



FULL COUNCIL REPORT

Date Written	19 th January 2024
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Service Area	Children's Services
Exempt/Non Exempt	Non exempt
Committee Date	20 th March 2024

Elimination of Profit

1.0 SUMMARY OF THE REPORT

- 1.1 This report provides Council with an update on the elimination of profit agenda and the impact this will have on Merthyr Tydfil
- 1.2 The report outlines the background of the elimination of profit agenda, where Merthyr Tydfil's Children's Services are now, how we plan to progress and the risks associated with this agenda.

2.0 RECOMMENDATION that

- 2.1 The progress to date be noted and the proposed next steps be approved.

3.0 INTRODUCTION AND BACKGROUND

- 3.1 The Welsh Government's Programme for Government contains a number of key commitments relating to a new vision for Children's Social Care. At its heart, the Welsh Government wants to see fewer children and young people entering care. For those children in care, we want them to remain close to home so they can continue to be part of their community and for their stay in care to be as short as possible, consistent with meeting the needs of the young person. We are committed to keeping families together.
- 3.2 The Programme for Government contains a commitment to 'eliminate private profit from the care of looked after children during the next Senedd term.' This commitment is also one of the 46 policy areas highlighted within the Co-Operation Agreement between Welsh Government and Plaid Cymru. Welsh Government is of the view that it is not right that some private companies who run accommodation, care and support services for looked after children can make significant profits from

the children they care for. Eliminating profit from care is about transitioning to a not-for-profit model of care in Wales, focussing on values and not finances. It is about fundamentally changing how we care for children and their families as part of a network of local, community-based services that have the welfare of the young person as the absolute priority. The aim is to ensure that public money invested in accommodation for care experienced children is not extracted as profit, but instead is reinvested back into the system to support better outcomes, services and professional development.

- 3.3 We are currently in a period of considerable uncertainty we are waiting for the legislation to be drafted, waiting for the final models to be agreed and that will determine what the providers do; so how many stay and how many go from the market. There is a risk that this agenda will leave local authorities with less placement availability and there is a high level of uncertainty and risk being managed by officers at this time. Once legislation has been developed and published children services will need to review their position and how to support our children who are looked after.

4.0 WELSH GOVERNMENT POLICY OBJECTIVES

- 4.1 To deliver the Programme for Government commitment to remove private profit from the care of looked after children during this Senedd term. Removing profit from care is one of 8 Programmes for Government commitments aimed at seeing fewer children and young people entering care and in care and keeping families together. They aim to create local authority and not for profit placement sufficiency and support increased use of kinship care and special guardianship arrangements. To support the transition to a not-for-profit model of care for children looked after in Wales, with the initial focus being on children in residential care and foster care. Further work will be undertaken on the implications for home care for children with complex needs and supported accommodation provision.
- 4.2 Policy and legislative work will be structured in such a way however, as to cover all elements.

5.0 KEY MESSAGES

- 5.1 This Programme for Government commitment is one of a number of commitments designed to deliver a new vision for Children's Social Care, focussed on values and not finances. It is about fundamentally changing how we provide services to children and their families as part of a network of local, community based services that has the welfare of the young person as their absolute priority.
- 5.2 Eliminating profit from care is about transitioning to a not-for-profit model of care in Wales. The aim is to ensure that public money invested in accommodation for care experienced children is not extracted out as profit, but instead surpluses are reinvested back into the system to support better outcomes, services and professional development. There is a drive to see fewer children and young people entering care. For those children who do need care, there is a desire for them to remain close to home so they can continue to be part of their community. The proposals are that Welsh Government will pass legislation within this term.

For children's homes and fostering agencies to operate legally in Wales they have to be registered with Care Inspectorate Wales. No new for profit provider would be able to register with Care Inspectorate Wales after April 2026. All current providers would have to move to a not for profit position by April 2027. In addition, it is proposed that local authorities would not be able to access for profit provision outside of Wales. Hence all children who are looked after in Wales will be with not for profit providers.

6.0 ISSUES AND RISKS

6.1 There was widespread support for the central principle of the proposal from a range of public and third sector bodies. The key concern surrounded timelines, specifically that the transition period currently proposed was not long enough. If the programme of work and engagement with the sector is not managed appropriately and effectively, the following risks may emerge:

