CELCIS's response to the Scottish Government consultation on 'Financial transparency and profit limitation in children's residential care'

October 2025

CELCIS, the Centre for Excellence for Children's Care and Protection, based at the University of Strathclyde, is a leading improvement, innovation and research centre. We improve children's lives by supporting people and organisations to drive long-lasting change in the services they need, and the practices used by people responsible for their care. We welcome the opportunity to submit our views in response to the Scottish Government consultation on 'Financial transparency and profit limitation in children's residential care'.

Our response is underpinned by research evidence, practice experience, and extensive insight and intelligence from lived experience and professional practice gathered through our long-standing, cross-organisational and interest-specific networks, as well as our group of consultants with lived experience of care. These networks include people across the workforce, including leaders working across the spectrum of children's services and other public services working in support of children, young people and their families and adults with care experience, amongst others.

The following information was provided in answer ***Question 18*** *of this consultation:* ***Do you have any other comments on the residential childcare proposals in the Children and Young People (Care and Services Planning) (Scotland) Bill? [sic]***

We welcome the opportunity to respond to this consultation. We note that this consultation relates to provisions made in section 8 of the proposed Children (Care, Care Experience and Services Planning) (Scotland) Bill. CELCIS agrees with the principle that the care of children should not be profited from, and that the true value of any 'care system' must be measured by the outcomes and experiences of the children and young people it seeks to support.

In response to the Education, Children and Young People Committee's call for views on the Children (Care, Care Experience and Services Planning) (Scotland) Bill, we supported the Bill's intention to increase financial transparency, limit excessive profit, and improve planning and

accountability across residential child care services. The inclusion of profit limitation in residential child care within the proposed Children (Care, Care Experience and Services Planning) (Scotland) Bill marks a recognition of long-standing concerns about the role of private profit in the care of children and young people. However, behind such a proposal for reform there would ordinarily be a depth of understanding and preparedness in advance of the launch of this consultation. While these concerns around profit are valid and reflect urgent ethical considerations, a legislative response has been progressed prior to there being evidence gathering, comprehensive analysis of the implications of the changes and the development of co-designed solutions. To ensure the Bill delivers real and lasting impact, the provisions within the Bill must be rooted in the lived experience of care-experienced children, young people, and adults, alongside key stakeholders. Their voices are not just valuable, they are essential.

Consultation with care experienced people, providers, Social Work Scotland, the Convention of Scottish Local Authorities (COSLA) and commissioners of services, to explore the implications of different ownership models and regulatory approaches is needed. Such preparatory work would help to ensure that the proposed reforms are grounded in evidence and that these are aligned with meeting the needs and rights of children.

To support ethical and sustainable reform of residential child care in Scotland, several areas must be addressed:

- Robust evidence and data needs to be collected on how ownership models (e.g. private, public, not-for-profit) impact care quality, stability, and outcomes;
- A shared definition and framework should be created for understanding the term 'profit' specifically in the context of residential child care;
- A co-designed process to shape the future of residential care needs to be developed with care experienced people and the workforce;
- There needs to be improved understanding of financial reporting and reinvestment practices among providers of residential child care;
- Better insights to inform the development of any future framework for ethical commissioning and funding of care services.

Evidence from the Competition and Markets Authority's review of children's social care

The Competition and Markets Authority's (CMA) review of children's social care in England, Scotland and Wales, followed concerns about how the placements market was operating and that local authorities were paying high prices for private residential child care placements for children. In the report of findings - *Children's Social Care Market Study* - the CMA explicitly did not recommend banning private providers from operating children's residential care, nor did it recommend limiting the profits that private companies can make (Competition and Markets Authority, 2022). The review found that "the cost to local authorities of providing their own children's home placements is no lower than the cost of procuring placements from private providers, despite their profit levels" (Competition and Markets Authority, 2022, p.11). Additionally, it was noted that the profitability of private children's homes providers in Scotland was markedly less than the average across all three nations (an average of £28,000 in the financial years 2016-2020, compared to £44,000 in the same period collectively across the three nations). The CMA emphasised that, if private providers were banned, or if measures were taken to limit profits, this could "further reduce the incentives of private providers to invest in creating new capacity (or event to maintain some current capacity)" (Competition and Markets Authority, 2022, p.15).

