-for-profit home improvement agency. Their purpose is to support people over the age of 60 and disabled adults who live in private sector housing by providing advice and practical assistance with repairs, renovations, maintenance and adaptations to their homes</p>

Mae'r dudalen hon yn wag yn bwrpasol

Appendix 1 - Contacts received by Single Point of Access between 2017 and 2022



The total number of contacts received during the first 5 months of 2022-23 (April to August) is 3,681 which indicates that we could see an increase of around 12% by the end of this year, an increase on pre-Covid levels.

Category	2017-18	2018-19	2019-20	2020-21	2021-22
Agency Reports (Information only) <i>CID16s, Ambulance Reports, EDT</i>	2565	2594	2402	2393	2099
Advice & Information <i>Including Signposting, Third Sector</i>	938	599	177	215	500
Early intervention/preventative service <i>Telecare, Reablement assessments, Vision/Hearing Support</i>	518	569	514	419	482
Care & Support	2791	3003	3089	2814	2995
Occupational Therapy	1485	1787	1915	1480	1813
Grand Total	8297	8552	8097	7321	7889
Percentage Change (+/-)		+3% ▲	-5% ▼	-10% ▼	+8% ▲

Mae'r dudalen hon yn wag yn bwrpasol

Eitem ar gyfer y Rhaglen 8



SOCIAL & HEALTH CARE OVERVIEW & SCRUTINY COMMITTEE

Date of Meeting	Wednesday 14 th September 2022
Report Subject	Council Plan 2022-23 Timeline Review
Cabinet Member	Leader of the Council and Cabinet Member for Education, Welsh Language, Culture and Leisure
Report Author	Chief Executive
Type of Report	Strategic

EXECUTIVE SUMMARY

The Council Plan for 2022-23 was adopted by County Council in July. The Plan was reviewed and refreshed for content following on from our response to the pandemic and our Recovery Strategy. The themes and priorities remain the same to 2021/22 however there are some developments with sub-priorities.

The outline of the Council Plan for 2022/23 including the six themes, their priorities and actions is appended (as Part 1).

At County Council in July, it was requested Overview and scrutiny Committee's review; (1) action timelines; and (2) some of the definitions be reviewed.

RECOMMENDATIONS

1	To agree Council Plan Part 1 reviewed and updated timelines for completion
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REPORT DETAILS

1.00	COUNCIL PLAN 2022/23
1.01	It is a requirement of the Local Government and Elections (Wales) Act 2021 for organisations to 'set out any actions to increase the extent to which the council is meeting the performance requirements.' Plans for organisations should be robust; be clear on where it wants to go; and how it will get there.
1.02	<p>In July, County Council requested a review of timelines due to several target completion dates being set as March 2023. This review has been carried out for each of the actions of the Council Plan and is appended for reference. The dates have been reviewed by officers to ensure accurate targets are now identified. The document contains the updated target dates and rationale for the changes or no changes. The three categories of rationale are:</p> <p>Core Business – activity is ongoing; Project – activity has clear start and end dates; and New Initiative – activity has clear start date which may develop in the future</p>

2.00	RESOURCE IMPLICATIONS
2.01	Resource implications have been considered during preparation of the Medium-Term Financial Strategy and Capital Programme and will continue to be monitored during the regular budget monitoring and financial review arrangements.

3.00	CONSULTATIONS REQUIRED / CARRIED OUT
3.01	All Members have had the opportunity to consider and review the content of the draft Plan themes and priorities. Overview and Scrutiny Committees have reviewed and discussed the overall content of the Plan throughout January and February 2022.

4.00	IMPACT ASSESSMENT AND RISK MANAGEMENT						
4.01	<p>Ways of Working (Sustainable Development) Principles Impact</p> <table border="1"> <tr> <td>Long-term</td> <td rowspan="5">The Council Plan 2022/23 continues to be aligned to the Sustainable Development Principles across all their working. Assessment against these will be made at the end of year Annual Performance Report.</td> </tr> <tr> <td>Prevention</td> </tr> <tr> <td>Integration</td> </tr> <tr> <td>Collaboration</td> </tr> <tr> <td>Involvement</td> </tr> </table> <p>Well-being Goals Impact</p>	Long-term	The Council Plan 2022/23 continues to be aligned to the Sustainable Development Principles across all their working. Assessment against these will be made at the end of year Annual Performance Report.	Prevention	Integration	Collaboration	Involvement
Long-term	The Council Plan 2022/23 continues to be aligned to the Sustainable Development Principles across all their working. Assessment against these will be made at the end of year Annual Performance Report.						
Prevention							
Integration							
Collaboration							
Involvement							

	Prosperous Wales	Council Plan 2022/23 continues to provide evidence of alignment with the Well-being Goals. Specific strategic and policy reports include impact and risk assessments.
	Resilient Wales	
	Healthier Wales	
	More equal Wales	
	Cohesive Wales	
	Vibrant Wales	
	Globally responsible Wales	
	<p>Risk Management Risks have been captured and added for information within Part 2 Council Plan 2022/23.</p>	

5.00	APPENDICES
5.01	Appendix 1: Council Plan (Part 1) 2022-23 Timeline Review.

6.00	LIST OF ACCESSIBLE BACKGROUND DOCUMENTS
6.01	None.

7.00	CONTACT OFFICER DETAILS
7.01	<p>Contact Officer: Jay Davies, Strategic Performance Advisor Telephone: 01352 702744 E-mail: jay.davies@flintshire.gov.uk</p>

8.00	GLOSSARY OF TERMS
8.01	Council Plan: the document which sets out the annual priorities of the Council.
8.02	Medium Term Financial Strategy: a written strategy which gives a forecast of the financial resources which will be available to a Council for a given period, and sets out plans for how best to deploy those resources to meet its priorities, duties and obligations.

Mae'r dudalen hon yn wag yn bwrpasol

Portfolio	Task Description	Task Estimated Completion Date	New Estimated Completion Date	Task Type
Social Services	Developing an Early Years Strategy to ensure that all our children ages 0-7 have the best possible start in life and are able to reach their full potential	31/03/2023	No Change	New Initiative
Social Services	Plan for the relocation of Tri Ffordd supported employment project to a central site in Mold	31/03/2023	31/12/2022	Project
Social Services	Supporting people to achieve their mental well-being outcomes by promoting personal and community well-being through open access courses delivered by the Learning Partnership	31/03/2023	No Change	New Initiative
Social Services	Developing an action plan to recommission our advocacy service for adults	31/03/2023	31/10/2022	Core Business
Social Services	Continuing to promote the corporate e-learning package	31/03/2023	No Change	Core Business
Social Services	Preparing for the implementation of the new Liberty Protect Safeguard procedures	31/03/2023	No Change	Core Business
Social Services	Setting up a registered Children's Home to help avoid the need for residential placements outside Flintshire	31/03/2023	No Change	Project
Social Services	Continuing to grow our in-house homecare service to support more people to live at home	31/03/2023	No Change	Core Business
Social Services	Continuing to grow our in-house fostering service to support more looked after children	31/03/2023	No Change	Core Business
Social Services	Establishing a Dementia Strategy Project Board and increasing engagement from citizens with lived experience of dementia	31/03/2023	30/09/2022	Project

Mae'r dudalen hon yn wag yn bwrpasol

Eitem ar gyfer y Rhaglen 9



SOCIAL & HEALTH CARE OVERVIEW & SCRUTINY COMMITTEE

Date of Meeting	Thursday 27 th October 2022
Report Subject	Council Plan 2023-28
Cabinet Member	Leader of the Council and Cabinet Member for Education, Welsh Language, Culture and Leisure; and Deputy Leader of the Council and Cabinet Member for Social Services and Wellbeing
Report Author	Chief Executive; and Chief Officer (Social Services)
Type of Report	Strategic

EXECUTIVE SUMMARY

The Council Plan for 2023 - 28 has been reviewed and refreshed to reflect the key priorities of the Council for the five-year term of the new administration.

The 'super-structure' of the Plan comprises of seven priorities and relevant sub-priorities. The seven priorities take a long-term view of recovery, projects and ambitions over the next five years. The priorities and sub-priorities relevant to the Social & Health Care Overview & Scrutiny Committee are shown at Appendix 1.

The Council Plan 2023 - 28 will be published in a similar format to previous years, identifying actions aimed at achieving the Well-being objectives, priorities and sub-priorities. National and regional issues/risks which could impact on the achievement of these priorities will be identified and monitored.

Part 2 of the Council Plan will be considered by all Overview and Scrutiny committees to ensure full coverage of Part 1 of the Council Plan 2023/28 and its respective measures and their targets.

RECOMMENDATIONS

1. That the Committee support the proposed Priorities, Sub-priorities and Well-being objectives of the Council Plan 2023-28, as set out at Appendix 1.

REPORT DETAILS

1.00	COUNCIL PLAN 2023-28
1.01	It is a requirement of the Local Government and Elections (Wales) Act 2021 for organisations to 'set out any actions to increase the extent to which the council is meeting the performance requirements.' Plans for organisations should be robust; be clear on where it wants to go; and how it will get there.
1.02	A full review has taken place to ensure the appropriateness and relevance of the well-being objectives, priorities, and sub-priorities going forward. This includes: <ul style="list-style-type: none">• priority actions that continue from 2023 onwards for sustained attention• priority actions which could be removed as they have been completed or become operational (business as usual); and• emerging priority actions for 2023-28
1.03	The proposed structure of the Council Plan 2023-28 consists of seven priorities, well-being objectives, and sub-priorities as follows: Priority: Poverty Well-being Objective: Protecting our communities and people from poverty by supporting them to meet their basic needs and to be resilient Sub-priorities: <ul style="list-style-type: none">- Income Poverty- Child Poverty- Food Poverty- Fuel Poverty- Digital Poverty Priority: Affordable and Accessible Housing Well-being Objective: Housing in Flintshire meeting the needs of our residents and supporting safer communities Sub-priorities: <ul style="list-style-type: none">- Housing Support and Homeless Prevention- Housing Needs and Housing Options- Social Housing- Private Rented Sector- Empty Properties Priority: Green Society and Environment Well-being Objective: Limiting and enhancing the impact of the Council's services on the natural environment and supporting the wider communities of Flintshire to reduce their own carbon footprint Sub-priorities: <ul style="list-style-type: none">- Phosphates Mitigation- Carbon Neutrality- Climate Change Adaptation- Flood Risk Management Strategy- Strategic Flood Consequences Assessment- Fleet Strategy- Green Environment

- Flintshire Forest
- Green Access
- Renewable Energy
- Active and Sustainable Travel Options
- Circular Economy

Priority: Economy

Well-being Objective: Connecting communities and enabling sustainable economic recovery and growth

Sub-priorities:

- Rural Regeneration
- Levelling Up
- Town Centre Regeneration
- Business
- Transport Connectivity
- Digital Infrastructure
- Local Development Plan (LDP) Targets
- Spending Money for the benefit of Flintshire
- Reducing Worklessness

Priority: Personal and Community Well-being

Well-being Objective: Supporting people in need to live as well as they can

Sub-priorities:

- Independent Living
- Safeguarding
- Direct Provision to support people closer to home
- Local Dementia Strategy
- A Well-connected, Safe and Clean Local Environment.

Priority: Education and Skills

Well-being Objective: Enabling and Supporting Learning Communities

Sub-priorities:

- Educational Engagement and Achievement
- Digital Learning Opportunities
- Learning Environments
- Learning Community Networks
- Specialist Educational Provision
- Welsh Education Strategic Plan (WESP)
- Well-being

Priority: A Well-managed Council

Well-being Objective: A responsible, resourceful and trusted Council operating as efficiently as possible

Sub-priorities:

- People
- Anti-Racist and Anti-Discriminatory Council
- Financial Resilience
- Flintshire Assets
- Digital
- Partnerships

1.04	The final Council Plan will be available as a web-based document published on the Flintshire County Council website following adoption by County Council in June 2023.
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2.00	RESOURCE IMPLICATIONS
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2.01	Resource implications have been considered during preparation of the Medium-Term Financial Strategy and Capital Programme and will continue to be monitored during the regular budget monitoring and financial review arrangements.
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3.00	CONSULTATIONS REQUIRED / CARRIED OUT
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3.01	All Members will have the opportunity to consider and review the content of the draft Well-being objectives, priorities and sub-priorities including the opportunity to scrutinise targets set for 2023-28.
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4.00	IMPACT ASSESSMENT AND RISK MANAGEMENT
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4.01	<p>Ways of Working (Sustainable Development) Principles Impact</p> <table border="1"> <tr> <td>Long-term</td> <td rowspan="5">The Council Plan 2023-28 continues to be aligned to the Sustainable Development Principles across all of their working. A full integrated impact assessment will be carried out for Council Plan 2023-28</td> </tr> <tr> <td>Prevention</td> </tr> <tr> <td>Integration</td> </tr> <tr> <td>Collaboration</td> </tr> <tr> <td>Involvement</td> </tr> </table> <p>Well-being Goals Impact</p> <table border="1"> <tr> <td>Prosperous Wales</td> <td rowspan="7">Council Plan 2023-28 continues to provide evidence of alignment with the Well-being Goals. Specific strategic and policy reports include impact and risk assessments.</td> </tr> <tr> <td>Resilient Wales</td> </tr> <tr> <td>Healthier Wales</td> </tr> <tr> <td>More equal Wales</td> </tr> <tr> <td>Cohesive Wales</td> </tr> <tr> <td>Vibrant Wales</td> </tr> <tr> <td>Globally responsible Wales</td> </tr> </table> <p>Council's Well-being Objectives The Council's Well-being objectives have been reviewed as part of this exercise. The refreshed set Well-being objectives is found within this report in section 1.03.</p>	Long-term	The Council Plan 2023-28 continues to be aligned to the Sustainable Development Principles across all of their working. A full integrated impact assessment will be carried out for Council Plan 2023-28	Prevention	Integration	Collaboration	Involvement	Prosperous Wales	Council Plan 2023-28 continues to provide evidence of alignment with the Well-being Goals. Specific strategic and policy reports include impact and risk assessments.	Resilient Wales	Healthier Wales	More equal Wales	Cohesive Wales	Vibrant Wales	Globally responsible Wales
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5.00	APPENDICES
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5.01	Appendix 1: Council Plan 2023-28 – Proposed Priorities, Sub-priorities and Well-being Objectives relevant to the Social & Health Care Overview & Scrutiny Committee.
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6.00	LIST OF ACCESSIBLE BACKGROUND DOCUMENTS
6.01	None.

