WHO CARES? SCOTLAND

EQUALITY | RESPECT | LOVE

Financial Transparency and Profit Limitation

Response to the Scottish Government's public consultation

October 2025

Who we are

Who Cares? Scotland is Scotland's only national independent membership organisation for Care Experienced people. Our mission is to secure a lifetime of equality, respect, and love for Care Experienced people in Scotland and we currently have around 2000 members.

At the heart of Who Cares? Scotland's work is the rights of Care Experienced people, and the power of their voices to bring about positive change. We provide individual, relationship-based independent advocacy, and a range of participation and connection opportunities for Care Experienced people across Scotland.

Every year, our advocacy workers support around 1,600 people with around 6,000 individual advocacy issues across all 32 Local Authorities in Scotland. As we take a human rights-based approach to our work, around 10,000 individual rights are logged every year in supporting these issues. We bring Care Experienced people together to connect and shape the world around them. Around 700 unique individuals come together every year to take part in around 800 of our activities across Scotland.

We work alongside Corporate Parents and various communities to broaden understanding and challenge stigma faced by Care Experienced people. We work with policy makers, leaders, and elected representatives locally and nationally to shape legislation, policy and practice. We do this collaboratively to build on the aspirations of The Promise and to secure positive change.

Summary

Who Cares? Scotland is calling for:

- Investigation of the impact of strengthening of the profit limiting provisions to remove profit in residential care and consideration the Welsh model alongside the conclusions of the Independent Care Review.
- A route map to be developed by Scottish Government following consultation with Care Experienced people in private care placements to ensure provisions are enacted in a phased manner which minimises disruption to stable care placements and protects quality of care.
- Provisions to be extended to include secure care providers and services contracted by care providers to deliver elements of care, such as secure care transport.
- Requirements on IFAs to be non-profit to be extended to adoption agencies, and a national cap set on fees chargeable for a placement.
- Requirements on IFAs to pay foster carers the Scottish Recommended Allowance.

Response to the consultation questions

OVERARCHING PRINCIPLES:

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/No. Can you give reasons for this?

Yes.

If we are to keep The Promise in full, the conclusion of the Independent Care Review is clear that there is no place for profiting in how Scotland cares for its children. It states that Scotland must avoid the monetisation of the care of children and prevent the marketisation of care. To align with this and uphold the principles of the Promise, the provisions would have to extend to all types of private placements commissioned for the care of children.

One of the key major concerns the Competitions and Markets Authority's report and recommendations to limit profit were created in response to, was the high prices paid by local authorities to private care provides for placements, and the significant strain this, combined with growing numbers of looked after children, was placing on local authority budgets. The provisions to limit profit must cover all children's residential care homes, residential schools and secure care services provided by persons other than a local authority in order to reduce this strain and increase local authorities' scope to fund other necessary and important activities in Children and Families services in order to Keep the Promise by 2030 and beyond.

Q2. Do you agree that both Not-for-Profit and Private services should be included in these proposals? Is there anyone else we would need to capture? Can you give reasons for this?

Yes. We support both not-for-profit and private services being included in these proposals.

We also believe that the proposals requiring fostering agencies to be charities must also be extended to include adoption agencies. Whilst all independent adoption agencies in currently operating in Scotland are registered charities, this is not a requirement of future adoption agencies. Including adoption agencies within these proposals would prevent businesses from providing and generating profit from adoption services in the future, and ensure Scotland upholds this principle of the Promise.

We also call for the provisions to extend to services commissioned by care providers, for example, secure care transport appointed by secure care providers. Deprivation of a child's liberty must not be a source of profit. In our response to the Scottish

Government's Care and Justice Bill Consultation 2022, we set out that we have serious concerns about the rights breaches our members experience in secure transport and call for secure transport to be better regulated (p10-11):

We are extremely concerned at the rights abuses taking place in the provision of secure transport, engaging Article 3 of the ECHR, on freedom from torture and inhuman or degrading treatment or punishment, and contrary to the procedural safeguards in Article 37 UNCRC, expanded by General Comment 24.