While it's important to note that the Competition and Markets Authority study did not engage with every local authority, third sector or private provider of residential child care, meaning their findings do not necessarily reflect the entire residential sector in Scotland, we would caution that the proposed measures to limit profit in children's residential care in Scotland are unlikely to improve some of the most significant challenges faced by children, young people, their families, and the children's services workforce. It will not necessarily result in less expenditure for local authorities either. If profit-making residential care providers were to choose to exit the market because of profit-limiting measures, the result could be significant increases in public sector expenditure as the public sector seeks to replace any lost provision (Competition and Markets Authority, 2022).

High-quality residential care for children and young people

Residential child care services constitute a key component in the continuum of care for children and young people in need of care and support, and as such should be regarded as a positive choice, not a form of care that is of 'last resort' (Milligan, 2009). Accordingly, too often residential child care has been undervalued and regarded as peripheral to

mainstream services, which has been to the detriment of some young people's experience and outcomes (Milligan, 2009).

It is children, young people and families who experience the effects of our current marketised system of care. Standards of care must be consistent across providers, and be subject to independent scrutiny and accreditation, based on what children and families value and need, rather than to serve 'the system'. Currently, their experiences differ across the 32 local authorities in Scotland, and across public, private and voluntary sector provision.

The priority for any legislation or policy that is seeking to enact change in children's residential child care must be the facilitation of consistent and high standards of care across all providers and the improvement of outcomes for children, young people and their families - not the cost of that service. This is especially important considering the Competition and Markets Authority's review which found that the cost to local authorities is the same regardless of whether children and young people are living in services provided by a local authority or by private organisations (Competition and Markets Authority, 2022, p.15).

These proposals must not inadvertently create a shift to focussing only on the cost of care to children and young people, change must prioritise investment in their care and support. Any approach seeking to reduce the amount of money that can be spent on children and young people in need of care and support would be concerning. This includes facilities, services and support for children and young people to have gradual transitions into adulthood, as well as wages, training and supervision for frontline staff and management.

Valuing and sustaining the children's residential care workforce

Children's residential care workers are vital to children's development, offering emotional support and building trust through consistent, stable relationships. Quality residential care depends on valuing these caregivers and supporting them to meet children's needs. Delivering evidence-informed models of care requires trained and supported staff with access to supervision, who are committed to therapeutic, rights-based practice. This requires sufficient and sustainable funding. Furthermore, facilitating this workforce to remain in their roles for the timescales required to deliver relationship-based care requires salaries commensurate to the level of skill and responsibility of their role, as well as secure employment contracts and career progression. These too require sufficient funding and adequate financial modelling.

References

- Competition and Markets Authority (2022) *Children's Social Care Market Study: Final Report*. London: Competition and Markets Authority. https://assets.publishing.service.gov.uk/media/6228726cd3bf7f158c844f65/Final_report.pdf
- Milligan, I. (2009) *Higher Aspirations, Brighter Futures: NRCCI Commissioning Report*. Glasgow: National Residential Child Care Initiative and Scottish Institute for Residential Child Care. https://www.celcis.org/application/files/1314/3818/0661/NRCCI_Commissioning_Report.pdf
- Skinner, A. (1992) *Another Kind of Home: A Review of Residential Child Care*. Edinburgh: HMSO/Scottish Office.

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.

We agree with The Promise of the Independent Care Review that "children must never again feel the monetisation of their care" (Independent Care Review, 2020a, p.77). We believe that the focus should always be on development and delivery of a care 'system' which provides positive outcomes for children. Currently in Scotland, children's residential care home services and residential schools, provided by people and organisations other than local authorities and their staff, are part of the provision of care to children. Any changes to legislation should consider the services these provide and the needs of children and young people that both of these are designed to meet.

However, behind a proposal for reform such as this there would ordinarily be a depth of understanding and preparedness which seems to be missing at this stage. While these concerns around profit are valid and reflect urgent ethical considerations, there is a need for evidence gathering and a comprehensive analysis of the implications of the changes and the development of co-designed solutions. The priority for any legislation or policy seeking to enact change in children's residential care must be the facilitation of consistent standards of care across all providers and the improvement of outcomes for children, young people and their families.