7.00	CONTACT OFFICER DETAILS
7.01	<p>Contact Officer: Sam Perry, Performance and Risk Management Support Officer Telephone: 01352 701476 E-mail: Sam.perry@flintshire.gov.uk</p>

8.00	GLOSSARY OF TERMS
8.01	Council Plan: the document which sets out the annual priorities of the Council.
8.02	Medium Term Financial Strategy: a written strategy which gives a forecast of the financial resources which will be available to a Council for a given period, and sets out plans for how best to deploy those resources to meet its priorities, duties and obligations.
8.03	Council Plan Part 2: the document which underpins the Council Plan, which captures Measures, Tasks and Risks.

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Council Plan 2023-28 Development – Proposed Priorities

The following table provides an overview of proposed priorities for the Council Plan 2023-28

PRIORITY:	Personal and Community Well-being
Description/ Well-being Objective	Supporting people in need to live as well as they can
Independent Living	Definition: People will be supported to live as independently as possible through the right type of support, when they need it
Safeguarding	Definition: Continue to embed safeguarding procedures so our employees understand how they can help safeguard people in the community
Direct Provision to support people closer to home	Definition: The services we provide so people can access the support they need in their local community
Local Dementia Strategy	Definition: Continuing to improve the lives of people living with dementia in Flintshire
A well-connected, safe and clean local environment	Definition: Resilient communities where people feel connected and safe

Mae'r dudalen hon yn wag yn bwrpasol

Eitem ar gyfer y Rhaglen 10



SOCIAL AND HEALTH CARE OVERVIEW AND SCRUTINY COMMITTEE

Date of Meeting	27 th October 2022
Report Subject	Primary Legislation Changes
Portfolio Holder	Deputy Leader of the Council and Cabinet Member for Social Services and Wellbeing
Report Author	Chief Officer (Social Services)
Type of Report	Strategic

EXECUTIVE SUMMARY

The Welsh Government are engaging with all those who have an interest in continuing to improve the health and social care system within Wales.

The Welsh Government are seeking views on a number of proposals for changes to be made to primary legislation through a consultation process with all responses to the consultation being received by 7th November 2022. The consultation covers the following main areas;

- Eliminating profit from the care of children looked after
- Introducing Direct Payments for Continuing Health Care
- Extending mandatory reporting of children and adults at risk
- Amendments to regulation of service providers, responsible individuals and the social care workforce

Within the consultation document it further details the proposal changes to each of the main areas;

- Outlines legislative proposals for eliminating profit from the care of children looked after;
- Proposes enabling access to Direct Payments for adults who are eligible for Continuing NHS Healthcare;
- Looks at existing duties to report children and adults at risk in Wales, and asks whether these duties should be expanded;

- Explores areas within existing regulation of services providers, responsible individuals and the social care workforce, and seeks views on potential amendments.

Social Services, Senior Management Team, have collectively completed the response form to submit to the Welsh Government. The responses given within the Response Form, regarding the primary legislation changes that the Welsh Government are proposing, have highlighted the positive impact, the risks associated, and the potential implications and investment(s) (financially and human resources) that will be required, should changes be made to primary legislation.

RECOMMENDATIONS

1	Members approve the response that Flintshire County Council have produced to provide to the Welsh Government in relation to the proposals for changes to primary legislation.
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REPORT DETAILS

1.00	EXPLAINING WELSH GOVERNMENT CONSULTATION ON CHANGES TO PRIMARY LEGISLATION
1.01	The consultation document has been divided into six chapters. The chapters in the document set out the context and rationale for each proposed change; explain why we consider the need to introduce or amend the law in these areas, and what this is intended to achieve.
1.02	<u>Chapter 1; Eliminating profit from the care of children looked after</u> Within the Programme for Government and Co-operation Agreement, the Welsh Government are committed to working with social partners to eliminate profit from the care of children looked after. The initial focus of the proposals is on the private provision of residential care for children, alongside independent sector foster care
1.03	Welsh Government are proposing legislative changes to provide a statutory basis to eliminate private profit from the care of children looked after in order to develop services that are locally based, locally designed and locally accountable; that improve the care experience for young people.
1.04	Aim is to ensure that public money invested in the care of children looked after does not profit individuals or corporate entities, but instead is spent on children's services to deliver better experience and outcomes for children and young people, addressing service development and improvement and further professional development for staff.

1.05	<p>Local authorities arrange various placements to accommodate children looked after;</p> <ul style="list-style-type: none"> • With a relative (a 'kinship placement') • With foster parents • In a children's care home • In other residential settings such as supported lodgings, a school, or, for a small number of cases, a secure unit • With a prospective adopter (in certain circumstances)
1.06	<p>Over 80% of care homes for children and young people in Wales are run by the private sector. In July 2022, there were 223 private sector care home services for children, providing a total of 908 places and 37 public or not-for-profit services, providing 160 places.</p>
1.07	<p>In relation to foster care, there are 46 fostering services in Wales (public and private sectors) with 24 provided by the private and independent/voluntary sectors and by 22 local authorities.</p>
1.08	<p>Welsh Government are proposing a definition of 'not-for-profit' for the care of children looked after and securing the elimination of private profit through provision that only allows 'not-for-profit' providers to register with Care Inspectorate Wales.</p>
1.09	<p>Overall objective of the commitment is to rebalance the market in favour for public or not-for-profit provision for children looked after. Through this work there will be an increased opportunity to reinvest funding into public sector and not-for-profit care provision, including supporting improved pay and conditions, opportunities for professional development and improved career paths for staff, which will, in turn, lead to better care for children and young people.</p>
1.10	<p><u>Chapter 2: Introducing direct payments for Continuing NHS Healthcare</u></p> <p>This consultation seeks views on the proposal to extend the flexibility to access direct payments to adults who are eligible for NHS Continuing Health Care ('CHC'). Direct payments are monetary amounts, made available by local authorities under sections 50 and 53 of the Social Services and Well-being (Wales) Act 2014. Direct payments are a means to allow people to exercise voice and control; that is decide how, when and by whom their care and support needs are met.</p>
1.11	<p>Healthcare, provided by the NHS, is free at the point of need and when that need outweighs other care needs a person may be eligible for a CHC package of ongoing care. This is only provided when a person's needs are considered suitable and is subject to regular reassessment. Currently, a person receiving CHC cannot received direct payments to enable them to make arrangements to meet those needs.</p>
1.12	<p>Welsh Government are proposing to introduce direct payment for CHC for adults, they propose to amend the NHS (Wales) Act 2006, to include;</p> <ul style="list-style-type: none"> • a power for local health boards to make direct payments to adults

	(or their representative) who have been determined to qualify for NHS funded CHC. Giving this power to health boards would allow them to make direct payments to people for their CHC, where the person wished to have these. People would then be able to purchase healthcare and care and support that best meet their needs.
1.13	In by making these legislative changes it is envisaged that the proposals will open up new ways to deliver care, reducing strain on domiciliary care services and better recognising the part played by unpaid carers. The Welsh Government have the opportunity to learn from measures and guidance in place for Personal Health Budgets ('PHBs') in England (direct payments have been permissible for CHC via PHBs since 2014). Any legislative changes will be supported by robust guidance to help both payment recipients and practitioners understand how the system will operate.
1.14	<u>Chapter 3: Mandatory reporting of children and adults at risk</u> The Independent Inquiry into Child Sexual Abuse (IICSA) was established in 2015, to investigate the extent to which relevant institutions – public bodies and others – in England and Wales have failed in their duty of care to protect children from sexual abuse and exploitation. The Welsh Government has cooperated fully with the Inquiry and responded to several of its 15 instigations; the Inquiry is due to publish its report and recommendations later this year.
1.15	During the Inquiry, there has been significant discussion of mandatory reporting duties (also referred to as 'duty to report') – where there is a legal requirement to report knowledge or suspicions of harm to a designated authority. In particular, there has been consideration of whether such reporting duties should be placed directly on individuals, in the interest of protecting children and young people from harm. The duty to report children at risk in Wales is an organisational duty, set out in Section 130, of the 2014 Act.
1.16	There is also a duty to report adults at risk in Wales, set out in section 128 of the 2014 Act. Like the duty in relation to children, this requires 'relevant partners' of a local authority to inform that authority if they have reasonable cause to suspect an adult in its area is at risk.
1.17	It is the view of Welsh Ministers that it is timely to reflect on the duties to report contained within the 2014 Act, and whether they should be expanded to include a legal requirement upon certain individuals to report children and/or adults at risk to the relevant authority, in order to consider whether this will better protect children and adults from harm. This would reflect the person-centre focus established in the 2014 Act.
1.18	<u>Chapter 4: Amendment to regulation of service providers and responsible individuals</u> A focus on proposed amendments to the regulatory regime for regulated

services, service providers and their designated responsible individuals. This relates to a range of matters provided for, within the Regulation and Inspection of Social Care (Wales) Act 2016 (RISCA), including;

- a) Identifying unregistered services – A Power to Obtain Information and Power of Entry are the proposed amendments. The amendments will restore the previous position under the Care Standards Act 2000 and ensure clarity on the face of the 2016 Act, removing any legal ambiguity. It will ensure that the Welsh Ministers (Care Inspectorate Wales, CIW) have the necessary legal powers to establish whether individuals are operating a service without registration. This will help safeguard vulnerable people who may be at risk from using a service, which does not have the necessary oversight or measure in place to ensure their safety and well-being.
- b) Publication of annual returns – propose to amend the Act 2016 to place the requirement to publish annual returns on the service provider, who owns the information. Section 10 of the 2016 Act requires a service provider to submit an annual return. Subsection (5) requires CIW to publish each return submitted and this has the unintended consequence of creating liability for CIW in data protection and defamation terms for anything contained within the returns.
- c) Publication of inspection reports – propose to amend the Section 36 of the Act 2016 to provide additional flexibility for CIW to recognise circumstances where it may not be appropriate, relevant, or proportionate to prepare and/or publish an inspection report. The amendment will be clear that inspection reports will still be required to be published following any of the 4 types of inspection (full, focussed, provider or thematic inspection), except in circumstances where the publication of an inspection report may reveal the location of a care home for children or a small locally base care home for vulnerable adults. The amendment will also provide clarity about circumstances in which a report will not be necessary.
- d) Improvement notices and cancellation of registration – propose to amend the Act 2016 by making changes to; *Variation of registration as a service provider, Removal of a condition on a service provider's registration, Power to cancel a service provider's registration, Information from providers who are cancelling their registration, Power to extend the timescale within an Improvement Notice and Power to cancel a service provider's registration in prescribed circumstances.*
- e) Responsible individuals – propose to amend the Act 2016 to three areas. 1) **Making representation** - to give individuals the right to make representations to CIW, against an improvement notice or cancellation of their designation, provided these are made within the time limit specified within the notice. 2) **Sending the Improvement Notice to the service provider** - any improvement notice given to the Responsible Individual (RI) is also sent to the service provider. 3) **Removing a RI without making an application designate a**