- Cross border issues if Local Authorities are still able to commission for profit provision in the other UK nations. Uncertainty in the market leading to providers either exiting the market or providing provision for cross border placements only. This has the potential to destabilise placements for children currently in care, and may lead to specific consequences for specialist placements, as Welsh local authorities mostly rely on this provision for children with the most complex needs.
- A heightened risk of legal challenge, negative publicity or incorrect messages circulating within sectors. There may be objections to the plans to deliver this commitment causing adverse publicity.
- Possible exacerbation of existing social care workforce issues and potential loss of experience in the sector.
- The workforce could experience anxiety about the changes which could result in staff/carers leaving the sector. This may also cause resistance from staff to move across into the public / not for profit sector and affect staffing provisions in care homes and foster carers. TUPE issues need to be clearly communicated to alleviate the impact on future not-for-profit staffing capacity.
- Impact on sufficiency and suitability of available foster and residential placements. Lack of interest from private organisations moving over to a not for profit model of care or lack of interest from new providers entering the market. This will impact the market sufficiency if the supply of local authority and not for profit provision is insufficient, as the demand for placements may outstrip the supply.
- Loss of investment into the sector as independent and not for profit providers may delay plans to invest in new innovative facilities, technology, training and specialist provision which may cause a stagnant market. This could also result in a potential reduction/freeze on investment to current infrastructure which will impact current quality for children.
- Risk of unplanned endings if for profit providers do not transition to a not-for-profit model.
- Lack of clear information may lead to providers feeling that there is no incentive to remain on an All Wales Framework which offers protection via standardised contracts/T&Cs/evidence of social value.

- Negative impact on use of the Welsh language if more placements need to be made outside of Wales.
- 6.2 Much of the consideration for this to be successful appears to be reliant on a reduction in children looked after numbers, an increase in in-house foster carers and special guardianship orders. Within Merthyr Tydfil, and many other local authorities, these expectations are not being met and therefore these impact on the ability to implement this policy.
- 6.3 There is also an expectation that the not for profit and third sector will expand to meet the placement deficit; however, there is no additional funding for that sector and therefore the ability to expand is limited.
- 6.4 Merthyr Tydfil currently has 38 children placed with Independent Fostering Agencies from a child looked after population of 186 this is approximately 20% in non-Foster Wales Merthyr Tydfil placements. According to the current policy, and if no exemptions are made by Welsh Government, Merthyr Tydfil will need to provide in-house or not for profit placements for these children. There are some for profit providers who are reporting that they are transferring into not for profit, although these are not clearly known at this stage as many are waiting to determine what the exemptions are before notifying of any changes.
- 6.5 Merthyr Tydfil currently has 18 young people in out of authority residential placements from a child looked after population of approximately 186, this is nearly 10% of the child looked after population in out of authority residential placements. To bring all these children back into in-house provision would be a significant challenge because of their individual needs and matching considerations. Many of these children have been in placements for a number of years and are settled. Consideration regarding their well-being and needs has to be considered before planning moves from their homes.
- 6.6 The placement types and numbers of children in placements changes on a weekly basis and therefore planning is challenging. To develop a single property to provide regulated care for even a small number of children is time consuming and costly. In Merthyr Tydfil although children's services are developing new provision, we are unable to develop and resource enough provision to meet current needs. Internal residential care is not a cheaper option than most external residential care provision and therefore developing our own services is unlikely to significantly reduce budgets. If we are unable to place these children within not for profit or in-house placements it is likely that Merthyr Tydfil will need to utilise Operating Without Registration (OWR's). OWR placements are not regulated, they are staffed by agency staff and they leave the Local authority at risk including potential prosecution of senior officers.
- 6.7 Merthyr Tydfil needs to consider the impact of transitioning to adult services for those children with additional needs and how this agenda will impact on adult services' ability to meet needs.

6.8 There are only a finite number of citizens who are able, willing and available within Merthyr Tydfil who are able to become foster carers for Foster Wales Merthyr Tydfil. This means that there are limits to Merthyr Tydfil being able to place children within the definition of the not for profit agenda. Foster Wales Merthyr Tydfil continues to advertise, recruit and retain carers but ultimately there are not enough carers available to meet the needs of our most vulnerable children.

7.0 NATIONAL STRATEGIC PLAN

7.1 A national Eliminate board has been established and has agreed a set of principles to underpin the programme work. There have been workshops held with providers to explore and refine not for profit business models and discuss issues and concerns. Potential models have been discussed with Ministers and definitions of Not for Profit and Profit have been drafted and are being checked by the WG legal team. A Communication Plan was issued in June 2022 and work streams were developed. Each work stream has a work plan and a range of action groups leading on different areas of the work. The concept of a national cooperative across local authorities has been discussed and is likely to be further progressed within the Eliminate work streams. A consultation across all sectors and interested parties ran until 7th November 2022. The responses to the consultation were published in 2023.

8.0 REGIONAL STRATEGIC PLAN

8.1 Regular meetings are held with Welsh Government highlighting the challenges faced by local authorities and Merthyr Tydfil to meet the eliminate agenda within timescales. Children's Services are working in partnership regionally to understand and manage risk and work to build solutions.