References

- Independent Care Review (2020a) *The Promise*. Glasgow: Independent Care Review. https://www.carereview.scot/wp-content/uploads/2020/02/The-Promise.pdf

Q2: Do you agree that both Not-for-Profit and Private services should be included in these proposals?

Yes.

CELCIS agrees that not-for-profit and private services should be included in these proposals. We agree with the principle that the care of children should not be profited from and that the true value of any 'care system' must be measured by the outcomes and experiences of the children and young people it seeks to support. The inclusion of both not-for-profit and private services would support a consistent approach across all children's residential care services, to enable the provision of high-quality support for children and young people using evidence-informed models, and therapeutic, rights-based practice.

However, there must be no reduction in the quantity, quality or diversity of the different types of provision available to support children in Scotland, nor interruptions to a child or young person's home environment or relationships as a result of legislation on this matter. If legislation is developed, there must be adequate evidence gathering, further consultation, engagement and preparatory work, as well as learning from the implementation of similar legislation in order to support long-term planning in the children's residential care estate and ensure there are no unintended consequences of legislation. Introducing new legal requirements would require clear guidance, transitional support and regulatory oversight to avoid any potential unintended consequences.

The provisions within the Children (Care, Care Experience and Services Planning) (Scotland) Bill currently being considered at Stage 1 in the Scottish Parliament need to take account of the models of provision in both private and not-for-profit services. We note that different terminology, financial and regulatory structures are used in legislation and regulations which relate to not-for-profit organisations and private services, as set out by the Charities and Trustee Investment (Scotland) Act 2005 and the Charities Accounts (Scotland) Regulations 2006.

The word profit is not used in regulations for charities, and systems and structures different from those used in for-profit organisations exist to regulate income and financial reserves of these organisations. The operational meanings and structures in a charitable organisation differ from the operational meaning of profit in other settings. In the context of children's care, any concept of 'profit' will be much more than cost recovery but will also include how these finances are spent. This could include how income and reserves are used to support wider service developments to meet the needs of children or young people, such as supporting staffing, improving facilities, or strengthening preventative and continuous support for a child or young person as they grow up.

Any approach to defining or setting limits on profit within residential child care must not inadvertently set a limit on costs for providing support to a child. For example, the costs associated with staffing therapeutic care and services for a child who needs additional support, and who may otherwise be at risk of requiring support through secure care may be particularly high. Offering support earlier may better support the wellbeing of that child, as well as having a lower cost than providing secure care. A shared definition and framework for understanding profit in the context of residential child care is needed. Any definitions of profit need to be aligned and function under all operating models using the core principle of enabling and sustaining high-quality support for children and young people.

When understanding the context within Scotland, alignment with the Scotland Excel Framework should be considered (Scotland Excel, no date). The framework consists of the contractual terms and conditions and specification of services that care providers accept when they join Scotland Excel, and was provided to us directly by Scotland Excel to help inform our consultation response. At present, there are 39 private and third sector providers registered under the 'children's residential care and education, including short breaks' framework (Scotland Excel, 2025). We note that whilst Scotland Excel does take into account profit and income levels in an organisation, it does not specifically define profit (Scotland Excel, no date, p.19).

However, the Competitions and Market Authority's (CMA) recent review of children's social care provision does define 'profit' - "operating profit indicates a provider's profitability after deducting its operating (day-to-day running) costs. We obtained operating profitability by subtracting total operating costs from total revenue" (Competition and Markets Authority 2022, p.50). The CMA further specified that day-to-day running costs include "staff, maintenance of assets, supplies, utilities, and head

office costs" but that it excludes capital expenditure to enable the purchase of new assets (Competition and Markets Authority 2022, p.50). Any evidence gathering, consultation and assessment should recognise that a definition of profit needs to take into account the need of children's residential child care providers to provide high-quality support to children and young people, including relationship-based transitions into adulthood.

Geographic and rural considerations

High-quality residential child care prioritises relationships. Maintaining children's existing connections, such as friendships, schooling, and community services, is vital to their wellbeing. Scotland's geography poses challenges for care planning in rural and island areas, where retaining staff and securing local placements poses additional challenges. Care staff often juggle multiple roles, requiring flexible, community-responsive approaches.