We worked with Kibble Education and Care to hold a consultation with young people living in the safe centre on how they arrived at Kibble. From the views gathered, it is clear that current transport arrangements are not always trauma-informed or rights respecting for children who enter and then live in secure care. The majority of young people said either the police, or existing secure care transport organisations (Wrixon Care, GEOAmey) took them to the Safe Centre. Several young people said they were handcuffed throughout the journey. Current practice does not Keep the Promise or uphold Secure Care Standards, and allows these private businesses to profit from one of the most distressing moments in many young people's care experiences.

Journey times varied as some young people were being transported from the main campus at Kibble, others spoke of journeys lasting up to 8 hours to get there.

The young people were asked to explain what they knew about where they were going and why, when being transported to secure care. This question seemed to provoke a strong emotional response from most of the young people that gave a detailed answer. Eight of the young people felt they had been lied to about where they were going or the nature of why they were going to the secure centre. Two young people said they knew because their social worker told them, one knew because the court let them know, another said that their lawyer gave them 'two options', one secure unit or another one.

The theme of deception ran through more than half of the young people's stories about what they knew about their destination. Another young person described their experience of being transported to the Safe Centre on Christmas Eve: 'I woke up and (staff member) came into my room. He said do you want to go to McDonalds? I said, "Sound man, let's go". I put my best tracksuit on. On the journey there, he asked me "what are you getting?". I said, "A Big Mac mate". We were on the M8, then he passed by McDonalds. I said to him, "McDonalds is that way". He said, "You're going to secure mate."'

Despite the use of deception, some young people said they were able to figure out what was happening by the way it was done. Young people described various issues with their journeys to secure care, including not being given adequate toilet breaks, not receiving anything to eat for long periods of time and being too hot or uncomfortable during the journey: 'I hadn't had anything to eat that day. My mum told the police that. So, when we stopped at McDonalds, I thought I would get something to eat. But I didn't. It was just to change over. It wasn't until the next morning that I got something to eat.' They also described drivers speeding at high speeds on the journey or being unsafe in the way roads were being navigated. A couple of young people also described feeling fearful.

When asked what would make the experience better, some young people would have liked to have gotten some food for the journey or a drink. Some wished they hadn't been handcuffed; others wished there had been a USB port for their phone. Others made observations about who they felt should have brought them to the Safe Centre and were clear about the reasons why. One person shared that their previous experience with the police meant it was difficult when they were the ones to take them to the Safe Centre and would have preferred their social worker to be with them instead. These changes must be made to ensure the Promise is kept for children and young people at every stage of their care experience.

The majority of the young people living at the Safe Centre feel they were deceived and brought there under false pretences. From their testimonies, it appears there was a lack of clarity on behalf of the young people and what they knew about where they were going and in some cases, why they were going there.

Current practice must change to prevent further rights abuses and to Keep the Promise. Any specialist transport provision to secure care must designed alongside young people who have experience of secure care as per Article 12 UNCRC and must not allow private companies to profit from such a distressing moment in many young people's care journeys. A list of private companies contracted to provide secure care is published by the Children and Young People's Centre for Justice (CYCJ) here.

Q3. Should the Bill provisions also cover other services such as secure care? Yes/ No. Can you give reasons for this?

Yes.

We believe this provision must be extended to include secure residential care, as they are in the Health and Social Care (Wales) Act 2025. We appreciate that the Scottish Government have committed to implementing the Reimagining Secure Care Report and have committed to consult on secure care 2025-26, however the Bill is a prime opportunity to deliver on the commitments made via the Promise to remove profit from the care system, which includes secure care.

We received clarification from Scottish Government that the proposals in the Bill do not include secure care because all current secure care estates are operated by registered charities. There is a risk with the Bill as it stands that new secure care established in future will be able to operate for profit. Given the recent announcement by Scottish Government to fund four new secure care sites, we recommend this loophole is closed to prevent any future businesses from profiting from Scotland's most vulnerable children and young people deprived of their liberty.

FINANCIAL TRANSPARENCY:

Q4. Do you have agree with the proposal to increase financial transparency? Yes / No. Can you give reasons for this?

Yes.