	<p>new RI – to allow a service provider to apply to CIW for a variation of conditions of their registration to removed RI even if they are not designating the replacement RI as part of the same application.</p> <p>f) Definition of ‘Care’ for children and young people – the intended outcome is to place beyond doubt that the provision of parental-type care, within children’s social care setting where accommodation is provided, is recognised as being ‘care’ within the meaning of the 2016 Act.</p>
1.19	<p><u>Chapter 5; Amendments to regulation of the social care workforce</u></p> <p>This chapter focuses on proposed amendments to workforce-related provisions, particularly Parts 2 to 8 and Schedule 2 of RISCA Act 2016.</p> <p>Schedule 2, Part 2(4) – Members terms of office. Current provision is unclear as to how many times a person may be appointed. Proposals to amend the 2016 Act to provide that a person who has held office as a member of SCW may be reappointed once. This reflects SCW practise and aligns with the Governance Code on Public Appointments that no individual should serve more than two terms.</p>
1.20	<p>Section 83 – Registration of social care worker. Proposals to amend the 2016 Act to provide SCW with the power to grant a conditional registration for a person, when they are renewing their registration, in certain circumstances – potentially to set out in regulations. Would allow SCW the flexibility to work with individuals to ensure they meet the necessary requirements and any avoidance on unfairly removing people from the register.</p>
1.21	<p>Section 144 – Interim Orders. Propose to the amend the 2016 Act to allow a panel to review and extend the interim orders as appropriate, up to the maximum of 18 months. Section 144 of the 2016 Act permits SCW to impose an interim order on an registered person, that places temporary restrictions on their ability to practise, whilst Fitness to Practise investigation are undertaken into making allegations against them. The amendment to the Act would provide for a more streamlined process, beneficial for all parties, without reducing a person’s right to request a review of (s.146) or appeal against (s.145) interim orders.</p>
1.22	<p>Part 6, Chapter 5 (sections 152-155) – Revocation of Interim Orders. In practice, in some instances a registered person can be subject to review proceedings and also be subject to an interim order under section 144, in relation to a separate matter. In such instances, the 2016 Act does not allow a Fitness to Practise (FtP) panel to revoke any interim order when disposing of review proceedings. Proposals to amend the 2016 Act to provide a Fitness to Practise panel with the ability to revoke any interim order, during review proceedings, where it is necessary and appropriate. Intended outcomes of the proposed amendments will be to provide greater clarity and reinforce that there is flexibility in the registration and interim orders processes established by the 2016 Act.</p>

1.23	<p><u>Chapter 6: Extending the definition of social care worker to include childcare and play workers</u></p> <p>Welsh Government propose to amend section 79(3) of RISCA Act 2016 to ensure that childcare and play workers are included in the descriptions of persons who can be treated as social care workers. Currently the 2016 Act does not provide the necessary comprehensive and coherent basis for Social Care Wales (SCW) function of supporting the childcare sector.</p>
1.24	<p>By ensuring that childcare and play workers are included in this definition will clarify the statutory basis for SCW's role in promoting quality and overseeing the qualifications framework for all childcare and play workers employed in the sector.</p>

2.00	RESOURCE IMPLICATIONS
2.01	<p>Human Resources - Going forward it is likely that any proposed changes to legislation will require some level of investment at either a local or regional level.</p>
2.02	<p>Financial - Any revisions to primary legislation changes will likely have some finance implications. There will be an element of staff time and resources to take into consideration, this includes training requirements of staff, amendments to policies and procedures, changes in practice of working (documentation changes, recording of information).</p>
2.03	<p>Capital - there are no capital implications at this time</p>
2.04	<p>Revenue – there are no revenue implications at this time</p>

3.00	CONSULTATIONS REQUIRED / CARRIED OUT
3.01	<p>The full consultation document and summary documents of each of the proposals have been provided to Senior Managers within Social Services portfolio, for their views in preparation for a collective response to be provided to the Welsh Government, on behalf of Flintshire County Council.</p>

4.00	IMPACT ASSESSMENT AND RISK MANAGEMENT
4.01	<p>A full Regulatory Impact Assessment will be developed alongside the legislation, with input from stakeholders. For the consultation, the Welsh Government are welcoming views on the likely benefits, disbenefits, costs, savings, equality impacts and impacts for the Welsh Language, of the proposals.</p>

5.00	APPENDICES
5.01	Appendix 1 – Consultation Document (Proposals for primary legislation in relation to children’s social care, Continuing Health Care, mandatory reporting and regulation and inspection)
5.02	Appendix 2 – Consultation Summary Document (Proposals for primary legislation in relation to children’s social care, Continuing Health Care, mandatory reporting and regulation and inspection)
5.03	Appendix 3 – Completed Response Form

6.00	LIST OF ACCESSIBLE BACKGROUND DOCUMENTS
6.01	<p>Programme For Government https://gov.wales/programme-for-government-update</p> <p>Co-operation Agreement https://gov.wales/co-operation-agreement-2021</p> <p>Social Services and Well-being (Wales) Act 2014 https://www.legislation.gov.uk/anaw/2014/4/contents</p> <p>Part 6 Code of Practice (Looked After and Accommodated Children) https://gov.wales/sites/default/files/publications/2019-05/part-6-code-of-practice-looked-after-and-accommodated-children.pdf</p> <p>Regulation and Inspection of Social Care (Wales) Act 2016 https://www.legislation.gov.uk/anaw/2016/2/contents</p> <p>The NHS (Wales) Act 2006 https://www.legislation.gov.uk/ukpga/2006/42/contents</p> <p>National Framework for Continuing NHS HealthCare https://gov.wales/national-framework-continuing-nhs-healthcare</p> <p>Amendments to the NHS Act 2006 https://www.legislation.gov.uk/ukpga/2006/41/part/1/crossheading/direct-payments-for-health-care</p> <p>Independent Inquiry into Child Sexual Abuse (IICSA) https://www.iicsa.org.uk/</p> <p>Volume 1 – Introduction and Overview https://gov.wales/sites/default/files/publications/2019-05/working-together-to-safeguard-people-volume-i-introduction-and-overview.pdf</p> <p>Working Together To Safeguard People’ Volume 5 – Handling Individual Cases to Protect Children at Risk https://gov.wales/sites/default/files/publications/2019-05/working-together-to-safeguard-people-volume-5-handling-individual-cases-to-protect-children-at-risk.pdf</p> <p>Age Friendly Wales; Our strategy for an Ageing Society https://gov.wales/age-friendly-wales-our-strategy-ageing-society</p> <p>Draft Action Plan to Prevent the Abuse and Neglect of Older People In Wales https://gov.wales/draft-action-plan-end-abuse-and-neglect-older-people-wales</p> <p>Code of Practice for Inspection of Regulated Services</p>

	<p>https://www.careinspectorate.wales/sites/default/files/2021-01/210122-code-of-practice-for-inspection-RISCA-en.pdf Regulated Services (Services Providers and Responsible Individuals) (Wales) Regulations 2017</p> <p>https://www.legislation.gov.uk/wsi/2017/1264/contents/made Care Inspectorate Wales' Guide To Registration</p> <p>https://www.careinspectorate.wales/sites/default/files/2022-03/220325-risca2016-reg-guidance-en.pdf Social Care Wales (Extension of Meaning of 'Social Care Worker') Regulations 2016</p> <p>https://www.legislation.gov.uk/wsi/2016/1251/made Children and Families (Wales) Measure 2010</p> <p>https://www.legislation.gov.uk/mwa/2010/1/contents/wales</p>
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7.00	CONTACT OFFICER DETAILS
7.01	<p>Contact Officer: Neil Ayling, Chief Officer (Social Services) Telephone: 01352 704511 E-mail: neil.j.ayling@flintshire.gov.uk</p>

8.00	GLOSSARY OF TERMS
8.01	<p>Programme for Government – The Welsh Government programme sets out the ambitious commitments they will deliver over the next 5 years (2021-2026). These will tackle the challenges that the Welsh Government face and improve the lives of people across Wales.</p> <p>Co-operation Agreement - Outlines how the Welsh Government and Plaid Cymru will work together over the next three years on policies where there is a common interest.</p> <p>Care Inspectorate for Wales (CIW) – Are the independent regulator of social care and childcare in Wales. CIW register, inspect and take action to improve the quality and safety of services for the well-being of the people of Wales.</p> <p>Direct Payments – are a means to allow people to exercise voice and control. Direct payments are monetary amounts, made available by the local authorities (under section 50 and 53 of the Social Services and Well-being (Wales) Act 2014), which are paid to a person or a representative, to enable them to meet their eligible needs for care and support.</p> <p>Continuing Health Care (CHC) - Continuing Health Care is a package of care for adults aged 18 or over which is arranged and funded solely by the NHS. In order to receive CHC funding individuals, have to be assessed by integrated commissioning boards (ICBs) according to a legally prescribed decision making process to determine whether the individual has a 'primary health need'</p>

Social Care Wales (SCW) - work with people who use care and support services and organisations to lead improvement in social care in Wales. Provide national leadership and expertise in social care and early years. Lead on regulating and developing the social care workforce, service improvement, data and research to improve care.

Responsible Individuals - The Regulation and Inspection of Social Care (Wales) Act 2016 requires care providers to designate a Responsible Individual (RI) for each place at, from or in relation to which a regulated service is provided as part of the registration process. The RI role is a distinct leadership role to ensure sound governance within the providing organisations.

Fitness to Practise (FtP) – a panel reviews a person’s fitness to practice in accordance with any relevant requirement contained;

- in any undertakings agreed between a FtP panel and the registered person;
- within a conditional registration order;
- within a suspension order; or
- where there is a referral by SCW for review (under section 133)



Llywodraeth Cymru
Welsh Government

Number: WG45428

Welsh Government

Consultation Document

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

This consultation covers the following main areas:

- Eliminating profit from the care of children looked after
- Introducing Direct Payments for Continuing Health Care
- Extending mandatory reporting of children and adults at risk
- Amendments to regulation of service providers, responsible individuals and the social care workforce

Date of issue: 17 August 2022

Action required: Responses by 7 November 2022

Mae'r ddogfen hon ar gael yn Gymraeg hefyd /
This document is also available in Welsh

Overview

This consultation seeks views on several proposals for changes to primary legislation which aim to improve social care in Wales.

This consultation document:

- outlines legislative proposals for eliminating profit from the care of children looked after;
- proposes enabling access to Direct Payments for adults who are eligible for Continuing NHS Healthcare;
- looks at existing duties to report children and adults at risk in Wales, and asks whether these duties should be expanded;
- explores areas within existing regulation of service providers, responsible individuals and the social care workforce, and seeks views on potential amendments.

How to respond

You can submit your response **by midnight on 7 November 2022**, in any of the following ways:

- Complete our [online form](#)
- Download, complete our [consultation response form](#) and email it to: SocialCareConsultation@gov.wales
Please include the reference number **WG45428** in the subject of your email
- Download, complete our [consultation response form](#) and post to the address stated below.

Further information and related documents

Large print, Braille and alternative language versions of this document are available on request.

Contact details

Programme and Legislative Implementation Team
Social Services and Integration Directorate
Welsh Government
Cathays Park
Cardiff CF10 3NQ
Email: SocialCareConsultation@gov.wales

This document is also [available in Welsh](#).

UK General Data Protection Regulation (UK GDPR)

The Welsh Government will be data controller for any personal data you provide as part of your response to the consultation. Welsh Ministers have statutory powers they will rely on to process this personal data which will enable them to make informed decisions about how they exercise their public functions. Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about or planning future consultations. Where the Welsh Government undertakes further analysis of consultation responses then this work may be commissioned to be carried out by an accredited third party (e.g. a research organisation or a consultancy company). Any such work will only be undertaken under contract. Welsh Government's standard terms and conditions for such contracts set out strict requirements for the processing and safekeeping of personal data.

In order to show that the consultation was carried out properly, the Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. If you do not want your name or address published, please tell us this in writing when you send your response. We will then redact them before publishing.

You should also be aware of our responsibilities under Freedom of Information legislation

If your details are published as part of the consultation response then these published reports will be retained indefinitely. Any of your data held otherwise by Welsh Government will be kept for no more than three years.

Your rights

Under the data protection legislation, you have the right:

- to be informed of the personal data held about you and to access it
- to require us to rectify inaccuracies in that data
- to (in certain circumstances) object to or restrict processing
- for (in certain circumstances) your data to be 'erased'
- to (in certain circumstances) data portability
- to lodge a complaint with the Information Commissioner's Office (ICO) who is our independent regulator for data protection.

For further details about the information the Welsh Government holds and its use, or if you want to exercise your rights under the UK GDPR, please see contact details below:

Data Protection Officer:
Welsh Government
Cathays Park
CARDIFF
CF10 3NQ
e-mail: Data.ProtectionOfficer@gov.wales

The contact details for the Information
Commissioner's Office are:
Wycliffe House
Water Lane
Wilmslow
Cheshire SK9 5AF
Tel: 01625 545 745 or 0303 123 1113
Website: <https://ico.org.uk/>

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Ministerial Foreword

As Deputy Minister for Social Services, I am determined that we continue to improve the quality of experience for everyone who uses our social care services. This consultation document sets out a number of proposals for changes to primary legislation that will contribute to these improvements.

As part of our Updated Programme for Government, our Co-operation Agreement and ongoing work with Designated Members, we are committed to working with social partners to eliminate profit from the care of children looked after. This consultation sets out how this will help us to deliver our wider vision for the care and support available to families, children and young people.

In our Programme for Government, we have also committed to improving the Continuing Health Care and Direct Payments interface. In this consultation, we propose to enable adults who are eligible for Continuing NHS Healthcare to access direct payments, which will allow them to decide how, when and by whom their care and support needs are met. We believe this will further strengthen the voice and control of service users and their carers.