In conclusion, considering the significant need for further evidence and engagement, CELCIS supports the inclusion of both not-for-profit and private services in these proposals. We recommend developing a framework for understanding and regulating profit which is rooted in the principle of enabling high-quality, relationship-based care for children and young people. This includes recognising the diverse financial models across the sector and ensuring that regulation supports, rather than constrains, the delivery of care that meets children's needs.

References

- Competition and Markets Authority (2022) *Children's Social Care Market Study: Final Report*. London: Competition and Markets Authority. https://assets.publishing.service.gov.uk/media/6228726cd3bf7f158c844f65/Final_report.pdf
- Scotland Excel (no date) Children's Residential Care and Education, Including Short Break, Services Flexible Framework Agreement 1121: Framework Terms. Glasgow: Scotland Excel.
- Scotland Excel (2025) *Children's Residential Care and Education, Including Short Breaks. Flexible Framework No: 1121.* https://home.scotland-excel.org.uk/our-contracts/contract-directory/children-s-residential-care-and-education-including-short-breaks/

Q3: Should the Bill provisions also cover other services such as secure care?

Yes.

Secure care is a form of children's residential child care that provides care for children who need higher levels of support and protection. CELCIS believes that secure care should be included within Bill provisions. Children's care experiences are not always linear and many experience different and multiple placement types including moving in and out of secure care or other children's residential child care settings. It is imperative that all children and young people who are 'looked after' receive the same focus and attention across provisions.

Q4: Do you agree with the proposal to increase financial transparency?

Yes.

CELCIS agrees with the principle that the care of children should not be profited from and that the true value of any 'care system' must be measured by the outcomes and experiences of the children and young people it seeks to support. However, there must be no reduction in the quantity, quality or diversity of the different types of provision available to support children in Scotland, nor interruptions to a child or young person's home environment or relationships as a result of legislation on this matter. If legislation is developed, there must be adequate evidence gathering, consultation, engagement and preparatory work, as well as learning from the implementation of similar legislation in order to support long-term planning in the children's residential care estate and ensure there are no unintended consequences of legislation. Introducing new legal requirements would require clear guidance, transitional support and regulatory oversight to avoid any potential unintended consequences. Regulations should focus not only on financial structures but also on ensuring that all services, regardless of which sector provides these, are delivering high-quality, attuned care that enables children to flourish.

Q5: What implications will financial transparency have on the different types and sizes of residential children's homes?

Further engagement, evidence gathering and analysis is needed to be able to understand the implications on the different types and sizes of

residential children's homes in relation to these provisions. A more considered articulation of the problem this legislative provision seeks to solve, followed by a framework and methodology to solve that problem would be advisable. This could, for example, include clear definitions about how 'profit' is defined in both for-profit and not-for-profit contexts, and how this relates to children's high-quality care.

Any proposals to prevent or limit profits must be grounded in robust evidence. The current evidence on the impact of profit-making on the quality of care and outcomes for children is limited, particularly for Scotland. While some research from England suggests a correlation between for-profit provision and lower quality ratings (Bach-Mortensen et al., 2024), this cannot be directly extrapolated to Scotland, where the independent sector provides 47% of residential home places (compared to 83% in England) and profit margins are significantly lower (Competition and Markets Authority, 2022).

References

- Bach-Mortensen, A., Goodair, B., Degli Esposti, M., Corlet Walker, C. and Barlow, J. (2024) *Evidencing the Outsourcing of Social Care Provision in England: Final Project Report*. Oxford: Nuffield Foundation and University of Oxford. https://www.spi.ox.ac.uk/sitefiles/main-public-output-full-report-final.pdf
- Competition and Markets Authority (2022) *Children's Social Care Market Study: Final Report*. London: Competition and Markets Authority. https://assets.publishing.service.gov.uk/media/6228726cd3bf7f158c844f65/Final_report.pdf

Q6: How could we minimise any negative impacts you have outlined above?

Further engagement, evidence gathering and analysis is needed to be able to respond fully to potential negative impacts regarding these provisions.