We support the prohibition of excessive profit being made from children and young people in care. We support the aim of the financial transparency proposals to give the Scottish Government enhanced understanding of the range of different types of care offered and how that translates into fees being charged in order to determine whether or not excessive profit is being made by individual providers.

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

We do not have a view on this.

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

We do not have a view on this.

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 Scotland Excel or the Care Inspectorate.

We do not have a view on this.

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

We do not have a view on this.

Q9: Do you agree that the information should be provided at individual service level, provider level and at parent/associated company level? Yes/No. Can you please explain your answer?

Yes.

An article by The Common Weal highlights that while independent foster care agencies may be required to be non-profit, they can still be owned by profit-making companies. "Through costly service fees, financial charges, and interest-free unsecured loans, funds start to flow out of the foster care system and into private profit margins and equity funds."

We support the information being provided at individual service, provider and parent/associated company level to provide the fullest transparency about how funds paid for the placement of a child are being used.

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

We ask the Scottish Government to consider how these proposals will work for businesses registered outside Scotland delivering care within Scotland.

It is important that any business operating a care home in Scotland is subject to these measures, in order to disincentivise the current practice of unregulated care homes being set up in Scotland for cross-border placements of children from England. Cross-border placements create serious risks of rights violations for the children placed in them often hundreds of miles away from their family, friends and communities, and are often set up by private providers in local authorities without those councils being aware. CYPCS say “the legislative framework is not sufficient to ensure a child rights-based approach. There is little to no data collection, an absence of proper monitoring and scrutiny of decisions and quality of care when children are placed in Scotland.”

Whilst the Cross-border Placements (Effect of Deprivation of Liberty Orders) (Scotland) Regulations 2022 now in force have reduced the number of cross-border placements in Scotland of children from English councils subject to deprivation of liberty orders, children and young people subject to a different care order or legal agreement remain in cross-border placements not currently legally recognised by Scots law and generating profit for private businesses (Financial Memorandum, p19-20).

Q11: Would it be useful to use the financial information collected to watch for potential market failure? Yes/No. Can you give reasons for this?

We do not have a view on this but note that it was a recommendation of the Competition and Markets Authority 2022 report.

PROFIT

Q12: Do you agree with the proposed measures outlined? Yes/No. Could you please explain your reasons for your answer?

No.

We welcome the provisions but they would need to go further to fully deliver the Promise:

Who Cares? Scotland firmly supported at launch, as did the Scottish Parliament the clear statements in The Promise (p111) that:

- "Scotland must avoid the monetisation of the care of children and prevent the marketisation of care."
- "… and make sure that its most vulnerable children are not profited from."
- "There is no place for profiting in how Scotland cares for its children."
- "There is no place for profiting in how Scotland cares for its children. Regulatory bodies must scrutinise any presence of profit to ensure that funds are properly directed to the care and support of children."

We believe it is more in keeping with the Promise to legislate to avoid excess profit-making entirely.

Profit-limiting proposals could go further to remove profit:

It is contradictory that the Bill requires all fostering agencies to be registered for non-profit, but only seek to limit the profit made by residential care providers. There could be a risk that some companies aiming to generate profit do not fully work in support of family reunification as the loss of a child in a placement is a financial loss for their business.

The Care Inspectorate's response to the Bill's Call for Views also highlighted that they have seen a rise in services registered for profit. Over the last 13 years, the number of private residential children's houses in Scotland increased from 47 houses in 2012 to 171 in 2025. The proportion of private sector homes as a share of the total number of residential children's homes between 2017 to 2025 have risen from 38% to 47%. (Financial Memorandum, p20).

The Competition and Markets Authority's report also highlighted that local authorities are too often unable to access appropriate placements, and that the prices paid by local authorities were very high. The Scottish Government's consultation paper notes that high placement costs combined with increasing numbers of children in care due to increasing complex needs and the National Transfer Scheme is placing significant strain on local authority budgets. This limits the local authority's ability to fund other vital aspects of children's services, and early intervention work to support families to remain together and shows that the current landscape allowing profit is not working well. This is hindering councils' ability to keep other aspects of the Promise.

