Financial Transparency and Profit Limitation in Children's Residential Care consultation
Social Work Scotland response

October 2025

Introduction

Social Work Scotland (SWS) is the professional body for social work leaders in local government and wider care sector, with a remit to shape policy and practice to improve the quality and experience of social services across Scotland. We welcome the opportunity to respond to this consultation.

Background

Social Work Scotland has been public in our support for the Promise, and our commitment to improving the systems which make up our care system, with the consequent improvement in the quality of experience for those in receipt of that care. Our organisation has at its core a remit to support leaders in social work to facilitate and enable good social work practice, thereby improving the lives of those we work with. Alongside this is extensive partnership work across local and national government and agencies to influence policy development to ensure that it translates into practice and the desired changes and improvement. For a workforce whose code[1] is based on human rights, dignity and empowerment, the Promise provides a specific opportunity to improve the practice and legislative framework which facilitates improvement in the lives of children and families.

As such SWS has welcomed opportunities to progress the various strands of the Promise and contribute to the broader context and environment within which care occurs. Considering profit in the care system and specifically limitation of profit in residential childcare as outlined in the Children (Care, Care Experience and Services Planning) (Scotland) Bill (the Bill) and this consultation, provides a useful platform from which to explore what is a complex and many faceted issue. SWS also engaged with Competition and Marketing Authority in their work around profit.[2]

While clear that legislative change is required, our response the the Bill in general has been that in its current form it will not significantly progress the work required to meet the

[1] https://www.sssc.uk.com/standards/codes-of-practice/
[2] Children's Social Care Market: interim report response - Social Work Scotland

Promise, nor meet the ask of the Promise for a more streamlined legislative environment. Additionally, SWS has noted some conflict in the proposals outlined in the Bill and our foundational legislative principles for children's care Scotland enshrined in particular in the Children (Scotland) Act 1995 and the Children and Young People (Scotland) Act 2014.

Despite this SWS recognises that limiting profit in children's care is an appropriate consideration. It is however a complex issue with ramifications, including the impact on care capacity, which is already under extreme pressure. These implications must be fully understood and explored in order to progress the most appropriate legislative activity. We note that the proposals in the Bill relate to that exploration but suggest that this work could, and perhaps should, be undertaken in advance of legislative proposals – and we would advocate this approach. This is a significant matter the details and ramifications of which deserve to be on the face of legislation with the scrutiny and transparency this provides rather than managed within secondary legislation.

Our consultation response is drawn from wide engagement with our membership, which includes the thirty-two local authority Chief Social Work Officers, service and team managers from across the country in the public and third sector, and social workers directly involved in the delivery of services to children and adults. SWS and our members are not financial experts and some of the consultation questions are out with our area of expertise. Where this is the case, we have commented only as far as the matter impacts on social work and provision for children.

SWS has also responded to the Call for Views on the Bill by Education, Children and Young Peoples Committee[3] and the Call for Views on the Financial Memorandum by the Finance and Public Administration Committee[4]

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[3] Response to Children (Care, Care Experience and Services Planning) (Scotland) Bill: Call for views - Social Work Scotland

[4] Response to the Children (Care, Care Experience and Services Planning) (Scotland) Bill: Financial Memorandum - Social Work Scotland

Consultation Questions

Q1 Do you agree that the provisions outlined should cover both children's residential care home services and residential schools provided by persons other than a local authority?
YES

Can you give a reason or this?
SWS considers that it is important that all residential care (and foster care) provided out with the local authority for looked after children is governed by the same rules in this area.

Some of our members have indicated that in an ideal world, all residential provision should be provided by local authorities but acknowledge the mixed economy of care currently in place.

As an organisation with both local authority and third sector members, we recognise that mixed economy and the importance of ensuring that we do not over complicate the market by having differing 'rules' for different sectors or with one those sectors.

Q2 Do you agree that both Not for Profit and Private services should be included in the proposals? Is there anything else we would need to capture?
YES

Can you give reasons for this?
SWS members were strongly of the view that all independent residential provision should be subject to the same rules, and limitations. For children the nature of the company providing the care is the critical aspect.

Parity of scrutiny across services is also considered critical. SWS members suggest that this should extend beyond residential provision and that the same oversight should apply to external fostering and residential provision. It makes no sense that fostering agencies be required to register as charities, where the oversight and scrutiny is provided via the charity's regulators OSCR but private and not for profit residential provision is subject to profit limitation regulation via other routes.

Our members note that the same children receive both services, and that requiring residential and fostering provision to follow different scrutiny and oversight processes makes the sector more complicated. Given OSCR's existing processes and the transparency of financial oversight, it is suggested that this route is followed for both areas of provision

It is recognised that there may still be wider areas of work relating to the amount of financial excess achieved, and how this is reinvested into the service.

Q3 Should the Bill provisions also cover other services such as secure care Can you give reasons for this
YES

Secure care is part of the continuum of residential provisions and should be subject to the same requirements in this area.

Q4 Do you agree with the proposals to increase financial transparency? Can you give reasons for this?
YES

SWS is of the view that financial transparency is important and that to do the best for children financial transparency and reinvestment of profit into services is critical – and a means of ensuring that the commitment of Promise and GIRFEC are met. OSCR are in a good position with existing oversight and published financial data which could be utilise in this situation, were all residential providers required to have charitable status

Q5 What implications will financial transparency have on the different types and sizes of residential children's homes?
This is not an area of expertise for SWS, but our members struggle to see what difference the size of a residential house makes to financial standards and transparency. There are unit cost implications linked to the number of beds in a particular house, impacted by the Care inspectorate design guidance, but this is a separate issue to financial transparency.