In this consultation we also reflect on other important areas where the existing legislative framework might be improved, both in the light of the experience of operating this framework, and also thinking ahead to the findings of the Independent Inquiry into Child Sexual Abuse. This includes consideration of the relevant duties to report children and adults at risk within the Social Services and Well-being (Wales) Act 2014, and whether these duties should be expanded to include a legal requirement upon individuals within relevant bodies to report those at risk of harm, including through abuse or neglect.

We also explore a number of areas within the Regulation and Inspection of Social Care (Wales) Act 2016 where we believe minor improvements could be made to enable the existing regulatory frameworks to operate more effectively. This includes legislative change to clarify and improve how Social Care Wales supports and regulates the social care workforce, and how Care Inspectorate Wales undertakes functions relating to the regulation and inspection of 'regulated services'. Finally, we propose to extend the definition of a 'social care worker' to include all childcare and play workers, to reinforce Social Care Wales' support for the sector.

The chapters in this document set out the context and rationale for each proposed change; explain why we consider we need to introduce or amend the law in these areas, and what this is intended to achieve; before seeking your views on the proposals and their likely impacts.

Through this consultation I look forward to engaging with all those who have an interest in continuing to improve our health and social care system. I welcome your views and insights and look forward to a productive dialogue in the coming months.

Julie Morgan MS

Deputy Minister for Social Services

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

What is this consultation about?

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 strong feelings about being cared for by privately owned organisations that make a profit from their experience of being in care. The Welsh Government does not 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 and intends to bring forward legislation to end this. This means the future care of children that are looked after in Wales will be provided by public sector, charitable or not-for-profit organisations.
5. Our aim is to ensure that public money invested in the care of children looked after does not profit individuals or corporate entities, but instead is spent on children's services to deliver better experiences and outcomes for children and young people, addressing service development and improvement and further professional development for staff.
6. The initial focus of our proposals is on the private provision of residential care for children, alongside independent sector foster care.

What is the current position?

7. Section 75 of the [Social Services and Well-being \(Wales\) Act 2014](#) ('the 2014 Act') places a duty on local authorities to secure sufficient accommodation to meet the needs of their looked after children population. Section 81 of the

2014 Act requires local authorities to ensure placements are made within their own area unless it is not reasonably practicable to do so. The [Part 6 Code of Practice \(Looked After and Accommodated Children\)](#) states that local authorities must consider the benefits of having a number of providers, offering a range of accommodation to meet different needs.

8. Local authorities arrange various placements to accommodate children looked after:
 - With a relative (a “kinship placement”)
 - With foster parents
 - In a children’s care home
 - In other residential settings such as supported lodgings, a school or, for a small number of cases, a secure unit
 - With a prospective adopter (in certain circumstances)
9. Placements are currently provided directly by a local authority, through its in-house services, or by independent providers in the private and third sectors. In Wales, all providers of a care home service for children or a fostering service are required, by the [Regulation and Inspection of Social Care \(Wales\) Act 2016](#), to register with the Welsh Ministers (in practice, Care Inspectorate Wales).
10. Data published on StatsWales show the number of children in care in Wales has grown consistently over the last decade. At March 2021, in Wales the rate was 115.3 per 10,000 population aged under 18¹, in comparison to 67 per 10,000 population in England.²
11. At March 2021 there were around 5,070³ children looked after who were living with a foster family (public and private arrangements). Around a third of these placements are with an Independent Agency.
12. In July 2022, there were approximately 1,068 residential places available, 85% of which were with independent providers⁴.
13. Whilst we acknowledge that placements away from home communities are sometimes necessary in the best interests of the child, there needs to be careful consideration of the benefits and potential impacts of using such

¹ [Children looked after by local authorities: April 2020 to March 2021 | GOV.WALES](#)

² [Children looked after in England including adoptions, Reporting Year 2021 – Explore education statistics – GOV.UK \(explore-education-statistics.service.gov.uk\)](#)

³, <https://statswales.gov.wales/Catalogue/Health-and-Social-Care/Social-Services/Childrens-Services/Children-Looked-After/childrenlookedafterat31march-by-localauthority-placementtype>

⁴ Bespoke analysis, CIW data

placements more widely. Wherever possible, Welsh Government wants to see placements provided for children and young people that will preserve their links with their local neighbourhoods and communities and allow as much continuity in their lives as possible.

14. The circumstances of children and young people will differ according to their individual needs and family circumstances. Placements can be short-term, long-term or permanent. Therefore, both fostering and care home services throughout Wales need to be flexible to meet these diverse needs and circumstances.
15. The long-term trend of increasing use of care, along with presentation of more complex needs, has presented significant challenges to local authorities and impacted on children and young people themselves. Stable placements are crucial to feeling a sense of belonging and security. There is strong evidence that matching children with appropriate placements across the range of options, such as fostering and care homes, is becoming more challenging. It is sometimes hard for local authorities to meet their sufficiency duties and to find suitable placements that meet individuals' needs. This can adversely affect placement choice, permanency and stability and consequently, outcomes for children and young people. It has resulted in increased use of private sector providers to meet the demand for placements.
16. Over 80% of care homes for children and young people in Wales are run by the private sector. In July 2022, there were 223 private sector care home services for children, providing a total of 908 places and 37 public or not-for-profit services, providing 160 places⁵. This demonstrates a heavy reliance on the private sector. Indeed, there are nine local authorities in Wales wholly reliant on the private sector for their children's care home provision. We discuss further on in this chapter the issues that this potentially presents in relation to levels of profit being taken out of this care.
17. In relation to foster care, there are 46 fostering services in Wales (public and private sectors) with 24 provided by the private and independent/voluntary sectors and 22 by local authorities.
18. This imbalance in provision and monies being extracted as profit has raised concerns in relation to detrimental outcomes being experienced by children and young people. A summary of the main issues is set out below.

Competition: with demand outstripping supply, children's care homes are a seller's market and this impacts on the prices charged to local authorities. The availability and choice of placement that genuinely meets the needs of

⁵ Bespoke analysis, CIW data

children aged 11 and over with complex needs is particularly difficult. The recent Competition and Markets Authority (CMA) report⁶ discusses placement costs and profit levels and how these can be amplified where placements are often needed under considerable time pressure. The CMA report indicates that in some areas the level of profit being taken out of these services is in excess of 20% for children's residential care and approaching this for independent fostering. This is money being taken out of children's services which could be re-directed to improving services, capacity and outcomes.

Availability: across Wales there is an insufficient supply of foster placements to meet the wide-ranging needs of our children looked after population.

Competition amongst foster care providers: due to the nature of the foster care market, foster care providers (IFAs) work independently of each other and compete with local authorities in terms of recruiting foster carers, in an overall market where local authorities face a shortage of foster carers.

Placement moves: placement stability for children and young people helps optimise an environment where they have the best chance to recover, develop, flourish and progress. Developing and expanding the selection of high-quality placement options which best meets the wide ranging and complex needs of children helps ensure the right placement for each child is made at the start of their journey.

19. Eliminating profit from the care of children looked after is one of a number of measures we are delivering through our Programme for Government. We want to provide the right type of care for each child: reduce the number of children in care by better supporting them to remain with their families; reform and join up services for children looked after and care leavers; and provide additional specialist support for children with complex needs whilst better supporting those who care for these children.

Why are we proposing legislative change?

20. Primary legislation will provide a statutory basis to eliminate private profit from the care of children looked after in order to develop services that are locally based, locally designed and locally accountable; that improve the care experience for young people and which enable further investment in such services.

⁶ <https://www.gov.uk/government/news/cma-outlines-concerns-on-availability-and-price-of-children-s-care>

What are we proposing?

21. Since Autumn 2021, the Welsh Government has been working with a multi-agency Eliminating Profit from the Care of Children Looked After Programme Board consisting of a membership that is representative of the sector, alongside supporting work streams, to consider and develop proposals for legislation, which can support delivery of the commitment. The Board's goal is to develop and build our public and not-for-profit provision of care for children looked after and improve outcomes for children, with their best interests, rights and entitlements at the core of decisions that are made and the services and support which follow.

22. We propose the following for inclusion in legislation in order to give this agenda its proper statutory underpinning:

a) A definition of 'not-for-profit' for the care of children looked after

23. We propose the inclusion of a definition of 'not-for-profit' that will support the delivery of the Programme for Government commitment to 'eliminate private profit from the care of children looked after'.

24. As part of this, we think that Welsh Ministers should be able to amend the definition through subordinate legislation, to reflect developments in law and practice in a timely and efficient way.

b) Securing the elimination of private profit through provision that only allows 'not-for-profit' providers to register with Care Inspectorate Wales.

25. We propose using the registration of service providers in Wales to support delivery of the commitment. This could be achieved by including provision in primary legislation that permits only not-for-profit providers to register as a care home service for children or a fostering service under the Regulation and Inspection of Social Care (Wales) Act 2016. This would mean that no 'for profit' providers of care home services for children or fostering services would be permitted to operate within Wales following full implementation of the proposal.

c) Timelines & Transitional Period

26. Work is currently being undertaken to:

- Support local authorities to better model and forecast future placement requirements, alongside reducing the number of children in care
- Support existing not-for-profit organisations who wish to expand their provision
- Encourage new not-for-profit creation of provision
- Support private providers who wish to transition to not-for-profit models of care.

27. We recognise however that there will need to be clear timelines associated with the implementation of this policy so as to enable providers to plan for its introduction, including a clear transitional period. Welsh Ministers are therefore seeking to bring any primary legislation into effect so that:

- New providers registering with CIW will have to have not-for-profit status from 1 April 2026
- Any current 'for profit' providers will need to transition to, and register with CIW, as not for profit status by 1 April 2027

d) Supporting Guidance

28. Welsh Ministers propose taking a power to issue guidance to support the implementation of the legislative changes to eliminate private profit from the care of children looked after, such as referencing or describing appropriate organisational models. This guidance will act as an aid in providing information and support to stakeholders as we implement the changes.

e) Additional areas for comment

29. There are two further areas which we would like to gather your views on through this consultation process.

- Alongside the proposal to restrict registration with CIW to not-for-profit organisations only, there is the potential to introduce a complementary approach within legislation to address commissioning practices. This would entail placing a restriction on local authorities to commission care placements for children and young people from not-for-profit organisations only. We are inviting views from stakeholders on such an approach and on the appropriate timescales if it were to be pursued.

- (ii) In setting out their policy that care home services for children and fostering services are provided on a not-for-profit basis in Wales, Welsh Ministers wish to secure that the policy is not undermined by practices which go against its spirit and intention, thus defeating the purpose of our legislative changes to remove profit from the care of looked after children in Wales. One potential example would be the charging of excessive fees by parent companies of not-for-profit services, which could amount to the taking out of profit in other ways. We invite stakeholder views on this issue and what approaches, whether through commissioning arrangements or otherwise, could be taken to address it.

What outcomes do we expect?

- 30. We expect that the changes introduced through the legislation, in the context of the wider work we are putting in hand through our programme, will have a positive impact on the experience of living in care in Wales. It will promote the development of local services that are locally accountable. It will rebalance the social care market in favour of public sector and not-for-profit care provision and will create a larger provider base and secure better social value. There will be a greater emphasis placed on what is needed rather than what is profitable. The changes will particularly assist with the development of a social value approach to commissioning and procurement of placements which includes the development of not-for-profit provision, helping local authorities fulfil their duty under section 16 of the 2014 Act.
- 31. Rebalancing the care and support sector for children looked after in a way which meets the identified needs of local populations across Wales, will further the goal of the 2014 Act that all individuals who need care and support, have access to the services they need to meet their well-being goals. (This will contribute to the national well-being goal of a more equal Wales).
- 32. Through this work there will be an increased opportunity to reinvest funding into public sector and not-for-profit care provision, including supporting improved pay and conditions, opportunities for professional development and improved career paths for staff, which will, in turn, lead to better care for children and young people.
- 33. As the overall objective of the commitment is to rebalance the market in favour of public or not-for-profit provision for children looked after, this will inevitably have impacts on and consequences for this sector and its providers, but also for private sector providers. The Welsh Government is working with our local authorities to map the current profile of residential and foster care provision across Wales, alongside modelling and forecasting of future

placement requirements, to inform our plans for transition to a not-for-profit system which can meet the needs of each child in care.

34. We are supporting and working with existing not-for-profit organisations who wish to expand their provision and are seeking to encourage new not-for-profit creation of provision in Wales. We are also working with our private providers to support those who wish to transition to not-for-profit models of care. There will ultimately be an adverse impact on private children's care services who do not transition to a not-for-profit model of care as the legislation will require providers of care home services for children and fostering services registered with Care Inspectorate Wales (CIW) to be not-for-profit. Hence, private organisations will be unable to offer these services in Wales.
35. The changes will help further develop integrated approaches to the commissioning and provision of care and support services for children looked after. We will see more innovative, shared approaches such as are already underway for developing regional residential accommodation for care-experienced children with complex needs. These types of provision require local authorities and their partners to ensure there is more holistic provision of care and support provided, in order to meet the range of children's health, social care and well-being needs. (This will contribute to the national well-being goal of a healthier Wales).
36. It is a cause for concern when children are placed a long way from home because there are not enough settings available locally for Welsh children. On the other hand, private placements that are available locally, are often accommodating children who are very far from their own homes. The changes introduced through this legislation will support the Welsh Government wider programme of transformation of children's services, within which there is a clear focus on keeping children closer to home, their families and communities.
37. There will potentially be benefits in terms of Welsh language provision, in that local authorities must assess the sufficiency of care and support provided for these placements through the medium of Welsh. It is hoped that this will stimulate the growth of new provision to meet identified need and demand. (This will contribute to the national well-being goals of a Wales of a vibrant culture and thriving Welsh language and a more equal Wales).
38. We will legislate to improve outcomes for children and young people and any changes will be undertaken in a careful, considered and phased way.
39. A full Regulatory Impact Assessment will be developed alongside the legislation, with input from stakeholders. For this consultation, however, we

would welcome your views on the likely benefits, disbenefits, costs, savings, equality impacts and impacts for the Welsh Language, of the proposals.