8.2 As we rebalance residential and fostering provision to new / expanded local authority / regional and not for profit provision it is critical that the market transition ensures placement sufficiency across the spectrum of children's placement requirements. This programme of change takes place within the context of existing placement and system pressures, providers now withdrawing from the market or entering arrangements with English local authorities, and with an evolving learning and practice where OWR (Operating Without Registration) which is a criminal offence under 2016 Act. Our aspiration is to ensure placement stability in registered provisions that meet the needs, and secure positive outcomes, for our children and young people. However, the pathways leading to OWR arrangements are multi layered and often unavoidable.

8.3 Common factors include:

- No provision being offered by Providers despite extensive national placement searches - both 'on' and 'off' the 4C's Framework.
- Children awaiting secure provision.
- Immediate notice being issued by Providers increasingly due to dysregulated behaviour and offences against staff.
- Children being discharged following inappropriate presentation to hospital and or the use of s136.

- Court expectations / direction leading to bespoke placements.
- The wishes and feelings of young people who may no longer wish to remain in the placement.

8.4 All Wales Heads of Children's Services are working with Care Inspectorate Wales to explore immediate and more long-term approaches to support OWR. A task and finish group has been set up and is led by Flintshire Head of Children's Services, this group has identified three themes:

- Theme 1: Promoting placement stability and reducing the need for OWR arrangements.
- Theme 2: The management of placements and risks where OWR placements are necessary and unavoidable.
- Theme 3: Proportionate and effective oversight of placements with a focus on securing positive outcomes.

9.0 LOCAL STRATEGIC PLAN/NEXT STEPS

9.1 Merthyr Tydfil Children's Services has been awarded grant money to build provision under the terms and conditions of eliminate. This will enable us to develop residential provision, invest in the recruitment of foster carers and ensure our family intervention services are robust enough to ensure families can remain together and children do not come into the care system. In Merthyr Tydfil, the Council needs to develop its in house residential care and continue to work to proactively recruit and support foster carers. However, there is still at present a need to use external residential and fostering care through for profit agencies. Moving to a full not for profit system of care is a significant challenge. While the numbers of children who are looked after in Merthyr Tydfil has slightly increased and the level of need and complexity has significantly increased. The pressures on Children's Services in terms of both demand and risk management are substantial. Officers are now working on a programme of how we move from our current position to the required 2026/27 position.

9.2 Officers have projects in motion which include development and registration of a 2 bedroom children's home, development of Thomastown House site into regional accommodation and short breaks scheme for children with disabilities and continuing to link with both regional/national Foster Wales to develop a framework of support to recruit and retain foster carers. Focus on local recruitment plan using innovative methods of recruitment such as adverts on roundabouts, flyers, and local campaigns. Focus on wellbeing and support to retain carers and prevent placement breakdown. In addition, Officers have been working on looking at individualised plans for all children currently in for profit placements with strategies to work towards not for profit placements within the required timescales.

10.0 FINANCIAL IMPLICATIONS

10.1 There are likely to be significant financial implications for the elimination of profit agenda. The financial implications are not currently known and workstreams to consider these will take place in the summer of 2024. The financial implications will be based off information from our new home and this data will not be accurate until the home has run for some months. This agenda will lead to cost pressure to education and a requirement for growth in the MTFP and risk in year budget pressures where children are being brought back into county.

11.0 INTEGRATED IMPACT ASSESSMENT

11.1

	Positive Impacts	Negative Impacts	Neutral
1. Merthyr Tydfil Well-being Objectives	3 of 4	0 of 4	1 of 4
2. Sustainable Development Principles	5 of 5	0 of 5	0 of 5
3. Protected Characteristics (including Welsh Language)	3 of 10	0 of 10	7 of 10
4. Socio-economic Disadvantage	0 of 6	0 of 6	6 of 6
5. Decarbonisation	1 of 6	0 of 6	5 of 6
6. Biodiversity and the resilience of Ecosystems	Maintained	Enhanced	Reduced
	1 of 1	0 of 1	0 of 1
7. Consultation and Engagement	Undertaken	Due to be Undertaken	Not Required
	1 of 1	0 of 1	0 of 1
8. Data and Evidence	Yes	No	
	1 of 1	0 of 1	
Summary			
The main positive impacts are:	Children will be placed closer to their homes. Reg compliant, bringing children closer to home.		
The main negative impacts are:	This may have a negative financial impact on the service. Children could be in limbo whilst we confirm long term plans.		

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BACKGROUND PAPERS		
Title of Document(s)	Document(s) Date	Document Location
Does the report contain any issue that may impact the Council's Constitution?		No

Consultation has been undertaken with the Corporate Management Team in respect of each proposal(s) and recommendation(s) set out in this report.