Q6 How could we minimise any negative impacts you outline above?
N/A

Q7 In order to cause the least impact to businesses, what format do you believe the financial transparency request should take? Ie audited accounts or a more detailed version of the information captured inf forms such as those provided to ScotExcel or Care Inspectorate?
As noted, this is not an area of expertise for SWS. However, we note that the oversight of OSCR were all residential establishments be required to register as charities would provide much of the transparency being sought.

While ScotExcel oversee the national contract for residential care, there are a number of current limitations to the scope and therefore the data available:

- not all providers are part of this framework agreement.
- Information gathered covers the unit costs of a bed. Our members quote many and regular situations where they are asked to pay additional costs for a placement beyond the contract prices eg purchasing two beds spaces for one child, covering costs for additional staff, or specialist supports. Particularly in the current climate of shortage of placements, the unit price is often therefore significantly in excess of the

contract price, and this is not captured in the ScotExcel figures – though this could potentially be considered.

The Care Inspectorate collect a range of data via their inspections and annual returns, but this is about the quality of care and the living environment and does not include financial data. We would query how well financial transparency would sit with their current remit.

Q8 What explanatory information would you want to provide alongside financial information collected to demonstrate the ways in which finances are structured? (ie additional funds being saved to open a new home)

Were providers required to be charities OSCR reports would we believe provide this against individual company articles of association.

As noted, SWS is not an expert in how finances can be presented, but would assume regulations could be developed to require consistent presentation of finances

Q9 Do you agree that the information should be provided at individual service level, provider level and at parent/associated company level?
Can you please explain your answer?

SWS agree but note that the trail of parent company can be complex.

Q10 Is there any additional information that the Scottish Government should be collecting that is not included in the proposal above?

It can be tempting to collect a lot of data. SWS would note that many children's houses are small four bedded houses and that it is therefore important that the reporting requirements, whilst transparent are not excessive and out of proportion for a small company or house.

Q11 Would it be useful to use use financial information collected to watch for potential market failure?

YES

Can you give reasons for this?

This is an important area for our members, who consider it critical that lessons are learned from recent issues within the secure estate in scotland and the adult sector where there have been a number of closures of care homes for the elderly. 'Failure' of provision first and most importantly, impacts on the children being cared for. Thus, to properly manage availability and security, it is critical that attention is paid to ensuring that the current fragile residential sector for children is not further threatened.

Children's houses are home for those children, and local authorities need to be involved in succession planning and aware of the security of independent provision.

Q12 Do you agree with the proposed measures outlined above?

YES with caveats

Can you explain your reasons for your answer?
SWS agree with the comments by the CMA, and the importance of considering the best way of limiting profit and ensuring financial transparency. Currently our local authority members tell us that they have little or no control over the costs of external residential care. There have been significant rises in the price of a placement over the last few years, with a further increase in the requests for additional payment to cover extra staffing or services. While this may be linked to the level of need there is no transparency of oversight of those costs or whether the outcomes that result are positive. We have much to learn from the recent crisis in the secure setting.

Similarly, our third sector members are very aware of the fragility of their situation, the competition for staff, and the increasing needs of the children they care for.

All, while aligned to the desire to remove profit from care and increase financial transparency, express real worries about the impact of these changes on availability of care for some of the most vulnerable young people. Considerable care therefore is needed in progressing this agenda.

SWS is therefore in agreement with the principles to limit/remove profit in residential care for children, and that financial transparency is one step towards this. It is however, complicated and must be progressed with care to ensure that it does not have an adverse impact on provision for children.

Q13 How would you define profit for she purposes?SWS is a social work not a financial organisation. A simple definition is excess funds above what is required to provide for the daily care of the children. However, we are aware that the situation is considerably more complex and would bow to those with greater knowledge.

We also note the difference between profit and excess/profitalisation, and suggest the latter is the core issue for consideration.

Q14 Could this impact a residential childcare service's ability to meet their aims/function and objectives?
We think not but as noted would seek the views of those who understand the business sector.

Q15 What challenges would services face in trying to reduce profit/surplus and how could this be supported?
This is a complex area which requires considerable thought to ensure that companies do not simply move south of the border, or into other areas, leaving children without their home, and the sector as a whole, with a dearth of provision. The potential impact on provision is one of the main concerns expressed by our members despite their support for limiting or removing profit from the children's care sector.

Q16 ***What impacts could these provisions have, both positive and negative, on providing the best care for children and young people***
Quality of care and financial transparency do not necessarily equate. A focus first and foremost on quality is a priority for our members, but underpinned by reasonable, transparent and understandable costs.

Q17 Do you have any comments on the partial Business and Regulatory Impact Assessment/
No

Q18 Do you have any other comments on the residential childcare proposals in the Children and Young People (Care and Services Planning) (Scotland) Bill?
As noted in the introduction, SWS are of the view that the work around financial transparency should be undertaken in advance of legislation to enable the legislation to cover the appropriate and evidenced measures required

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