Questions on chapter 1

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.

Chapter 2: Introducing direct payments for Continuing NHS healthcare

What is this consultation about?

1. Through implementation of the [Social Services and Well-being \(Wales\) Act 2014](#) ('the 2014 Act') Welsh Ministers have sought to put in place a framework that empowers people to have greater involvement and control over the care and support they receive. This is an important factor in making sure that services work with and for them, and in many cases that people have the opportunity to directly seek bespoke arrangements to meet their individual needs.
2. One element for delivering this voice and control over services is via direct payments. Direct payments are monetary amounts, made available by local authorities under sections 50 and 53 of the 2014 Act, which are paid to a person or their representative, to enable them to meet their eligible needs for care and support, or their support needs in the case of a carer. Direct payments are a means to allow people to exercise voice and control; that is, to decide how, when and by whom their care and support needs are met.
3. This consultation seeks your views on our proposal to extend this flexibility to access direct payments to adults who are eligible for NHS Continuing Health Care ('CHC').

What is the current position?

4. Healthcare, provided by the NHS, is free at the point of need and when that need outweighs other care needs a person may be eligible for a CHC package of ongoing care. This is only provided when the person's needs are considered suitable and is subject to regular reassessment. In these cases, both the health and other care needs are wholly met by the NHS, without charge, in accordance with their duties under [the NHS \(Wales\) Act 2006](#) ('the 2006 Act'). Currently, a person receiving CHC cannot receive direct payments to enable them to make arrangements to meet those needs.
5. If a person who has been receiving direct payments from a local authority is assessed as eligible for CHC but declines to take up this entitlement, it will not automatically mean that the local authority will continue to retain responsibility for meeting their care and support needs (including through direct payments). A local authority is not under a duty to meet needs for care and support that can be provided by other means (in this case, CHC). Furthermore, section 47 of the 2014 Act sets out the limits of a local authority's power to provide

services which are required to be provided under another enactment, such as the 2006 Act.

6. Over a number of years, concerns have been raised that transferring from local authority direct payments for care and support to a CHC package, arranged by the NHS to meet all health and care needs, compromises people's control over their care arrangements. Some people with complex health conditions are choosing to refuse assessments for CHC or declining to take up CHC packages. Reasons for this include not wanting to lose the flexibility they have through direct payments, as this may interrupt their existing arrangements for care; concerns about this impacting on other benefits and support received; and the change contributing to a reduced sense of independence.

Why are we proposing legislative change?

7. The Welsh Government's [Programme for Government](#) sets out a commitment to '*Improve the interface between continuing health care and Direct Payments*'. A working group – whose membership includes disabled people and those with lived experience of direct payments/CHC, local health boards, local authorities, third sector groups and disability organisations – has been established to support the implementation of this commitment and consider options for further improvement, including the use of legislation.
8. In April 2022 a revised [national framework for Continuing NHS Healthcare](#), for adults, became operational. This strengthened wording around voice and control, stating that where a person whose care was arranged utilising direct payments becomes eligible for CHC funding, a local health board must work with them in the spirit of co-production and make every effort to maintain continuity of the personnel delivering the care, where the person wishes this to be the case and it can contribute to meeting their needs.
9. The national framework says that in doing so, local health boards should consider a range of options. These would include the LHB employing staff (either directly or via an agency) e.g. personal assistants, who were previously employed by the person under direct payments; or the LHB providing funding to an Independent User Trust to manage the person's care (this is where a relative of the person or other interested party sets up a trust which becomes the provider of care for the individual). Supplementary guidance to support the use of these options is being co-produced with the working group.

10. Whilst the mechanisms put forward within the national framework – permissible within law as it currently stands – go some way to strengthen voice and control for adults, we recognise they may not ensure the same degree of flexibility and direct control for people as would be the case if local health boards were permitted to provide them with direct payments to make arrangements to meet their own needs. This would require legislative change.
11. In England, this change has been made through [amendments to the NHS Act 2006](#), and consequently, direct payments have been permissible for CHC, via Personal Health Budgets ('PHBs') since 2014. PHBs can be used to meet a person's needs as set out in their care plan and are available for adults' and children's CHC. They can also be provided for other purposes, including maternity care and wheelchairs.
12. There are three types of PHB:
- a notional budget where the money is held by the NHS who arrange any agreed care;
 - a third party budget where an organisation or trust holds the money for an individual and manages it on their behalf; and
 - direct payments, where the funds are held and administered directly by the individual. However, there are a number of exclusions, including for primary and general medical services, drugs, medicines, appliances, dental charges, planned surgery, vaccination, NHS Health Checks, alcohol, tobacco and gambling services.
13. In Wales, we are considering, with our working group, changing the law to enable local health boards to provide adults with direct payments to meet their eligible CHC needs. This would complement and build upon the mechanisms put forward in the national framework such as local health boards employing personnel or making payments to an Independent User Trust. Our intention would be to better support disabled and seriously ill adults to maintain their independence, as well as promoting the principles of person-centred care and voice and control; and more closely aligning with the social model of disability.

What are we proposing?

14. In order to introduce direct payments for CHC for adults, we propose to amend the NHS (Wales) Act 2006, to include:
- a power for local health boards to make direct payments to adults (or their representative) who have been determined to qualify for NHS-funded continuing health care. Giving this power to health boards would allow

them to make direct payments to people for their CHC, where the person wished to have these. People would then be able to purchase healthcare and care and support that best met their needs.

- a power for the Welsh Ministers to make regulations about direct payments. This would allow Ministers to prescribe further matters including what sort of healthcare direct payments can be made for, exceptions and prohibitions and how the scheme will operate. This would enable us to tailor the best approach for Wales, potentially with supplementary guidance to support implementation.
- a power for local health boards to make arrangements to give assistance to persons or bodies in connection with direct payments. These would be similar to the arrangements which already exist for assistance to people who receive direct payments for social care.

What outcomes do we expect?

15. Enabling greater voice and control for adults by allowing direct payments for CHC, would undoubtedly have the biggest impact on service recipients themselves. By moving towards more integrated, person-centred provision within both health and social care we would advance the principles of 'Voice, Choice and Control' enshrined within the 2014 Act and ensure the core principles of the United Nations Convention on the Rights of Disabled People (UNCRDP) are further embedded in service delivery across Wales.
16. We are seeking to promote fairness and continuity for individuals, to ensure their voice and control continues, whether their entitlement to care/healthcare is from a local authority or a local health board. This could result in better health outcomes, for example if more individuals agree to CHC assessments, without fear of losing their direct payments, this will enable them to better manage their complex health needs.
17. It is envisaged that these proposals will open up new ways to deliver care, reducing strain on domiciliary care services and better recognising the part played by unpaid carers. We have an opportunity to learn from measures and guidance in place for PHBs in England and evaluations of what has worked well there, to tailor a solution which fits the Welsh context. One that supports adults to exercise voice and control across this health and social care interface.
18. We recognise there may be a number of issues to resolve and concerns to manage in transitioning to the use of direct payments to deliver health services, including in areas such as resourcing, processes and governance. However, regulations and guidance could be used to set out, specifically,

what can and cannot be included under direct payments, as well as measures to ensure clinical and financial appropriateness, thereby reducing risks and addressing areas of concern.

19. We will also work to ensure that any legislative changes are supported by robust guidance to help both payment recipients and practitioners understand how the system will operate. Such guidance will be co-produced with service users, those with lived experience of direct payments/CHC, practitioners and providers, thus strengthening partnership working and ensuring a wide range of viewpoints are considered. We will work with local health boards to ensure that appropriate training and assurance are provided for staff, in decision making and administration of any payments system.

20. A full Regulatory Impact Assessment will be developed alongside the legislation, with input from stakeholders. For this consultation, however, we would welcome your views on the likely benefits, disbenefits, costs, savings, equality impacts and impacts for the Welsh Language, of the proposals.

Questions for chapter 2

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.

Chapter 3: Mandatory reporting of children and adults at risk

What is this consultation about?

1. The [Independent Inquiry into Child Sexual Abuse](#) (IICSA) was established in 2015, under the Inquiries Act 2005, to investigate the extent to which relevant institutions – public bodies and others – in England and Wales have failed in their duty of care to protect children from sexual abuse and exploitation. It is also considering the extent to which failings have since been addressed; identifying any further action required to address those failings; and making wider recommendations about how children can be better protected from sexual abuse and exploitation in future.
2. The Welsh Government has cooperated fully with the Inquiry and responded to several of its 15 investigations, providing both written and oral evidence when asked to do so; taking part in public hearings; and participating in seminars on areas of particular interest. The Inquiry is due to publish its report and recommendations later this year.
3. During the Inquiry, there has been significant discussion of mandatory reporting duties (also referred to as a ‘duty to report’) – where there is a legal requirement to report knowledge or suspicions of harm (e.g. abuse or neglect) to a designated authority. In particular, there has been consideration of whether such reporting duties should be placed directly on individuals, in the interests of protecting children and young people from harm.

What is the current position?

4. The duty to report children at risk in Wales is an organisational duty, set out in section 130 of the [Social Services and Well-being \(Wales\) Act 2014](#) (‘the 2014 Act’). This requires ‘relevant partners’ of a local authority, and youth offending teams, to inform that authority if they have reasonable cause to suspect that a child in its area is experiencing or at risk of abuse, neglect or other kinds of harm and the child has needs for care and support⁷. If the child is in the area of another authority, the relevant partner must inform that other local authority. Welsh local authorities must also inform other local authorities in Wales, or

⁷ Section 130(4) of the 2014 Act defines a ‘child at risk’ as a child who is experiencing or is at risk of abuse, neglect or other kinds of harm, and has needs for care and support (whether or not the authority is meeting any of those needs)

England, if a child they suspect to be at risk is in their area and lives or proposes to live in the other local authority area.

5. A 'relevant partner', as defined within section 162 of the 2014 Act, includes the police, probation services, a local health board or NHS trust, the Welsh Ministers or Secretary of State (in discharging certain functions) and other local authorities. Information and the Supporting Practice Guide on the current duty to report is contained in [Working Together to Safeguard People: Volume 5 – Handling Individual Cases to Protect Children at Risk](#). This is to be read alongside [Volume 1 – Introduction and Overview](#).
6. We also have a duty to report adults at risk in Wales, set out in section 128 of the 2014 Act. Like the duty in relation to children, this requires 'relevant partners' of a local authority to inform that authority if they have reasonable cause to suspect an adult in its area is at risk⁸. If the adult at risk is in the area of another local authority, the relevant partner must inform that other local authority. Section 128 also requires a Welsh local authority to inform another local authority, in Wales or England, if the adult they suspect to be at risk is in their area and lives or proposes to live in the other local authority area.
7. In line with the aims of [Age Friendly Wales: Our strategy for an Ageing Society](#), and the current development - with the Older People's Commissioner for Wales and other key partners - of a [draft Action Plan to Prevent the Abuse and Neglect of Older People in Wales](#), we believe that any consideration of mandatory reporting duties should include both children and adults, alike. This would reflect the person-centred focus established in the 2014 Act.
8. A number of jurisdictions around the world have mandatory reporting laws of one sort or another that place duties directly on individuals - generally on specified professionals, although in some countries/jurisdictions this extends to the general public also. Evidence on their impact, for example, on the extent to which they have prompted referrals/reports which would not have been made in the absence of such a duty, or on the overall prevalence or persistence of child abuse, is mixed. No UK administration has to date imposed a legal duty on individuals to report known or suspected concerns relating to harm. The [UK Government undertook a consultation](#) which included proposals on mandatory reporting and acting on child abuse and neglect, in July 2016. Following this, in March 2018, the Home Office

⁸ Section 126(1) of the 2014 Act defines an 'adult at risk' as an adult who is experiencing or is at risk of abuse or neglect; has needs for care and support (whether or not the authority is meeting any of those needs); and, as a result of those needs, is unable to protect themselves against the abuse or neglect (or risk of it).

confirmed that it had determined, at that stage, not to proceed with the proposed mandatory reporting duty, or with a duty to act.

Why are we consulting?

