

## **Explanatory Memorandum to the Annual Returns (Miscellaneous Amendments) (Wales) Regulations 2026 and the Regulated Services (Registration) (Wales) (Amendment) Regulations 2026**

This Explanatory Memorandum has been prepared by the Health, Social Care and Early Years Group and is laid before Senedd Cymru in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

### **Minister's Declaration**

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Annual Returns (Miscellaneous Amendments) (Wales) Regulations 2026 and the Regulated Services (Registration) (Wales) (Amendment) Regulations 2026. I am satisfied that the benefits justify the likely costs.

**Dawn Bowden MS**  
**Minister for Children and Social Care**

**13 January 2026**

## PART 1 – EXPLANATORY MEMORANDUM

### 1. DESCRIPTION

- 1.1. The Regulation and Inspection of Social Care (Wales) Act 2016 (“the 2016 Act”) provides the statutory framework for the regulation and inspection of social care services and the regulation of the social care workforce in Wales. To help achieve this, the 2016 Act provides the Welsh Ministers with a range of regulation-making and other subordinate legislation powers.
- 1.2. The Health and Social Care (Wales) Act 2025 (“the 2025 Act”) received Royal Assent on 24 March 2025. It includes provision intended to:
  - prevent the extraction of profit by providers of children’s home, secure accommodation and fostering services (which the 2025 Act defines and refers to as “restricted children’s services”);
  - enable the introduction of direct payments for health care, initially for adults eligible for Continuing NHS Healthcare (“CHC”); and
  - make miscellaneous amendments to the Social Services and Well-Being (Wales) Act 2014 and the 2016 Act, to ensure this legislation can operate fully and effectively.
- 1.3. This Explanatory Memorandum relates to **the Annual Returns (Miscellaneous Amendments) (Wales) Regulations 2026** and **the Regulated Services (Registration) (Wales) (Amendment) Regulations 2026**. Collectively, these statutory instruments make amendments to the Regulated Services (Annual Returns) (Wales) Regulations 2017; the Regulated Services (Penalty Notices) (Wales) Regulations 2019; and the Regulated Services (Registration) (Wales) Regulations 2017, to support implementation of the 2025 Act.
- 1.4. Both statutory instruments state a coming into force date of 1 April 2026.

### 2. MATTERS OF SPECIAL INTEREST TO THE LEGISLATION, JUSTICE AND CONSTITUTION COMMITTEE

2.1 None.

### 3. LEGISLATIVE BACKGROUND

- 3.1. The powers enabling **the Annual Returns (Miscellaneous Amendments) (Wales) Regulations 2026** (“the Annual Returns Amendment Regulations”) to be made, are contained within:
  - section 10(1)(b) of the 2016 Act – Annual Return;

- section 10(2A) and (4A) of the 2016 Act (as inserted by section 7 of the 2025 Act) – Annual Return;
- section 187(1)(a) of the 2016 Act – Regulations under the Act; and
- section 28(1)(a) of the 2025 Act – Consequential and transitional provision etc.

3.2 This statutory instrument is subject to the Senedd approval procedure.

3.3 The powers enabling **the Regulated Services (Registration) (Wales) (Amendment) Regulations 2026** (“the Registration Amendment Regulations”) to be made are contained within:

- section 6(1A), and paragraph 4(4) of Schedule 1A to the 2016 Act (as inserted by the 2025 Act) – Application for registration as a service provider;
- section 11(4) of the 2016 Act – Application for variation of registration as a service provider;
- section 14(1A) of the 2016 Act (as inserted by section 8 of the 2025 Act) – Application for cancellation of registration as a service provider; and
- section 187(1) of the 2016 Act - Regulations under the Act.

3.4 This statutory instrument is subject to the Senedd annulment procedure.

#### **4. PURPOSE AND EFFECT OF THE LEGISLATION**

4.1 The 2016 Act aims to improve the quality of care and support in Wales, providing greater transparency and comparability across social care services. The 2025 Act introduces reforms – including amendments to the 2016 Act – designed to strengthen the health and social care system, enhance transparency and empower individuals through greater choice and control.

4.2 Amendments to the Regulated Services (Annual Returns) (Wales) Regulations 2017 are being made by **the Annual Returns Amendment Regulations**, to:

- require service providers (other than local authorities) who provide a ‘restricted children’s service’ – a care home service (for children), a secure accommodation service or a fostering service – to include within their annual return, a statement confirming that they continue to meet the not-for-profit requirement in section 6A(1) of the 2016 Act (as inserted by section 8 of the 2025 Act); and

- require service providers of all regulated services under the 2016 Act, to publish their annual return on their website no later than 91 days following the end of the financial year to which it relates.