To support ethical and sustainable reform of residential child care in Scotland, several areas must be addressed:

- Robust evidence and data needs to be collected on how ownership models (e.g. private, public, not-for-profit) impact care quality, stability, and outcomes;
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- A shared definition and framework should be created for understanding the term 'profit' specifically in the context of residential child care;
- A co-designed process to shape the future of residential care needs to be developed with care experienced people and the workforce;
- There needs to be improved understanding of financial reporting and reinvestment practices among providers of residential child care;
- Better insights to inform the development of any future framework for ethical commissioning and funding of care services.

Q7: In order to cause the least impact to businesses, what format do you believe the financial transparency request should take? i.e. audited annual accounts or a more detailed version of the information captured in forms such as those provided to SXL or CI.

Current documentation for the Children (Care, Care Experience and Services Planning) (Scotland) Bill and Scottish Government consultation on financial transparency and profit limitation in children's residential care offers limited details for us to helpfully respond to this question.

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

While the current documentation for the Children (Care, Care Experience and Services Planning) (Scotland) Bill and Scottish Government consultation on financial transparency and profit limitation in children's residential care offers limited detail on provisions and supporting evidence, we provide the following insights as part of future considerations.

The provision of financial information that directly or indirectly specifies the costs associated with caring for children should be considered in the context of the wider care system. The priority of any service, as well as any policy or legislation related to that service provision, must be the improvement of outcomes for children, young people and their families, and not the cost of that service. Doing so would be in line with commitments to uphold The Promise of the Independent Care Review. Care is an investment in children and young people, our communities and

our society. Prioritising the needs of children takes time, effort, resources and money. The Independent Care Review 'Follow the Money' report found that the costs of inadequate provision led to significant human and financial costs (Independent Care Review, 2020b). Any efforts to limit profit-making in residential child care must not negatively impact the quality of care and support that children and young people need.

Specialist services

Highly specialist services are sometimes required to meet the needs of children and young people with a combination of complex needs (Milligan, 2009), such as self-harming behaviours, mental health needs or disabilities. Children and young people may require residential care that offers intensive and specialist support before, after, or as an alternative to secure care. This type of provision is crucial to meeting the support needs of children and young people who may otherwise need to be cared for in secure care. Offering this type of intensive and specialist support can be costly but providing this support is essential to upholding the rights of children and young people, meeting their needs and upholding The Promise.

Any explanatory information provided alongside financial information, should provide a transparent narrative that describes both 'best value' in terms of financial cost *and* information on how services are meeting children's needs and providing long-term positive outcomes for those children.

References

- Independent Care Review (2020b) *Follow the Money*. Glasgow: Independent Care Review. https://carereview.scot/wp-content/uploads/2020/02/Follow-the-money.pdf
- Milligan, I. (2009) *Higher Aspirations, Brighter Futures: NRCCI Commissioning Report*. Glasgow: National Residential Child Care Initiative and Scottish Institute for Residential Child Care. https://www.celcis.org/application/files/1314/3818/0661/NRCCI_Commissioning_Report.pdf

Q9: Do you agree that the information should be provided at individual service level, provider level and at parent/associated company level?

The current documentation for the Children (Care, Care Experience and Services Planning) (Scotland) Bill and Scottish Government consultation on financial transparency and profit limitation in children's residential care

offers limited detail for us to be able to fully respond to this question. It would be helpful to consider in more detail what kind of information may be required to ensure that services are best equipped to meet the needs of children and young people by providing them with high-quality consistent and relationship-based support. From that starting point it will be more easy to assess what information should be provided at any and each of these levels.

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

The priority and focus of any information collection should be the facilitation of consistent standards of care across all providers. High-quality care must be underpinned by evidence-informed models, with support and care delivered by trained staff who are committed to therapeutic, rights-based practice. The development of regulations should focus not only on financial structures but also on ensuring that all services, regardless of the sector providing these, are delivering high-quality care, attuned to the needs of each child and young person, that enables them to thrive.

Evidence-gathering and preparatory activities should include an assessment of what data is currently collected about children and young people's experiences in residential child care services across Scotland, as well as data on the services themselves. This activity could identify any gaps in data collection but also identify where there are concurrent reporting activities that overlap and need better alignment. Many services face multiple and time-consuming reporting requirements, which, whilst important, can create unnecessary overlap that can be burdensome for services and reduce the time staff can spend with children and young people.