The Welsh Government has gone further in its Health and Social Care (Wales) Bill by legislating to remove profit completely from residential care services, where care will only be provided by the public sector, charitable or non-for-profit organisations in the future, and the money saved from shareholders' profit will be reinvested into children's welfare. This Act will remove profit from residential childcare in Wales by 2030 by requiring care providers to either become registered charities or another specified not-for-profit entity, or close their service, and developing the capacity of local authority care provision. The Scottish Bill's policy memorandum has no mention of strengthening local authority placement capacity.

We believe it would be more in keeping with the Promise to follow the Welsh example and legislate to avoid excess profit-making entirely. However, it is vital that planning for this considers the implications for current provision, and how that might be supported to create a sense of security for Care Experienced people currently in "placements" with for-profit institutions, and ensure that the quality of care is not compromised by this. Some young people have told us that they believe private care homes are better than local authority care homes (Informal Evidence Session, 2024).

Develop a roadmap to mitigate disruption to children and young people in private care placements:

The second reason given in the policy memorandum for the decision not to completely eradicate profit from residential care was concern for stability of placements and capacity. We appreciate the government's intention to ensure the stability of placements for children and young people currently in Scottish residential care, as well as ensuring sustainable provision of future placements (please see paragraph 106 of the Bill's policy memorandum). We discuss this further in response to question 16. However, it is worth nothing that eradication of profit has been found possible in Wales, which had a significantly higher proportion or private residential care placements – 87% compared to just 35% in Scotland in 2022 (CMA, 2022). This figure has since risen considerably to 47% in 2025 in Scotland (Financial Memorandum, p20).

The government should continue to apply the key principles of stability and sustainability by developing a clear roadmap to ensure there is due consideration and collaboration with Care Experienced children and young people currently experiencing profit-led "placements", and the sector, in order to ultimately fully keep the Promise in this area.

A roadmap must include consideration of the following:

- A stronger definition of profit-making in the regulations.
- Clarifying by regulation that any surpluses must be reinvested back into care services.
- A phased implementation of these proposals.

Strengthen the proposals for removal of profit from Fostering Agencies:

We also believe that the fostering proposals could be strengthened by requiring Independent Fostering Agencies to pay foster carers the Scottish Recommended Allowance, and limiting how much local authorities can pay to IFAs by setting a national cap on the maximum cost per placement any local authority could pay. This would lower the cost to be equal or closer to the cost of local authority placements.

Q13: How would you define profit for these purposes?

We support all action to end private businesses excessively profiting from the lives of Care Experienced people for their own gain.

However, we note the concerns raised by some non-profit care that the profit limitation proposals could have a significant negative impact on their ability to deliver high quality, flexible, responsive care for some of our most vulnerable children and young people. The proposals must not lead to a poorer care experience for children and young people.

Aberlour's response to the Bill's Call for Views sets out that generating surplus income, or profit, is necessary in order for their services to maintain the necessary staffing levels and high quality training and development of staff, meet the needs of children with complex needs, and ensure their buildings offer the best warm, comfortable and nurturing environment a child in care should be able to expect to live in (p4).

Who Cares? Scotland calls for the Scottish Government to develop a clear definition of profit which meets the aims of these proposals, and a roadmap for implementation which ensure these 'surpluses' necessary for high quality non-profit care are not classed as profit.

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

Please refer to our answer to question 13.

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

We do not have a view on this.

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

Disruption to children and young people in private care placements:

Who Cares? Scotland's foremost priority is the rights and experiences of children and young people in care and after they move on. Whilst the case for eradicating profitmaking from children's social care is widely supported on ethical grounds and we agree with the proposals in principle, it is unclear whether or not this action will lead to an improved experience of care for the children and young people it concerns. It is essential that the Scottish Government provide further detail on the proposals and assurances that high quality and stable placements for children and young people will not be disrupted unnecessarily and to the detriment of the children settled in those placements before these proposals come into force.