4.3 A consequential amendment to the Regulated Services (Penalty Notices) (Wales) Regulations 2019 is also being made **by the Annual Returns Amendment Regulations**, to reflect a change made by the 2025 Act to the heading of section 48 of the 2016 Act, which now refers to both the submission and publication of annual returns.

4.4 Amendments to the Regulated Services (Registration) (Wales) Regulations 2017 are being made by **the Registration Amendment Regulations**, to:

- insert definitions, into regulation 2, for “applicant”, “not-for-profit entity”, “restricted children’s service” and certain types of charitable and community interest organisations, to reflect changes introduced by section 6A of the 2016 Act (as inserted by section 3 of the 2025) Act;
- insert a new regulation 3B, which requires applicants seeking to register to provide a ‘restricted children’s service’ to provide additional information specified in new paragraph 7A of Schedule 1;
- insert new regulation 3B which enables the Welsh Ministers to waive certain application requirements. This provision allows the Welsh Ministers to waive certain application requirements where a not-for-profit entity takes over a restricted children’s service at the same location under an agreement with the existing provider, and the Welsh Ministers consider it appropriate based on information already held about that provider. The rationale for this streamlined process is that, in such cases, much of the information held about the existing service remains valid and accurate for the new not-for-profit provider;
- insert a new regulation 11A, which requires applicants seeking to vary their registration to become subject to the requirement in section 6A(1) of the 2016 Act to provide information specified in new paragraph 7A of Schedule 1.
- make provision about the form of applications to vary registration.
- make provision about the content and form of applications to cancel registration.
- amend Schedule 1, to update the information required from corporate applicants and to set out the constitutional and evidential documents that must be provided by not-for-profit entities applying to provide restricted children’s services.

- 4.5 The effect of the amendments made by the Registration Amendment Regulations is to ensure that applications to register, or to vary registration in respect of restricted children’s services, include sufficient information to demonstrate compliance with the statutory requirement that such services are provided by not-for-profit entities. Also to set out the requirements for an application to cancel registration as a service provider.

## 5. CONSULTATION

### *Formal consultation*

5.1 Two 12-week consultations ran simultaneously, from 16 July to 8 October 2025, on the policy areas concerned. These related to:

**a) Removing profit from social children’s care** – proposed changes needed to:

- **existing regulations about registration<sup>1</sup>** of service providers, to ensure that an applicant for registration or variation in relation to restricted children’s services is required to provide relevant information, to enable CIW (as the regulator) to determine whether a provider meets the not-for-profit conditions set out in the 2025 Act;
- **existing regulations governing the annual returns<sup>2</sup>** submitted by providers of restricted children’s services, to require a declaration that they continue to meet the not-for-profit conditions set out in the 2025 Act; and
- **monitor and enforce the 2025 Act’s provisions around unreasonable or disproportionate financial arrangements** entered into by these providers; with the aim of ensuring that our policy intent – to prevent the extraction of profit from children’s care – is not undermined.

**b) Proposed changes to the regulation of social care services**, to:

- require service providers to publish their annual return on their website **within 91 days** of the end of the financial year (by 30 June);
- amend existing regulations about penalty notices<sup>3</sup>, to enable the offence of failure to publish an annual return within the

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<sup>1</sup> the Regulated Services (Registration) (Wales) Regulations 2017

<sup>2</sup> the Regulated Services (Annual Returns) (Wales) Regulations 2017

<sup>3</sup> the Regulated Services (Penalty Notices) (Wales) Regulations 2019

required time limit to be **dealt with by a penalty notice**, and to specify the sum of the penalty; and

- **specify information that must be included** in a provider's application to cancel their registration, and the form of the application.

5.2 These consultations were drawn to the attention of a wide audience of key stakeholders including social care service providers, local authorities, local health boards, NHS trusts, relevant regulators, inspectorates and Commissioners, Voices From Care and other third sector representatives, as well as social partners. In addition, CIW has dedicated webpages to provide information and support to service providers regarding the regulatory and statutory changes for them – in relation to removing profit from children's social care and general changes to requirements for the publication of annual returns and applications to cancel registration.

5.3 Separate easy-read and child and young person's versions of the consultations were not published, on this occasion, as the regulatory changes are fairly minor and technical in nature. However, in developing the broader policy on removing profit from children's social care, we have worked closely with, and continue to engage with, representative groups including the Children's Commissioner for Wales, Voices from Care Cymru and the National Youth Advocacy Service Cymru, to ensure children and young people understand what these changes mean for them.