9. It is the view of Welsh Ministers that it is timely to reflect on the duties to report contained within the 2014 Act, and whether they should be expanded to include a legal requirement upon certain individuals to report children and/or adults at risk to the relevant local authority, in order to consider whether this will better protect children and adults from harm.
10. In order to inform our policy thinking on this and potential response to the forthcoming IICSA report, we are inviting your views on whether it is proportionate or appropriate to introduce a legal duty to report children and/or adults at risk which would apply to individuals within relevant bodies, as distinct from the current duties which fall on organisations.
11. Finally, we would also welcome views on which occupation types or roles, in which sectors, should be covered if a duty on individuals were to be introduced, as well as what sanctions might be proportionate or appropriate in situations where the duty was not complied with.
12. A full Regulatory Impact Assessment will be developed alongside any legislation, with input from stakeholders. For this consultation, however, we would welcome your views on the likely benefits, disbenefits, costs, savings, equality impacts and impacts for the Welsh Language if individual reporting duties were to be introduced.

Questions for chapter 3

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.

Introduction to chapters 4, 5 and 6 relating to the Regulation and Inspection of Social Care (Wales) Act 2016

The [Regulation and Inspection of Social Care \(Wales\) Act 2016](#) ('the 2016 Act') introduced a new registration and regulatory regime for providers of care and support services ('regulated services') in Wales. It also reformed the system of registration and regulation of the social care workforce.

The 2016 Act was implemented in three phases. This saw the development of a significant suite of regulations and statutory guidance by the Welsh Government. It also included codes of practice, rules and procedures put in place under the Act by both the service and workforce regulators.

- **From April 2017:** Social Care Wales assumed the functions of the Care Council for Wales, with enhanced functions, to become the registrar and regulator of social care workers.
- **From April 2018:** Care home, secure accommodation, residential family centre, and domiciliary support services began re-registration with Care Inspectorate Wales, subject to new requirements, standards and sanctions for service providers and their responsible individuals.
- **From April 2019:** Adoption, fostering, adult placement and regulated advocacy services were required to re-register/register with CIW, subject to new requirements, standards and sanctions for service providers and their responsible individuals.

Now the 2016 Act has been operational for several years, we are beginning to see the benefits of more flexible systems that prioritise continual improvement over minimum standards; place greater emphasis on outcomes for people who need care and support; and contribute to professionalising our vital social care workforce.

Within chapters 4 and 5 we propose several amendments to the 2016 Act, identified in conjunction with the service and workforce regulators, that will either serve to achieve the original policy intent; to resolve anomalies within systems that have become apparent in practice; and/or to assist Care Inspectorate Wales and Social Care Wales in their regulatory processes and activities.

In chapter 6 we propose to amend the 2016 Act to enable the extension of the definition of social care worker, to include all childcare and play workers, thereby providing a clear mandate for Social Care Wales to carry out its functions in order to support this sector as a whole.

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

1. 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'.
2. 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
3. Further detail about the proposed amendments for each area is detailed below.
4. A Regulatory Impact Assessment will be developed alongside the legislation, with input from stakeholders. For this consultation, however, we have summarised the likely impacts of the proposals and would welcome views on these.

a) Identifying unregistered services

What are the issues with existing provision and how do we propose to amend the 2016 Act?

5. This section deals with two issues – the power to obtain information and the power of entry to carry out an inspection.

Power to obtain information

6. It is an offence under section 5 of the 2016 Act for a person to provide a regulated service without being registered to do so. Part of CIW's role – acting on behalf of the Welsh Ministers, as the service regulator – is to identify and take appropriate enforcement action against those it believes to be operating without lawful registration.
7. Section 32 of the 2016 Act provides the Welsh Ministers (CIW) with a power to obtain information from relevant persons relating to a regulated service. These include a service provider, responsible individual, a person employed by or otherwise working for a service provider and any person who has held any of these positions.
8. However, it does not include a person who CIW has reasonable cause to believe is providing a regulated service without registration. This omission makes it more difficult for CIW to obtain key information from individuals who appear to be operating a regulated service without being registered to do so.
9. **We propose 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.**
10. **It is an offence, under section 49 of the 2016 Act, to fail to provide information when required to do so. Therefore, we propose to extend this offence, to apply in connection with the proposed amendment.** Penalties upon conviction could be a fine or up to 2 years imprisonment or both.

Power of entry

11. Section 33 of the 2016 Act describes the term “inspection” as an inspection of the quality of care and support provided by a service provider in the course of providing a regulated service and of their organisation and co-ordination of a regulated service. Section 34 of the Act provides the Welsh Ministers (CIW) with a power of entry for the purposes of carrying out an inspection, providing that an inspector may enter and inspect any premises which the inspector has grounds to believe is (or has been) used as a place at or from which a regulated service is (or has been) provided. As a result there is a lack of clarity as to whether this would enable entry and inspection of premises from which a service which is not registered (and therefore not regulated) is operating.
12. **We propose to amend the 2016 Act to make it clear that an inspector may 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.

13. It is an offence, under section 50 of the 2016 Act, to obstruct an inspector or fail to comply with a requirement imposed by an inspector. Therefore, we propose to extend this offence, to apply in connection with the proposed amendment. Penalties upon conviction could be a fine or up to 2 years imprisonment, or both.

What are the intended outcomes?

14. These proposed amendments will restore the previous position under the Care Standards Act 2000⁹ and ensure clarity on the face of the 2016 Act, removing any legal ambiguity.
15. They will ensure that the Welsh Ministers (CIW) have the necessary legal powers to establish whether individuals are operating a service without registration. This will help to safeguard vulnerable people who may be at risk from using a service which does not have the necessary oversight or measures in place to ensure their safety and well-being.

What are the likely impacts?

16. These amendments will ensure that the Welsh Ministers (CIW) have the necessary legal powers to establish whether individuals are operating a service without registration. There will be no impact for existing providers and responsible individuals of regulated services who are already registered.

b) Publication of annual returns

What are the issues with existing provision and how do we propose to amend the 2016 Act?

⁹ See section 31(2) of the Care Standards Act 2000 'A person authorised by the registration authority may at any time enter and inspect premises which are used, or which he has reasonable cause to believe to be used, as an establishment or for the purposes of an agency.'

17. Section 10 of the 2016 Act requires a service provider to submit an annual return – including a statement of compliance and other key information about the running of the service – to the Welsh Ministers (CIW) following the end of each financial year. Subsection (5) requires the Welsh Ministers (CIW) to publish each return submitted. This has the unintended consequence of creating liability for the Welsh Ministers in data protection and defamation terms for anything contained within the returns.

18. We propose to amend the 2016 Act to place the requirement to publish annual returns on the service provider, who owns the information.

19. It is an offence under section 48 of the 2016 Act for a service provider to fail to submit an annual return to the Welsh Ministers (CIW). Therefore Welsh Ministers consider it prudent to create a parallel offence of failing to publish a return. The penalty upon conviction would be a fine.

What are the intended outcomes?

20. Placing the requirement to publish annual returns on the service provider will ensure that returns are published each year and that information about the regulated service is publicly available and accessible.

What are the likely impacts?

21. Whilst CIW will still be required to consider annual returns as part of the inspection process, inspectors will not need to check the returns for potential data breaches or other information which may not be appropriate to publish. This will reduce the burden on inspectors and reinforce service providers' responsibility for the content of their returns.

22. Although service providers connect with CIW online (for example, to submit their annual returns), there is a risk that not all will have the means to publish returns, as they may not have a website. In these circumstances, there would be cost implications for those providers, in terms of developing and maintaining a website.

c) Publication of inspection reports

What are the issues with existing provision and how do we propose to amend the 2016 Act?

23. Section 36 of the 2016 Act requires the Welsh Ministers (CIW) to prepare and publish an inspection report as soon as is practicable after an inspection has been carried out.
24. This includes an assessment of the quality of care and support provided and an assessment of the organisation and co-ordination of the service.
25. The current wording suggests that this would apply to any inspection activity carried out by CIW, regardless of the purpose of the visit, including routine or follow-up enforcement work, which would not warrant a report.
26. As set out in CIW's [Code of Practice for Inspection of Regulated Services](#) there are 4 types of inspection:
 - Full inspection – an in-depth consideration of all four themes (well-being, care and support, environment, and leadership and management). It is an opportunity for inspectors to check that service providers are adhering to legislative and regulatory requirements and are meeting the conditions of their registration.
 - Focused inspection - usually carried out in response to a specific concern, or to follow-up on regulatory breaches or other issues identified at a previous inspection. Focused inspections are generally shorter than full inspections and will not necessarily cover all four themes. However, a focused inspection will always cover the theme of 'well-being'.
 - Provider inspection - where CIW identifies patterns or high volumes of non-compliance, concerns, or safeguarding issues in a number of services, this may trigger a provider inspection. Provider inspections will look specifically at the corporate governance and management arrangements of the service provider
 - Thematic inspections - focus on certain areas of practice across the social care sector. For example, this could include reviewing care practice in learning disability residential homes, medication practice in care homes or dementia care. This enables CIW to have an understanding of, report on, and make recommendations in relation to specific care practices across Wales.

27. All types of inspection listed above will continue to require the production and publication of an inspection report in most circumstances.
28. However, an example of where the publication of an inspection report would not be appropriate is where this could lead to the identification of vulnerable individuals or children – for example a care home for children or a small, locally-based care home for vulnerable adults. An inspection report would still be written and recorded by inspectors.
29. In addition, certain activity - such as an inspector visiting a service to follow up on enforcement activity, including matters identified in an improvement notice - would not require an inspection report to be published following the visit. However, a record of the visit would be made by inspectors.
30. An inspector may also visit a service as part of the process of registering the service, which would not be an activity that would require an inspection report.
- 31. We propose to amend Section 36 of the Act 2016 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.**

What are the intended outcomes?

32. This proposed amendment would make clear that CIW is not required to produce and/or publish an inspection report after each and every visit to a service.

What are the likely impacts?

33. The amendment will be clear that inspection reports will still be required to be published following any of the 4 types of inspection listed above – full inspection, focussed inspection, provider inspection or thematic inspection (except in circumstances where the publication of an inspection report may reveal the location of a care home for children or a small locally-based care home for vulnerable adults). The amendment will provide clarity about circumstances in which a report will not be necessary.
34. As the proposed amendment will reinforce existing practice, we do not anticipate any direct positive or negative impacts.

d) Improvement notices and cancellation of registration

Variation of registration as a service provider

What are the issues with existing provision and how do we propose to amend the 2016 Act?

35. Section 13 (3) and (4) of the 2016 Act gives the Welsh Ministers (CIW) the power to vary a provider's registration, without application, by removing a regulated service or a place at which a regulated service is provided, in circumstances where a service provider provides more than one regulated service, *but no longer provides one of those services*. It also includes where a service provider previously provided a regulated service at a particular place, *but no longer provides the regulated service at or in relation to that place*.
36. When taking this action, CIW must follow the improvement notice process set out in sections 16 and 17.
37. The improvement notice process requires a service provider to set out the improvements they intend to make to their service, within a specified time limit, to avoid the service being removed from their registration by CIW.
38. In these circumstances there is no purpose in issuing an improvement notice as part of the variation process, as the service provider is no longer providing the service.
39. **We propose to amend the 2016 Act to remove the requirement for the Welsh Ministers (CIW) to follow the improvement notice process set out in sections 16 and 17 where the Welsh Ministers utilise their powers under section 13 (3) and (4), to remove a regulated service, or a place from which a regulated service is provided from a service providers registration because they are no longer providing that service or using that place to provide a service.**

What are the intended outcomes?

40. This proposed amendment would remove an unnecessary step for CIW inspectors and service providers in removing a service from registration which has already closed.

What are the likely impacts?

41. The proposed amendment will save time for both CIW and service providers by streamlining the process of removing a service from registration which has already ceased to operate.

Removal of a condition on a service provider's registration

What are the issues with existing provision and how do we propose to amend the 2016 Act?

42. Section 13 (1) of the 2016 Act gives the Welsh Ministers (CIW) the power to vary conditions and impose further conditions on a service provider's registration without an application by the service provider.
43. To do this, the Welsh Ministers (CIW) are currently required to give a notice of proposal under section 18 followed by a notice of decision (section 19). This currently applies even when the circumstances which led to the imposition of the condition no longer apply.
- 44. We propose 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 and a notice of decision (section 18 and section 19), when the circumstances which led to the imposition of the condition no longer apply.**

What are the intended outcomes?

45. This proposed amendment will ensure that CIW has the necessary legal powers to remove a condition on a service provider's registration without following the notice of proposal (section 18) and notice of decision following notice of proposal (section 19) process when the circumstances which led to the imposition of the condition no longer apply.

What are the likely impacts?

46. The amendment would reduce the administrative burden on providers and CIW offering a sensible, pragmatic approach.

Power to cancel a service provider's registration

What are the issues with existing provision and how do we propose to amend the 2016 Act?

47. Section 15 of the 2016 Act sets out the circumstances in which the Welsh Ministers (CIW) may cancel the registration of a service provider. This includes (section 15(1)(a)) circumstances where the service provider no longer provides any regulated service.
48. Cancelling a service provider's registration requires the Welsh Ministers (CIW) to follow the improvement notice process set out in Sections 16 and 17. We consider there is no purpose in issuing an improvement notice to a service provider who no longer provides any service.
49. **We propose to remove the requirement for the Welsh Ministers (CIW) to follow the improvement notice process set out in sections 16 and 17 of the 2016 Act to cancel the registration of a service provider who no longer provides any regulated service.**

What are the intended outcomes?