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

This is an area for discussion with providers and other key stakeholders.

Q12: Do you agree with the proposed measures outlined above?

Yes.

Considering the significant need for further evidence and engagement, we agree that Scottish Ministers should only introduce regulations to limit

profit in residential child care if the outlined conditions have been met, alongside a condition that there is a positive impact on the wellbeing of children. We support the proposed measures to strengthen the evidence base and engagement with key stakeholders as outlined. In addition, there is a need to articulate the problem this legislation seeks to solve. Should there be one provided, a comprehensive evidence base and a co-designed solution, developed with children, young people, practitioners, and providers, would be required. Without this, there is a risk of undermining any efforts to address concerns and ensure that high-quality care is available for all children.

Q13: How would you define profit for these purposes?

We have also outlined our position and understanding of evidence in relation to the definition of profit in our answer to question 2.

We note that different terminology, financial and regulatory structures are used in legislation and regulations which relate to not-for-profit organisations and private services, as set out by the Charities and Trustee Investment (Scotland) Act 2005 and the Charities Accounts (Scotland) Regulations 2006.

The word profit is not used in regulations for charities, and systems and structures different from those in for-profit regulations exist to regulate income and financial reserves of these organisations. The operational meanings and structures in a charitable organisation may differ from the operational meaning of profit in other settings. In the context of children's care, any equivalent of 'profit' will be much more than cost recovery but will also include how these finances are spent. This could include how income and reserves are used to support wider service developments to meet the needs of children or young people, such as supporting staffing, improving facilities, or bolstering preventative and continuous support for a child or young person.

"How will they measure what is excessive profit versus non-excessive profit when determining if further regulations need to be put in place. Like what counts as a suitable amount of profit? And how will this be generalised across services of different sizes etc?"

CELCIS Consultant with lived experience

Any approach to defining or setting limits on profit within residential child care must not inadvertently set a limit on costs for providing support to a child. For example, the costs associated with staffing therapeutic care and services for a child who needs additional support, and who may be at risk

of requiring support through secure care, may be particularly high. Offering support earlier may better support the wellbeing of that child, as well as having a lower cost than providing secure care. A shared definition or framework for understanding profit in the context of residential child

care is needed. Any definitions of profit need to be aligned and function under all operating models using the core principle of enabling and sustaining high-quality support for children and young people.

When understanding the context within Scotland, alignment with the Scotland Excel Framework must also be considered (Scotland Excel, no date). The framework consists of the contractual terms and conditions and specification of services that care providers accept when they join Scotland Excel, and was provided to us directly by Scotland Excel to help inform our consultation response. We note that whilst Scotland Excel does take into account profit and income levels in an organisation, they do not specifically define profit. (Scotland Excel, no date, p. 19).

We note that the Competitions and Market Authority review of children's social care provision defined 'profit' as: "Operating profit indicates a provider's profitability after deducting its operating (day-to-day running) costs. We obtained operating profitability by subtracting total operating costs from total revenue" (Competition and Markets Authority, 2022). (Competition and Markets Authority 2022, p. 50). They further specify that day-to-day running costs include "staff, maintenance of assets, supplies, utilities, and head office costs" but that it excludes capital expenditure enable the purchase of new assets (ibid.). Any evidence gathering, consultation and assessment must ascertain whether this definition meets the needs of children's residential care providers to provide high-quality support to children and young people, including relationship-based transitions into adulthood.

Furthermore, CELCIS would not support the specification of any set of calculations denoting profit (or equivalent in a not-for-profit setting). If any calculation is stipulated it must not represent a reduction in the resource needed to care for children and young people. This includes wages, support and supervision for both frontline staff and management, and facilities or services. A definition of profit must enable resource to be reinvested to improve children and young people's outcomes, including supporting children and young people to access their entitlement to Continuing Care.