5.4 In summary, the outcomes of the two consultations, included:

**a) Removing profit from children's social care**

- **27 consultation responses were received.** Broadly these comprised a mix of individual for-profit and not-for-profit providers, individual local authorities and umbrella organisations representing the interests of local government, service providers and children and young people. A collective response was submitted on behalf of the Association of Directors of Social Services Cymru (ADSSC), the Children's Commissioning Consortium Cymru ('4Cs'), Foster Wales and the Welsh Local Government Association (WLGA).
- **Regarding the proposed changes to existing regulations about registration**, there were few specific suggestions for further changes to those regulations, and little specific feedback on the areas proposed for change. Rather than agreeing or disagreeing with the changes proposed within the consultation, many respondents focussed instead on the broader 'Eliminating Profit' policy rationale; either reiterating their broad support or opposition to it or reflecting on areas already defined on the face of the 2025 Act (such as the included range of not-for-profit

models). Some respondents expressed recognition for the rationale behind the proposed changes, in terms of enhancing compliance with the not-for-profit requirements, though a number were concerned about the potential risk to CIW's capacity, should registration processes be overly complex. Several respondents also posed suggestions for areas to be included in accompanying registration guidance.

- **Regarding the proposed changes to existing regulations relating to annual returns**, several respondents supported the principle of using annual returns to demonstrate continued evidence of not-for-profit status. Some respondents suggested further areas to be included within annual returns, for example detailed financial information, including for a provider's wider organisation, not just their registered not-for-profit arm. Others cautioned that the changes already proposed could cause smaller organisations to struggle with the additional workload and pose additional costs.
- **Regarding the proposed approach to monitoring and enforcing the 2025 Act's provisions around unreasonable or disproportionate financial arrangements entered into by providers**, several responses recognised the principle of having a monitoring and enforcement approach in place. However, the need for additional guidance was suggested, with several respondents requesting further detail and clear guidance to give certainty to providers. Those who commented on the proposal for CIW to put agreements in place with other regulators for the not-for-profit models recognised the logic in this, with one commenting this would minimise bureaucracy. More broadly, several respondents expressed concern about the capacity and expertise of CIW to investigate potentially unreasonable or disproportionate financial arrangements with some citing the potential costs such detailed oversight could pose.

#### **b) Proposed changes to the regulation of social care services**

- **20 consultation responses were received.** Broadly these comprised a mix of service providers, individual local authorities, the Welsh Local Government Association (WLGA), the GMB Union and Social Care Wales.
- **The majority of respondents were supportive of the proposed 91-day timeframe** (from the end of the financial year to which the annual return relates) for providers to publish their annual return on their own website, recognising it as a reasonable and proportionate deadline for service providers to prepare, submit and publish their annual returns. Several respondents noted aligning the publication date with a fixed period after the financial year-end would help standardise practice across the sector.

Some respondents cautioned that the 91-day limit might pose challenges during periods of high operational demand; if there were unforeseen technological difficulties; where multiple regulated services are provided; or when other statutory reporting deadlines coincide.

- **Some local authority respondents raised concerns about compliance of the PDF annual returns currently generated by CIW's online system with accessibility standards.** Consequently CIW will adjust its online system to enable compliance with accessibility standards and will amend its operational guidance accordingly, in readiness for the 2025-26 annual returns.
- **There was broad support among respondents for the proposal that the Welsh Ministers, through CIW, should have the option to issue a penalty notice** to service providers who fail to publish their annual return within the prescribed timeframe. Many viewed this as a proportionate and practical enforcement mechanism that promotes transparency, accountability, consistency and compliance with statutory obligations. Some respondents raised concerns about the practical challenges of implementation and urged a fair and proportionate approach to enforcement, especially for smaller providers.
- Respondents expressed a range of views in relation to the proposed penalty amount. A number of respondents agreed that the level 4 penalty (£2,500) was appropriate and proportionate, and acknowledged that the amount aligns with the existing penalty for failing to submit an annual return and similar offences. However, several contributors raised concerns about the proportionality of the penalty in specific contexts and for smaller organisations or individual service providers.
- **Respondents broadly agreed that the proposed information requirements when applying to cancel a service provider's registration are both relevant and proportionate.** There was a strong consensus that these requirements are essential to ensure that service closures are managed safely, transparently, and with due regard for the well-being of individuals receiving care.

