UNISON Scotland response to consultation:

Financial Transparency and Profit Limitation in Children's Residential Care

October 2025

Introduction

UNISON is the trade union for social work and social care staff. As Scotland's largest trade union with more than 150,000 members across the public, private and voluntary sectors, our members work throughout children's services, and in all the areas important to the delivery of the Independent Care Review for children and young people, and its report 'The Promise'.

Our members are front-line workers in all areas of social work, all grades of staff, and all roles including children's residential care workers, social care workers, social work paraprofessionals (family support workers, social work assistants etc), occupational therapists and administrative staff as well as registered social workers.

We welcome the opportunity to respond to this Scottish Government consultation on the financial transparency and profit limitation measures for children's residential care proposed in the Children (Care, Care Experience & Services Planning) Bill.

Context

For Scotland's most vulnerable children and young people care is a right. The standard of care provided to them as a public service should always be what we would want and be prepared to accept for our own children.

All levels of government have a duty to ensure the proper use of public funds. Public funds should neither be extracted from the care system for private gain or held as surplus charitable funds (instead of prioritising staffing and care).[i] As a general principle we believe:

- Any organisation receiving public money to deliver a public service should expect to be held accountable for their use of those funds by meeting financial transparency requirements.
- Based on this principle, UNISON has pressed for the Freedom of Information (Scotland) Act 2002 to be extended to all for profit and not for profit providers of public services.

On the question of whether profit should be removed or capped in children's residential care, the Competition and Markets Authority (CMA) is clear in its view that this is a political decision for government.[ii]

While UNISON is in favour of financial transparency measures, as a route to implementing the intentions of The Promise, we consider it a poor second to simply **excluding** for profit providers from residential childcare.

- In our view **the simplest, most effective and cost efficient way** (for the public purse) **to prevent the extraction and diversion of public funds from the care of children and young people is to exclude for profit provision** by requiring providers to be registered charities, as the Scottish Government has decided to do with foster care services, and as the Welsh Government is already implementing across children's social care. This is what 'ethical procurement' should look like.

In [our response] to the Call for Views on the Children (Care, Care Experience and Services Planning) Bill we explain our disagreement with the Bill's contradictory approach to profit in the care of looked after children and young people.[iii]

The Government's approach seems to stem from the CMA view that there is no difference either in quality or in cost when residential care is provided publicly compared to privately for profit. However, the CMA conclusion is narrowly based. It overlooks the wider body of evidence on care quality in relation to ownership type.[iv][v][vi]Its assessment of costs also overlooks (or is neutral on) the fact that private provider profits are subsidised through the inferior pay, conditions and pensions of their staff (compared to public providers), a matter intimately linked to care quality and to governments' wider public policy aims, but which lie outside the remit of the CMA. The foundation of care quality in any setting rests upon relationships; relationship-based care demands time and consistency both of which are undermined when poor quality pay, conditions and working environments lead to staffing problems. Children's social care is under resourced across the board, but we cannot address that without also addressing the extraction of public funds from the care system.

In introducing a requirement for IFAs to register as charities, the government sees strengthening local authority services as the best route to mitigate any risks for children and young people in terms of placement security. However, for some reason this appears not to have been considered or appraised as an option in terms of residential care, despite the CMA reporting that most local authorities in their study are increasingly focussing on expanding their in-house provision but face barriers to doing so.[vii]

A framework for increased financial transparency for providers is necessary. However, we are also aware of challenges.

1. For example, while the CMA's 2022 report recommends an oversight regime for Scotland similar to the Care Quality Commission (CQC) regime in England, the National Audit Office has found the CQC regime to have limited effectiveness, for example providing 'insufficient visibility of providers' financial sustainability…"[viii]Despite this, it would be a step forward for the Care Inspectorate to have some of the same powers as the CQC to require financial information from providers.
2. There is extensive evidence about the financialisation of adult and children's social care and its associated problems.[ix][x][xi] Large private providers, some of whom have a presence in Scotland, devise the most opaque and intricate company structures to minimise tax and maximise profit and they are likely to deploy the same resources to 'game' any financial transparency regime that is introduced. The specialist forensic accountancy and

legal resources required to counter this effectively are expensive and not generally available to public authorities.

3. The type of financial transparency regime being proposed adds a layer of additional costs for the public sector and is an example of one type of many 'hidden' additional costs to the public of a system based on outsourcing care.[xii] These could be avoided by taking the same approach as is proposed for IFAs and simply excluding for profit providers. It is likely in the current financial climate that the necessary level of additional resources required to properly scrutinise complex financial returns may not, in fact, be available, which will undermine the endeavour.
4. The measurement of 'excess profits' is a complicated task, and the CMA 2022 study itself warns that ""*…price caps in particular would be very difficult to design and administer effectively."* It also warns about the possibility of for-profit providers responding "by 'cherry picking'".[xiii]

For these reasons, while we are in favour of increased financial transparency (across all contracted public services) we are concerned that the full potential of the Bill's proposals for financial transparency and profit limitation in children's residential care hold out only the possibility of action and may not be realised.