References

- *Competition and Markets Authority (2022) Children's Social Care Market Study: Final Report. London: Competition and Markets Authority.* *https://assets.publishing.service.gov.uk/media/6228726cd3bf7f158c844f65/Final_report.pdf*

- Scotland Excel (no date) *Children's Residential Care and Education, Including Short Break, Services Flexible Framework Agreement 1121: Framework Terms*. Glasgow: Scotland Excel.

Q14: Could this impact a residential childcare service's ability to meet their aims/function and objectives?

In examining the availability of services in children's social care, it is important to consider the present picture of provision, as well as understand the profile of residential child care in the United Kingdom. Across the UK, we have seen the first overall reduction in the number of 'looked after' children in over a decade. By July 2024, Scotland had 13,070 'looked after' children, with kinship and foster care being the most common type of care, and 11% of 'looked after' children being cared for in residential care (Scottish Government, 2025a). Existing planning processes must account for differing approaches to meeting children's needs across local areas, with some areas focusing service provision towards family-based care such as foster care. There is currently variation in the use of residential and family-based care across Scottish local authorities. However, not all local areas have sufficient services to enable children who require residential care in their local area to stay there. These children must move to other areas of Scotland, away from supportive and familiar communities and relationships. This indicates that there may be a need to respond to challenges in local planning and commissioning of children's residential care services. Any changes to the regulation of these services should be co-ordinated with measures to mitigate these challenges.

Cross border placements across Scotland's border

Similar legislation regarding profit-making across all of children's care is currently being developed in England and in Wales. Any proposals to develop legislation in Scotland should also consider learning from the Welsh Government's and the UK Government's approaches to profit in children's care. It is crucial for Governments to align their approaches and

ensure that no UK nation has a form of legislation more favourable to a type of (for-profit) provision.

Cross-border placements between countries in the United Kingdom and Scotland, and local commissioning arrangements, must be considered. These factors can significantly influence the availability, cost, and continuity of care, and should be part of any future review of residential child care profit regulation. Any new legislation must not inadvertently

encourage the movement of children and young people across UK borders purely to access service provision. We would be concerned that this would result in more cross-border placements for children and young people, with some moving a large distance from their home, loved ones, schools, friends and communities. At the time of writing (October 2025), there are no children in cross-border placements in secure care in Scotland.

Facilitating and resourcing of Continuing Care entitlements in children's residential care

Upholding the entitlement to Continuing Care under Part 11 of the Children and Young People (Scotland) Act 2014 for care experienced children and young people also has an impact on the funding of children's residential care. This entitlement enables 'care leavers' to remain in stable care until they reach the age of 21 should they wish to. This provision emerged from the Staying Put Scotland Guidance, which emphasises relationship-based practice and extended and graduated transitions in which young people should be able to return to care if they encounter difficulties (Scottish Government, 2013). The ability to stay in residential care until the age of 21, as well as the ability to adapt to the child or young person's needs, including the changing needs of children and young people as they grow up, must be built into financial planning processes and structures for children's residential care. Research has shown that financial constraints and short-term budgeting pose challenges for local authorities in implementing this policy (Lough Dennell et al., 2022).

Any legislative changes to the financial context of children's residential care must ensure that children and young people can exercise their right to Continuing Care and there are no adverse impacts on access to this crucial entitlement.

Preventing negative unintended consequences

The provisions set out in the Children (Care, Care Experience and Services Planning) (Scotland) (Bill) may result in the closure of some private and not-for-profit sector providers operating in Scotland. This could have an impact on the ability to be able to find and provide residential child care that is most suitable for children's needs. With further consultation, engagement and preparatory work, there is potential for new legislation to improve the planning of services to anticipate and deliver services that meet children's needs across their time in care, and reduce reliance on the purchasing of care and support from external providers to meet the immediate needs of children.

References

- Lough Dennell, B. L., McGhee, K., Porter, R. (2022) *Continuing Care: An Exploration of Implementation*. Glasgow: CELCIS. Scottish Government (2013) *Staying Put Scotland: Providing Care Leavers with Connectedness and Belonging*. Edinburgh: The Scottish Government. https://www.gov.scot/binaries/content/documents/govscot/publications/advice-and-guidance/2013/10/staying-put-scotland-providing-care-leavers-connectness-belonging/documents/00435935-pdf/00435935-pdf/govscot%3Adocument/00435935.pdf
- Scottish Government (2025a) *Children's Social Work Statistics: Looked After Children 2023/24*. Edinburgh: Scottish Government. www.gov.scot/publications/childrens-social-work-statistics-lookedafter-children-2023-24/

Q15: What challenges would services face in trying to reduce profit/surplus and how could this be supported?