The consultation documents and summaries of the responses are available at:

- a) <https://www.gov.wales/consultation-removing-profit-childrens-care-html>
- b) <https://www.gov.wales/proposed-changes-regulation-social-care-services>

## PART 2 – REGULATORY IMPACT ASSESSMENT

As The Annual Returns (Miscellaneous Amendments) (Wales) Regulations 2026 (“the Annual Returns Amendment Regulations”) and The Regulated Services (Registration) (Wales) (Amendment) Regulations 2026 (“the Registration Amendment Regulations”) cut across two policy areas – Removing profit from children’s social care and general changes to the regulation of social care services – the Regulatory Impact Assessment that follows is split into each statutory instrument, then into options, costs and benefits relevant to each policy area.

### REGULATORY IMPACT ASSESSMENT FOR: The Annual Returns (Miscellaneous Amendments) (Wales) Regulations 2026

#### 6. OPTIONS

##### a) Removing profit from children’s social care

6.1. Two options have been considered regarding the annual returns process relating to removing profit from children’s social care, listed below:

6.2. **Option one – Do nothing.** Do not amend the Regulated Services (Annual Returns) (Wales) Regulations 2017 to require a declaration from providers of restricted children’s services, that they continue to meet the not-for-profit conditions set out in the 2025 Act. Under this option, there will be no declaration included in annual returns for providers of restricted children’s services to confirm that they continue to meet the not-for-profit conditions.

6.3. **Option two – Make the legislation.** Amend existing Regulated Services (Annual Returns) (Wales) Regulations 2017 to require a declaration from providers of restricted children’s services, that they continue to meet the not-for-profit conditions set out in the 2025 Act. Under this option, an additional element will be included within the annual return for providers of restricted children’s services to confirm that they continue to meet the not-for-profit conditions.

##### b) General changes to the regulation of social care services

(i) **Specifying a time limit for the publication of provider annual returns on or before 91 days following the financial year to which it relates – ie 30 June**

6.4. [Section 10 of the 2016](#) Act requires a service provider to submit an annual return to the Welsh Ministers (in practice, to CIW) following the end of each financial year during which they are registered and states that the Welsh Ministers must publish each annual return submitted to them.

6.5. [Section 14 of the 2025 Act](#) changes this, to instead require service providers to publish their annual return on their own website. The Annual Returns (Miscellaneous Amendments) (Wales) Regulations 2026 prescribe a time limit for the publication of an annual return.

6.7 For this aspect of the RIA, the two options under consideration are:

6.8 **Option one – Do nothing.** Do not amend the Regulated Services (Annual Returns) (Wales) Regulations 2017 to specify a time limit for the publication of service provider annual returns. Under this option, there will be no timescale for the publication of annual returns by service providers on their own website.

6.9 **Option two – Make the legislation.** Amend the Regulated Services (Annual Returns) (Wales) (Regulations) 2017 to specify a time limit for the publication of provider annual returns. Under this option, service providers will be required to publish their annual return on their website on or before 91 days following the end of the financial year to which it relates. That is, by 30 June each year.

(ii) **Enabling the offence of failure to publish an annual return within the specified time limit to be dealt with via a penalty notice**

6.10 Section 52 of the 2016 Act enables the Welsh Ministers, by regulations, to prescribe offences that may be dealt with by issuing a penalty notice to a person whom they are satisfied has committed that offence. The Regulated Services (Penalty Notices) (Wales) Regulations 2019 prescribe the failure by a service provider to publish an annual return within the specified time limit as an offence which may be dealt with by a penalty notice. The regulations provide that the penalty for that offence is an amount corresponding to level 4 on the standard scale of fines for summary offences (currently £2,500).

6.11 **Option one – Do nothing.** Do not amend the Regulated Services (Penalty Notices) (Wales) Regulations 2019 to enable the offence of failure to publish an annual return within the prescribed time limit to be an offence which can be dealt with via a penalty notice. This would mean that the offence cannot be dealt with in a proportionate and less resource-intensive way via a penalty notice.

6.12 **Option two – Make the legislation.** Amend the Regulated Services (Penalty Notices) (Wales) Regulations 2019 to make failure to publish an annual return within the prescribed time an offence which can be dealt with via a penalty notice. Under this option the offence of failure to publish an annual return within the specified time limit will be capable of being dealt with via a penalty notice and the amount of the penalty will correspond to level 4 on the standard scale of fines for summary offences (currently £2,500).

## 7. COSTS, BENEFITS AND RISKS

### a) Removing profit from children's social care

The costs, benefits and risks have been subdivided into the potential impacts on four key groups most directly impacted by the annual returns process: providers of restricted children's services, CIW, Welsh Government and members of the public.

#### **Option one – Do nothing. Costs and savings**

7.1 No additional costs or savings have been identified under this option, either to providers of restricted children's services, CIW or Welsh Government.