50. The proposed amendment will remove an unnecessary step for CIW in removing a service from registration which has already closed.

What are the likely impacts?

51. The amendment will save time for both CIW and providers by streamlining the process of removing a service from registration which has already ceased to operate.

Information from providers who are cancelling their registration

What are the issues with existing provision and how do we propose to amend the 2016 Act?

52. Section 11 of the 2016 Act deals with applications for variation of registration as a service provider and includes a regulation-making power to specify the information required to support an application.
53. Regulations made under this section require a provider to provide the Welsh Ministers (CIW) with a statement as to how they will continue to comply with regulations made under section 27, until the service closes. The [Regulated Services \(Service Providers and Responsible Individuals\) \(Wales\) Regulations 2017](#), which are made under section 27, set out the requirements as to the standard of care and support to be provided.
54. Section 14 of the 2016 Act deals with applications for cancellation of registration by a service provider. However, it does not include a regulation-making power, equivalent to that under section 11.
55. This creates a gap in CIW's powers to require information from a service provider who is cancelling their registration and exiting the market, about how they will comply with regulations made under section 27, until the service closes.
56. **We propose to amend the 2016 Act to create a regulation-making power under Section 14, equivalent to that under Section 11, to enable the Welsh Ministers (CIW) to require information from a service provider who is cancelling their registration and exiting the market.**

What are the intended outcomes?

57. The proposed amendment will ensure CIW has the necessary legal powers to require information from a service provider who is exiting the market and cancelling their registration. It will create clarity for service providers about the information that is expected in these circumstances. It will also align the approach for service providers exiting the market with that for those who are varying their registration.

What are the likely impacts?

58. This proposed amendment will provide clarity and reassurance to CIW that service providers are compliant with the requirements placed on them under

Section 27 in respect of the quality of care and support to vulnerable people using the service.

Power to extend the timescale within an Improvement Notice

What are the issues with existing provision and how do we propose to amend the 2016 Act?

59. Section 17 of the 2016 Act requires the Welsh Ministers (CIW) to notify the service provider of decisions following an improvement notice. Section 17(2) sets out that if the service provider does not provide the information required, within the time limit stated in the improvement notice, the Welsh Ministers (CIW) must continue with the action to cancel or vary their registration.
60. Section 17(3) sets out that if the provider does not fulfil an action required in the improvement notice, the Welsh Ministers (CIW) may wish to extend the timescale. There is no comparable option in section 17(2) for the Welsh Ministers (CIW) to extend the timescale when information is not provided (even though there may be good reason - for example the provider needs to complete an action to provide the information).
61. In such circumstances CIW is left with no choice but to cancel the service provider's registration, which may be disproportionate and unnecessary.
62. **We propose 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.**

What are the intended outcomes?

63. Enabling CIW to extend the timescale for information to be provided when improvement notices are issued will create a more proportionate and flexible approach to enforcement in circumstances where the service provider is unable to provide the information within the specified time limit.

What are the likely impacts?

64. This proposed amendment will allow CIW to respond in a more nuanced way when service providers are not meeting the required standards. It will give

CIW more flexibility to extend the time limit within which information must be provided by a service provider, in certain circumstances. This is preferable to having to cancel their registration, should they have a reasonable explanation as to why they are unable to provide the information. Cancelling a service provider's registration may be disproportionate in these circumstances and lead to individuals needing to move and find another service.

Power to cancel a service provider's registration in prescribed circumstances

What are the issues with existing provision and how do we propose to amend the 2016 Act?

65. Section 16 of the Act requires the Welsh Ministers (CIW) to issue an improvement notice before cancelling or varying a service provider's registration. Section 16(3) sets out the information to be specified in an improvement notice including (at 16(3)(b)) the actions to be taken or information to be provided to satisfy the Welsh Ministers (CIW) that cancellation or variation is not appropriate.
66. In practice there are cases where the reasons for cancellation are irretrievable, for example if the service provider is convicted of a very serious offence, and as such the requirement to request action/information, within an improvement notice, as part of the process, serves no purpose.
67. **We propose to amend the 2016 Act to enable the Welsh Ministers (CIW) to disapply the s.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.**

What are the intended outcomes?

68. The proposed amendment will remove an unnecessary element of the improvement notice process in circumstances where the reasons for cancellation are irretrievable. This will promote a more fit-for-purpose approach to the use and content of improvement notices in this context. The improvement notice will specify the reasons why no action or information is required from the service provider.

What are the likely impacts?

69. In a prescribed range of circumstances, service providers will not be given the opportunity to take action or provide information in order to satisfy CIW that a cancellation or variation is not appropriate. However, this will only apply where a provider has committed a serious offence or where the reasons for the proposed cancellation are irretrievable.

e) Responsible Individuals

What are the issues with existing provision and how do we propose to amend the 2016 Act?

70. The 2016 Act requires a service provider to appoint a Responsible Individual who is designated by the provider as part of their registration, to carry out specific responsibilities in respect of a regulated service. The requirements on Responsible Individuals are set out, for example, in the [Regulated Services \(Service Providers and Responsible Individuals\) \(Wales\) Regulations 2017](#).

Making representations

71. Section 22 of the 2016 Act gives the Welsh Ministers (CIW) the power to cancel the designation of a Responsible Individual, on specified grounds. However, before doing so the individual must be served with an improvement notice, specifying the reason for the proposed cancellation, and requiring action or the provision of information within a time limit to satisfy CIW that their designation should not be cancelled.
72. Currently, there is no legal right for the Responsible Individual to make representations against the improvement notice or cancellation of their designation. In practice, CIW does give individuals the opportunity to submit representations but an amendment to the 2016 Act would place this requirement in law.
73. **We propose to amend the 2016 Act to give individuals the right to make representations to the Welsh Ministers (CIW), against an improvement notice or cancellation of their designation, provided these are made within the time limit specified within the notice.**

Sending the Improvement Notice to the service provider

74. There is also currently no requirement for the improvement notice given to the Responsible Individual to be sent to the service provider. Provision is currently made in Section 22(7) of the 2016 Act for the Welsh Ministers (CIW) to give notice of cancellation (once it has occurred) to the service provider but not at the earlier stage of issuing an improvement notice.
- 75. We propose to amend the 2016 Act to require that any improvement notice given to a Responsible Individual is also sent to the service provider.**

Removing a Responsible Individual without making an application to designate a new RI

76. Section 11 of the 2016 Act requires a service provider to apply to the Welsh Ministers (CIW) if they need to vary the conditions of their registration. This includes if they want to designate a different Responsible Individual because there is no such individual in place. When service providers want to change their designated responsible individual they are required to apply to vary a condition of their registration in order to remove the previous named Responsible Individual and to add the new one.
77. Whilst service providers are required to designate another Responsible Individual within a specified timeframe (28 days), as set out in [regulations](#) made under Section 11, they may not be able to do so immediately. The consequence is that the original Responsible Individual remains on the service provider's registration until a new Responsible Individual is designated, even though they may no longer be at the service.
- 78. We propose to amend the 2016 Act to allow a service provider to apply to the Welsh Ministers (CIW) for a variation of conditions of their registration to remove a Responsible Individual even if they are not designating the replacement Responsible Individual as part of the same application.**

What are the intended outcomes?

Making representations

79. Giving Responsible Individuals the right to make representations against an improvement notice or the cancellation of their designation as a Responsible Individual will ensure that the regulator only proceeds to a decision about cancellation after hearing any views from the individual in question.

Sending the Improvement Notice to the service provider

80. Requiring any improvement notice to be sent to the service provider will ensure that they are aware of the issues at an early stage and can take steps to address and resolve them. It will also ensure that the service provider is fully aware of the potential need to designate a new Responsible Individual. A legal requirement to share this information will also resolve any data protection issues.

Removing a Responsible Individual without making an application to designate a new RI

81. Allowing service providers to apply to remove a Responsible Individual without having to make an application to designate a new Responsible Individual will mean that the original Responsible Individual, who may no longer be part of the service, ceases to be responsible for the legal requirements placed on them. This approach will create clarity in terms of legal responsibility.

What are the likely impacts?

Making representations

82. Giving Responsible Individuals the right to make representations against an improvement notice or the cancellation of their designation as a Responsible Individual will not create a significant impact for service providers, CIW or the public as this amendment will set out in law what is already happening in practice.

Sending the Improvement Notice to the service provider

83. Requiring the improvement notice to be sent to the service provider will ensure that sharing this information is carried out in accordance with a statutory requirement. It will ensure that the service provider is aware of issues at an early stage. We do not consider this will have any negative impact on providers, Responsible Individuals, CIW or the public.

Removing a Responsible Individual without making an application to designate a new RI

84. Removing a Responsible Individual's designation without having to make an application to designate a new Responsible Individual at the same time, would mean that these services will be operating without a designated Responsible Individual on the public facing register for a short period of time (up to 28 days). In practice, Responsible Individuals do sometimes leave at short notice, leaving services temporarily without a designated Responsible Individual to fulfil their duties. In such circumstances section 9(4) of the Regulated Services (Service Providers and Responsible Individuals) (Wales) Regulations 2017, requires the service provider to ensure there are appropriate arrangements in place for the fulfilment of the Responsible Individual's duties, will apply.

f) Definition of 'Care' for children and young people

What are the issues with existing provision?

85. Presently, section 3 of the 2016 Act provides a definition of 'care' covering both services for adults and services for children. In the context of residential services for children, activities must take place which reflect the sort of care (guidance, direction and boundaries) which a parent would offer a child. Such services, if provided for adults, would fit within the definition of 'support', but when provided for older children, could be properly described as 'care'.

86. This is important as part of the definition of a care home service within Schedule 1 of the 2016 Act requires that they be involved in the provision of 'care'¹⁰.

How are we proposing to amend the 2016 Act?

87. The definition of 'care' within section 3 of the 2016 Act encompasses care in a number of contexts including the provision of care that it would be reasonable to expect to be given/provided by a parent. We therefore propose to clarify the definition of 'care' in the 2016 Act to reflect the different types of care that may be applicable in children's social care settings where accommodation is provided. The examples in Care Inspectorate Wales' [Guide to Registration](#) provide a model for the approach we propose to take. This states that "*Where children are accommodated, care also includes exercising parental type measures and/or boundaries in line with the needs as set out in any care and support plans and/or risk assessments*" and gives a range of examples including *Preparing meals and drinks, Monitoring the child's whereabouts and responding to any unexplained absences in line with national protocols, and Implementing behaviour management measures.*

What are the intended outcomes?

88. The intended outcome is to place beyond doubt that the provision of parental-type care, within children's social care settings where accommodation is provided, is recognised as being 'care' within the meaning of the 2016 Act.

What are the likely impacts?

89. As the proposed amendment will reinforce existing practice, we do not anticipate and direct positive or negative impacts.

¹⁰ "provision of accommodation, together with nursing or care at a place in Wales, to persons because of their vulnerability or need"

Questions for chapter 4

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.

Chapter 5: Amendments to regulation of the social care workforce

What is this consultation about?

1. Parts 2 to 8 and Schedule 2 of the [Regulation and Inspection of Social Care \(Wales\) Act 2016](#) ('the 2016 Act') provide the basis on which Social Care Wales ('SCW') is established and undertakes functions in relation to the registration, regulation and training of social care workers.
2. This chapter of the consultation focuses on proposed amendments to workforce-related provisions, particularly:
 - Schedule 2, Part 2(4) – Members terms of office
 - Section 83 – Registration of social care workers
 - Section 144 – Interim orders
 - Part 6, Chapter 5 (sections 152 – 155) – Revocation of interim orders
3. These proposed amendments seek to clarify or adjust existing provisions, to support SCW in its role as the workforce regulator.

What are the issues with existing provisions and how do we propose to amend the Act?

Schedule 2, Part 2(4) – Members terms of office

4. This provision states that '*a person appointed as a member of SCW holds office for such period as the Welsh Ministers may determine when making the appointment; but that period may not exceed 4 years.*' No further detail is included, therefore it is unclear as to how many times a person may be appointed.
5. **We propose to amend the 2016 Act to provide that a person who has held office as a member of SCW may be reappointed once.** This reflects current SCW practise and aligns with the strong presumption set out in the Governance Code on Public Appointments that no individual should serve more than two terms.

Section 83 – Registration of social care workers

6. Section 83 of the 2016 Act relates to the registration of social care workers. Section 82(2) sets out the requirements for registration which include that a person is 'appropriately qualified' and meets the qualification requirements set out in section 84. Currently, if a person who is applying to renew their registration does not meet this requirement, SCW cannot grant their application and their registration will lapse. Sometimes failure to meet this requirement can result from delays in documents being sent. This can result in a person losing their registered status and their employment.
7. An amendment is proposed that would allow SCW to impose conditions on a person's registration [where they are applying to renew their registration] e.g., that the person complete the required training within a certain timescale, where this is considered appropriate. This would avoid a lapse in a person's registered status and allow SCW to monitor compliance with any condition and remove it once all registration requirements were met.
8. **We propose to amend the 2016 Act to provide SCW with the power to grant a conditional registration for a person, when they are renewing their registration, in certain circumstances – potentially to be set out in regulations.** The inclusion of such a power on the face of the 2016 Act would provide SCW with the ability to consider exceptional cases and reinforce trust that the system can be fair and flexible, where necessary.
9. This would allow SCW the flexibility to work with individuals to ensure they meet the necessary requirements and avoid unfairly removing people from the register when, with some support and a reasonable timeframe, they could comply. It would also reiterate SCW's role in supporting the registered workforce to meet their obligations and strengthen the importance of registration in creating a professional workforce.