The priority for any legislation or policy seeking to enact change in children's residential care must be the facilitation of consistent standards of care across all providers and the improvement of outcomes for children, young people and their families - not the cost of that service. Any approach seeking to reduce the amount of money that can be invested in supporting children and young people in need of care and support would be concerning. This includes wages, support and supervision for frontline staff and management, as well as facilities or services. A definition of profit should enable money to be reinvested to improve children and young people's outcomes, including supporting children and young people to access their entitlement to Continuing Care.

Introducing new legal requirements on providers would require clear guidance, transitional support and regulatory oversight to avoid unintended consequences. There must be no reduction in the quality or diversity of the different types of provision available to support and care for children and young people in Scotland, nor interruptions to a child or young person's home environment or relationships because of legislation on this matter.

We would also note that the Competition and Markets Authority's review of children's social care in England, Scotland and Wales found that the profitability of private children's homes providers in Scotland was

markedly less than the average across all three nations (an average of £28,000 in the financial years 2016-2020, compared to £44,000 in the

same period collectively across the three nations) (Competition and Markets Authority, 2022).

References

- Competition and Markets Authority (2022) *Children's Social Care Market Study: Final Report*. London: Competition and Markets Authority. https://assets.publishing.service.gov.uk/media/6228726cd3bf7f158c844f65/Final_report.pdf

Q16: What impacts could these provisions have, both positive and negative, on providing the best care for Children and Young People?

"What will the implications be for those who are making profit? Will they just remove provision in Scotland and reduce placement availability even more? Will they reduce staff salaries and then end up with underpaid or under qualified staff? Will they start cutting corners and cutting quality so they aren't seen to be making profit?"

CELCIS Consultant with lived experience

Many of the potential impacts of these provisions have been outlined within other areas of our response, however, there is a need for a clear articulation of the problem this legislation seeks to solve, to enable any potential impacts, whether positive or negative, to be fully assessed.

There are persistent concerns within residential child care in providing what is needed for children, including placement instability, distance from home, and challenges in strategic planning: these all undermine what is in a child's best interests. The residential child care sector's evolution has been shaped by shifting political and social values, with different approaches influencing the delivery of care. Inequity in status and unequal pay between care roles and social work, and the purchasing of placements from external providers, which are often costly and abruptly end at age 16–18, are all factors which can undermine stability and relational care for young people.

While Scotland is not alone in this, the provision of residential child care in Scotland faces longstanding challenges rooted in inconsistent

standards, fragmented commissioning, and market-driven pressures. High-quality care needs to be delivered by trained staff using evidence-informed, rights-based approaches, with regulation and policy focused on

relational outcomes. Any measured, child-centred reform agenda that follows this consultation exercise must consider the diverse needs of children and young people, alongside the resource and commissioning constraints faced by local authorities.

Sustainable reform must prioritise children's rights, relational stability, and commensurate investment across all care settings.

Q17: Do you have any comments on the partial Business and Regulatory Impact Assessment?

We note that the Business and Regulatory Impact Assessment for this consultation states that enforcement measures would allow the Care Inspectorate to deregister services "if there was a refusal to provide information, or if – after the further consultation outlined above has taken place – excessive profits were found and a profit limit not adhered to" (Scottish Government 2025b p. 6).

It appears therefore that deregistration of a service could occur regardless of how well the service was performing in supporting the children and young people in its care. The impact of a service closure on children and young people being cared for by that service must be considered. The implication of this enforcement measure could have a

significant detrimental impact on children and young people and wider children's services planning partners.

References

Scottish Government (2025b) *Children (Care, Care Experience and Services Planning) (Scotland) Bill: Financial Memorandum*. Edinburgh: Scottish Government. Available at: https://www.parliament.scot/-/media/files/legislation/bills/s6-bills/children-care-care-experience-and-services-planning-scotland-bill/introduced/spbill74fms062025accessible.pdf.

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