In addition to these proposals, Scottish charity law would also benefit from amendment to allow public authorities influence over the use of public money in instances where operating surplus is being diverted away from contracted provision for other purposes as highlighted by Scotland Excel in its response to the Bill.[xiv]

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

Is there anyone else we would need to capture?

The Independent Care Review recommendation to prevent marketisation and end profit in care relates to all services for looked after children and young people, and therefore should capture all such services.

Can you give reasons for this?

Any organisation, whether for-profit or not-for-profit, spending or receiving public money to deliver public services should expect to be accountable for their use of those funds by meeting financial transparency requirements. The behaviours of some not-for-profit providers can be not dissimilar to those of for-profit providers in terms of their financial arrangements and, in some, in their approach to their workforce.

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

Can you give reasons for this?

While it is currently the case that all providers of secure care are not for profit, including these in the bill provisions will 'future proof' these. The same applies to adoption services. The scope of this should be broader to ensure that all children's social care services are not for profit. Because some providers operate across the health and social care sector it is also important to avoid unintended consequences.[xv]

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

Could you give you reasons for this response?

As already mentioned, in our view any organisation spending or receiving public money to deliver a public service should expect to be accountable for its use of those funds through financial transparency requirements. It will be a step forward to have improved disclosure over costs such as spend on estate, rent, utilities, labour costs, debt repayments and to whom these are paid.

Based on this principle, UNISON has pressed for the Freedom of Information (Scotland) Act 2002 to be extended to all for profit and not for profit providers of public services and we want to see the Scottish Government act on this.

Financial transparency proposals together with an enabling power for Ministers to limit profit is an improvement on the status quo. However, financial transparency is the very minimum needed. And in terms of fulfilling the Government's commitment to care experienced children and young people to end profit from their care, it is a poor second in terms of the options available.

In our view the simplest, most effective and cost efficient way (for the public purse) to prevent the extraction and diversion of public funds from the care of children and young people is to exclude for profit provision by requiring providers to be registered charities, as the Scottish Government has decided to do with foster care services, and as the Welsh Government is already implementing across children's social care. This is what 'ethical procurement' should look like.

This should be accompanied by local planning and national resources for the expansion of in-house public provision, which is the second part of the Welsh approach. The transition period in Wales is designed to enable this and to provide an environment in which children's charities have space to plan future service delivery. This approach is entirely possible in Scotland, where for-profit provision accounts for just 35% of placements, compared with 87% in Wales.

However, the option of strengthening local authority residential care capacity to mitigate against potential risks to children's placements is not even mentioned in the Bill's Policy Memorandum, and there is no evidence that it has been considered or appraised as an option by the Scottish Government.

While we believe a framework for increased financial transparency for providers is necessary, we are also aware of the challenges involved, such as being able to match the influence and resources which large private providers are able to deploy to protect their profit margins.

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.

A standardised form, to ensure that costs are disaggregated in a standard format and at a level of detail to allow comparisons at individual service level and to include categories that may not exist within annual accounts.

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

Can you please explain your answer?

Information at all three levels is necessary to achieve a full picture of an organisation's operations. For example, it is necessary to track the flow of funds internally within companies, which can be used to extract profit.

The Care Reform (Scotland) Act 2025 (s.31) requires Ministers to report regularly on the state of the social care market assisted by a power to require providers to supply financial information. Given that organisations may provide services across adult and children's social care, there will need to be joined up work by government to ensure a single standard format for the provision of financial information.

Q13: How would you define profit for these purposes?

It makes sense for comparability purposes to use an existing proven definition and methodology, for example that used in the CMA 2022 study of children's social care in the UK.

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[i] Scotland Excel response to the Children (Care, Care Experience and Services Planning) (Scotland) Bill call for Views
[ii] CMA (2022) Children's social care market study final report p.84
[iii] UNISON Scotland response to the Children (Care, Care Experience and Service Planning) (Scotland) Bill Call for Views
[iv] Ward, J. (2023) Failed market approaches to long-term care
[v] Mahmood, S., Berry C., & Lewis, M (2022) Profiting from care
[vi] Goodair, B. & Reeves, A. (2024) The effect of health-care privatisation on the quality of care.
[vii] CMA (2022) Children's social care market study final report pp.66.
[viii] NAO (2021) The adult social care market in England. p.39
[ix] Death Deception and Dividends — Centre for International Corporate Tax Accountability and Research
[x] Revera_Report_UK_FNL.pdf
[xi] Mahmood, S., Berry C., & Lewis, M (2022) Profiting from care
[xii] Mudd, A. (2023) Towards a Real National Care Service.
[xiii] CMA (2022) Children's social care market study final report pp.84-85.
[xiv] Scotland Excel response to the Children (Care, Care Experience and Services Planning) (Scotland) Bill call for Views
[xv] Ibid.