Section 144 – Interim orders

10. Section 144 of the 2016 Act permits SCW to impose an interim order on a registered person, that places temporary restrictions on their ability to practise, whilst Fitness to Practise investigations are undertaken into allegations made against them.
11. Interim orders can be put in place for up to a maximum of 18 months and the imposition of an order is subject to a strict review process. Interim orders should be imposed for the minimum period which is warranted, in the particular circumstances. However, where investigations take longer than

anticipated or there is a need to conduct further investigations there may be a need to extend the duration of the order

12. Currently, this can only be achieved through applying to the Care Standards Tribunal under section 148, for an extension. This process can be costly and requires a detailed, additional case for an extension. This has led to a practise of SCW granting interim orders for longer periods, as a defensive practice. This could be avoided if SCW's review panel had the power to make further orders, up to the same maximum total period of 18 months.
13. **We propose to amend the 2016 Act to allow a panel¹¹ to review and extend interim orders as appropriate, up to the maximum of 18 months.**
14. This will ensure that interim orders are used as appropriate and proportionate to the circumstances and give SCW panels the power to review and extend them, as necessary, up to a maximum total period of 18 months. This would provide for a more streamlined process, beneficial for all parties, without reducing a person's right to request a review of (s.146) or appeal against (s.145) interim orders.

Part 6, Chapter 5 (sections 152 – 155) – Revocation of interim orders

15. Part 6, Chapter 5 of the 2016 Act sets out the system for 'review proceedings', where a Fitness to Practise (FtP) panel reviews a person's fitness to practise, in accordance with any relevant requirement contained:
 - in any undertakings agreed between a FtP panel and the registered person;
 - within a conditional registration order;
 - within a suspension order; or
 - where there is a referral by SCW for review (under section 133)
16. In practice, in some instances a registered person can be subject to review proceedings and also be subject to an interim order under section 144, in relation to a separate matter. In such instances, the 2016 Act does not allow an FtP panel to revoke any interim orders when disposing of review proceedings – currently an FtP panel can only do so when disposing of the substantive matter (as part of separate proceedings).

¹¹ A panel is defined for the purpose of chapter 4 of the 2016 Act, within s.143, "panel" means the interim orders panel or fitness to practice panel before which the proceedings are brought

- 17. We propose to amend the 2016 Act to provide a Fitness to Practise panel with the ability to revoke any interim order, during review proceedings, where it is necessary and appropriate.** This would enable a more streamlined approach that would be beneficial for all parties and provide greater clarity that the process is not overly prescriptive and inflexible.

What are the intended outcomes?

18. The intended outcome of these proposed amendments will be to provide greater clarity and reinforce that there is flexibility in the registration and interim orders processes established by the 2016 Act, to the benefit of the sector and workforce.
19. The first proposed amendment sets out for those interested in joining the SCW Board, the maximum time they can serve – providing clarity and removing any uncertainty around the current wording.
20. The proposed amendments relating to registration and interim orders will provide SCW with mechanisms to ensure a clearer and more streamlined service, that will benefit registered social care workers and SCW itself. For registered persons, the changes relating to registration and interim orders will remove some of the perceived inflexibility and unfairness in the current system, enabling SCW to act in a timelier manner, to lessen the stress and burden of these processes for individuals.

What are the likely impacts?

21. The proposed amendments will have a positive impact on all registered social care workers, as they will provide greater clarity and help to streamline some of the processes associated with workforce regulation.
22. The proposed registration and interim orders amendments seek to enhance current processes and ensure that a registered person's right to a fair hearing is protected. They will also help to ensure that processes are not unduly protracted.
23. The proposed interim order amendments at section 144 and within Part 6, Chapter 5 (sections 152-155) in particular, will provide SCW with relevant powers to make appropriate and proportionate decisions more quickly, whilst observing due process.

24. A full Regulatory Impact Assessment will be developed alongside the legislation, with input from stakeholders. For this consultation, however, we would welcome your views on the likely benefits, disbenefits, costs, savings, equality impacts and impacts for the Welsh Language, of the proposals.

Questions for chapter 5

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.

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

What is this consultation about?

1. This chapter of the consultation describes the current relationship between childcare and play workers and Social Care Wales ('SCW') and seeks your views on amending the [Regulation and Inspection of Social Care \(Wales\) Act 2016](#) ('the 2016 Act') to enable – through the making of regulations – all childcare and play workers, working in the childcare sector, to be treated as social care workers. This will provide a clear mandate for SCW to carry out its functions in relation to the childcare and play workforce, as a whole.

What is the issue with existing provision?

2. The current definition of 'social care worker' within section 79 of the 2016 Act does not provide the necessary comprehensive and coherent basis for SCW's accepted and historical function of supporting the childcare sector.
3. Section 79 sets out the meaning of a 'social care worker' for the purposes of the 2016 Act. In addition, subsection (2) provides the Welsh Ministers with a regulation-making power to prescribe that persons of any of the descriptions in subsection (3) are to be treated as social care workers. By virtue of section 79(3)(d) and the [Social Care Wales \(Extension of Meaning of 'Social Care Workers'\) \(Wales\) Regulations 2016](#) – made under section 79(2) – a person registered under Part 2 of the [Children and Families \(Wales\) Measure 2010](#) as (i) a child minder or (ii) a provider of day care for children may be treated as a social care worker, for certain of SCW's purposes.
4. As currently described within section 79(3)(d)(ii), 'a provider of day care for children' only covers a person who is the service provider. This does not include their staff. The practical effect is that childcare and play workers do not fall within the legal definition of a 'social care worker', regulated under the 2016 by SCW.
5. The role of SCW – formerly 'the Care Council for Wales' – as a strategic partner of the Welsh Government, has historically been to support **all** those working in the childcare sector. SCW is responsible for the qualification framework for childcare, stipulating the qualifications that managers and practitioners must hold in order to work in the sector. It is also instrumental in the development of new qualifications, as well as in the quality-assurance of existing qualifications. In addition, SCW supports the sector and its workforce

in a number of ways, through the provision of advice and guidance, as well as the provision of information on topics ranging from infection prevention and control to safeguarding through to effective recruitment.

How are we proposing to amend the Act?

6. Section 79(3) of the 2016 Act contains descriptions of different sorts of social care workers. The extent of SCW's functions – its remit – is set by reference to these sorts of workers. Section 79(3) does not currently include the childcare workers or play workers employed by registered providers. Ensuring that these workers are included as a class of social care worker will clarify the statutory basis for SCW's role in promoting quality and overseeing the qualifications framework for **all** childcare workers and play workers employed in the sector.
7. **Therefore, we propose to amend section 79(3) to ensure that childcare and play workers are included in the descriptions of persons who can be treated as social care workers.** This will enable the Welsh Ministers, through the making of regulations, to extend the meaning of 'social care worker' to include childcare and play workers.

What are the intended outcomes?

8. Extending the definition of 'social care worker' in the 2016 Act will clarify the statutory role which SCW plays, not just in relation to registered providers of childcare but to all childcare and play workers employed in the sector.
9. This would include those workers who provide care within childcare and play settings (not those in administration or other roles within settings) and are employed through a variety of contractual arrangements (permanent, fixed term, zero hours etc as well as agency staff and those who volunteer at settings).
10. It is vital that SCW is able to provide the necessary support to childcare and play workers, to ensure the sustainability of the sector, so that parents and families are able to access the provision they require, to be able to work. In particular, the Welsh Government's [Programme for Government](#) and [Co-operation Agreement](#) commitments regarding expanding childcare provision to all 2 year olds in Wales, as well as the commitment to grow Welsh-medium provision, depend on the sector being sustainable; on there being a sufficiently sized and qualified workforce. SCW's work is fundamental to this

and requires a clear legislative basis to be able to continue to support the childcare and play sector, as a whole.

What are the likely impacts?

11. The impact of the change would principally be on SCW. While its existing arrangements to support childcare workers would continue, there would be an increased demand because of the need to include support for play workers.
12. The work of SCW will increase in scope and is likely to include work to support and hold the recognised list of play qualifications, as well as the provision of specific advice and guidance for play workers. SCW is supportive, in principle, of the proposal to extend the definition of 'social care worker' to include childcare and play workers and will work in partnership with the Welsh Government to assess the resource implications.
13. A full Regulatory Impact Assessment will be developed alongside the legislation, with input from stakeholders. For this consultation, however, we would welcome your views on the likely benefits, disbenefits, costs, savings, equality impacts and impacts for the Welsh Language, of the proposal.

Questions for chapter 6

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.

Mae'r dudalen hon yn wag yn bwrpasol

Summary: Proposed changes to primary legislation in relation to social care and Continuing NHS Healthcare



Llywodraeth Cymru
Welsh Government

What is this consultation about?

We want your views on proposed changes to primary legislation in relation to social care and Continuing NHS Healthcare.

We have published a [consultation document](#) that sets out the detail of the proposals and asks related questions. Please read the consultation document before considering your response.

Chapter 1 outlines legislation to support the commitment to eliminate profit from the care of children looked after. The initial focus of the proposals is on the private provision of residential care for children, alongside independent sector foster care.

The consultation sets out how this will help deliver on our wider vision to redesign how we look after children and young people, so we can do the best for them, their families and communities.

Chapter 2 proposes enabling access to Direct Payments for adults who are eligible for Continuing NHS Healthcare. This aims to further strengthen the voice and control of disabled and seriously ill adults and their carers, better supporting people to maintain their independence.

Chapter 3 considers whether the duties to report children and adults at risk of harm, abuse or neglect – within the Social Services and Well-being (Wales) Act 2014 – should be expanded to apply directly to individuals within relevant bodies. It invites views on whether this would better protect people in Wales from harm.

Chapters 4, 5 and 6 propose amendments to the Regulation and Inspection of Social Care (Wales) Act 2016. These intend to improve how Care Inspectorate Wales regulates and inspects services and how Social Care Wales supports and regulates the social care workforce. This includes extending the definition of ‘social care worker’ to include childcare and play workers.

How can I share my views with Welsh Government?

You can submit your response **by midnight on 7 November 2022**, in any of the following ways:

- Complete our **online form**
- Download, complete our **consultation response form and email** it to: SocialCareConsultation@gov.wales
Please include the reference number WG45428 in the subject of your email.
- Download, complete our **consultation response form and post** to the address noted in the consultation document.

Large print, Braille and alternative language versions of the consultation document are available on request

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

Mae'r dudalen hon yn wag yn bwrpasol

Consultation Response Form

Your name: Neil Ayling

Organisation (if applicable): Social Services, Flintshire County Council

Email / Telephone number: neil.ayling@flintshire.gov.uk

Your address: Ty Dewi Sant, St. Davids Park, Ewloe, Flintshire, CH5 3FF

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:

Yes

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? Flintshire Council

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. Amongst the Welsh providers we 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 with local authorities 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 sustainable 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. Can all providers become part of 4c's framework? 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) 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 work opportunities, this includes 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?

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.

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. Potential risks could be, does 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 statistics have shown less applications have been received for specific relatable careers after these high profile cases. Recruitment and retention at present is also difficult.

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 and

should changes in legislation be made, there is a need for a thorough consultation and implementation process with relevant bodies being able to have involvement with the consultation and implementation process.

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.

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, 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?

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, and 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, 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 and the additional delays within the recruitment once successful candidate appointed aspect also.

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 ensuring that it is 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 it is being aware that there are pressures from health services which are 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.

It has become clear that they are at the frontline of support for very young children and are often the first practitioners who develop a holistic view of the child.

Welcome the training opportunities this would bring to the sector and the expectations on settings and training providers to expand the scope of learning.

If the impact on children is that they are further safeguarded by well qualified practitioners then the changes will be worthwhile.

Early Years childcare is not currently seen as a career choice with good career prospects, wages are suppressed and lower than other sectors including by Welsh Government funding mechanisms. We need to consider that this could be seen as further bureaucracy and therefore costs within a sector that is already at risk.

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.

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.

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.

Benefits of the changes in legislation will improve the status of childcare roles, highlight the importance of the profession and the training levels available 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 to 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. There are indirect and direct costs to consider, along with potential savings. Early identification of concerns or additional needs of young children within Early Years in the long term could create a savings 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 as it would have an impact upon individuals and groups with protected characteristics and other practical issues need to be considered in regards to costs.

What would not want to be seen, is that for people to be in this profession and then having to pay substantial registration fees that could outprice people from the market and taking up job roles in these professions. This is an area that we are already struggling to recruit to, and generally pays less than the retail sector pay (for example), despite the importance of this role and its 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 and other higher paid jobs). There is already a significant shortage of Welsh speaking qualified applicants to the sector in Flintshire. 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. 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 English and Welsh. 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 nursery 1 & 2.

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.