Further work is also required to understand the differences in the quality of care received by young people in privately-owned care services versus non-profit and council-owned services. If this work concludes that this is a wider opinion and children and young people do receive a greater level of care in privately owned services, then there are important lessons here to a) improve non-profit and council-owned services, and b) ensure that levels of profit which are being reinvested in improving care services for the benefit of children and young people's experience of care are distinguished from take-home profit, and not prohibited. Whilst a very small sample size, one group of Care Experienced people shared at an event with the Scottish Parliament's Education, Children and Young People Committee in March 2024 felt that "generally, privately-owned residential care was of a higher standard than council-owned settings, though this was not unanimous" (p19).

We reiterate the need for the Scottish Government to develop a road map to implementing these proposals which will ensure no negative impact for children and young people already happily placed in a for-profit service who do not want to move. This roadmap must include collaboration with Care Experienced children and young people currently experiencing profit-led "placements" and give due consideration to their views.

Shortage of placements:

We are also concerned that these proposals may lead to private care providers closing services in Scotland where Care Experienced children and young people are currently placed and settled. This could create further disruption for these children's lives and a loss of key relationships with those who care for them. 'Moves' is the third most common reason children and young people under 16 request advocacy support from Who Cares? Scotland for due to the impact and trauma a proposed move they do not want to make can have on their lives. The Promise, whilst calling for the end of profiteering in care, was also clear that "Scotland must limit the number of moves children are required to make and support carers to continue to care" (p67).

A lack of appropriate alternatives and infrastructure means the demand for services can often outweigh what local authorities are able to supply themselves locally. Money must be spent proactively to combat this issue. Until local authorities are given sufficient funding and support to invest in alternatives, the monetisation of care will not be adequately challenged.

We call on the Scottish Government develop a roadmap to implementing these proposals in a phased approach, similar to the method adopted by the Welsh Government to implement the Health and Social Care (Wales) Act 2025 before bringing profit-limiting measures into force.

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

We do not have a view on this.

Q18: Do you have any other comments on the residential childcare proposals in the Children and Young People (Care and Services Planning) (Scotland) Bill?

We support work being taken forward to remove excessive profit from children's social care via statutory measures rather than via policy. Many profit-making companies are currently commissioned by local authorities across Scotland to provide children and young people's care services, despite local authorities committing to Keep the Promise in 2020, which includes ending this practice. This is potentially diverting vital funding away from being utilised for improvements to early family intervention, better experiences in care for children, and financial aftercare support for young people and adults moving on from care and facing challenges.

In February 2024, Who Cares? Scotland published a research report 'Plan 21-24 – Is Scotland Keeping the Promise?' to mark the end of Plan 21-24 and four years since the Promise had been published and received wide support from local authorities. The report relied on FOI data as there was very limited data publicly available to be used in assessing Scotland's progress against key commitments of the Promise. In researching these commitments, we asked local authorities across Scotland: "How much has been spent in your local authority area to profitmaking companies delivering children's residential care since 5/2/20?". We heard back from 26 of them.

Since the publication of The Promise to approximately October 2023 when we submitted the Freedom of Information requests, 15 local authorities had spent £218,383,947.42 on providing residential children's care to profit-making companies. This reveals that a vast amount of money is going into the bank accounts of private profit-making companies instead of being reinvested in local authorities to meet the aims of The Promise.

Of the 26 who responded, 14 local authorities stated they had no plans to stop using profit making companies to deliver care services, despite being four years into the ten year implementation phase of the Promise.

Scotland must know where public money is spent on delivering children’s care services. Worryingly, there were five local authorities that said they did not record this information or the cost of obtaining it would exceed the £600 limit. If Scotland is to meet the aims of The Promise this must be tracked and monitored in a transparent way.

Four local authorities (Argyll and Bute, Dundee City, Moray, and Shetland) told us they did not use profit-making companies to deliver children's residential care since the publication of The Promise. Another two (Clackmannanshire and East Dunbartonshire) said that they intend to end the practice of giving profit-making companies contracts to deliver children’s residential care by 31st March 2024. We recommend that the Scottish Government engage with these local authorities to understand how these transitions have been managed and what lessons can be learned.

Should you wish to discuss the contents of this response, please contact:
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