#### **Option one – Do nothing. Benefits and disbenefits**

##### Providers of restricted children's services

7.2 Under this option providers would not need to complete an additional question within their annual return to confirm they continue to meet the definition of not-for-profit entity. Theoretically this would avoid an additional administrative burden on providers however this benefit is so small as to be insignificant in terms of administrative time saved.

##### CIW

7.3 Under this option CIW would not need to review an additional question within a provider's annual return to check that a provider has confirmed they continue to meet the definition of a not-for-profit entity. As with providers theoretically this would avoid an additional administrative burden however this benefit is so small as to be insignificant in terms of administrative time saved.

##### Welsh Government

7.4 No specific benefits have been identified for Welsh Government under this option.

##### Members of the public

7.5 Annual returns are primarily intended to provide the public with accurate, comparable information. Without including confirmation of a provider of restricted children's services' not-for-profit status the public will not have a publicly available assurance method that restricted children's services remain not-for-profit, potentially undermining trust in the regulatory system.

#### **Option one – Do nothing. Risks**

##### Providers of restricted children's services

7.6 No specific risks have been identified for providers of restricted children's services under this option.

### CIW

7.7 Under this option CIW would not receive assurance from providers of restricted children's services that they continue to meet the definition of a not-for-profit entity. CIW would therefore have no formal mechanism to confirm that providers of restricted children's services continue to meet the statutory definition of a not-for-profit entity after initial registration. This risks creating a compliance gap as CIW would have fewer ways of verifying ongoing adherence to the requirement in the 2025 Act for providers of restricted children's services to meet the definition of a not-for-profit entity. This could increase the risk that non-compliant providers operate for extended periods.

7.8 Section 47 of the 2016 Act makes it an offence to provide false or misleading information in an annual return. Under this option CIW would not be able to leverage this enforcement option because the declaration of not-for-profit status would not be part of the annual return. Consequently, CIW would lose a clear legal basis for issuing penalty notices or pursuing criminal enforcement in cases of misrepresentation.

### Welsh Government

7.9 The Welsh Government's policy objective to remove profit from children's social care depends on robust monitoring. Not amending the regulations as proposed under this option risks compromising CIW's ability to support this strategic goal effectively.

### Members of the public

7.10 The absence of a formal, publicly available mechanism to confirm not-for-profit status could lead to public scepticism about providers' integrity, especially in a policy environment focused on removing profit.

## **Option two - make the legislation. Costs and savings**

### Providers of restricted children's services

7.11 Under this option providers will need to confirm annually that they meet the definition of a not-for-profit entity. This could involve additional staff time for completing this declaration as well as well as possible training for staff on the new reporting requirements within the annual return. The potential cost of this is likely to be minimal given that for compliant providers this will simply be a case of confirming their existing not-for-profit status.

### CIW

7.12 Under this option there will be an additional cost to CIW in terms of extra staffing time to review and audit compliance with the not-for-profit definition within the annual returns and investigate any potential concerns should this

not be completed by a provider. CIW staff will also require training on new processes relating to this.

7.13 In addition to costs associated with reviewing compliance with the not-for-profit definition within the annual returns CIW will also need to adapt its CIW Online platform to capture new declarations and integrate compliance checks. This involves bespoke IT development and ongoing maintenance.

7.14 In addition to reviewing and IT costs CIW will also incur additional costs in terms of staff time for producing clear guidance for providers around the changes to the annual returns to ensure compliance.

7.15 Regarding the costs associated with the above CIW has been allocated £251,000 in 2025-26 (sunk costs already incurred), rising to £627,000 in 2026-27 and 2027-28 for eliminate implementation costs more broadly. This incorporates the additional costs associated with points 7.12, 7.13 and 7.14 above as well as the potential costs associated with the proposed changes to registration set out separately.

#### Welsh Government

7.16 There are costs for Welsh Government regarding stakeholder engagement for the removal of profit work more widely. The RIA for the 2025 Act anticipated Welsh Government comms costs specifically as £13,273 per year between 24-25 to 27-28 (the costs for 24-25 and 25-26 being sunk costs). A proportion of this communications activity up to and including 26-27 could include communicating the changes to the annual returns process however this is anticipated to form a very small part of the communications approach given the Welsh Government focus is likely to be on the broader implementation milestones e.g. the restrictions from 1 April 2027 on adding additional beds to existing children's homes or approving new foster carers.

#### Members of the public

7.17 No specific costs for members of the public have been identified under this option.

### **Option two – make the legislation. Benefits and disbenefits**

#### Providers of restricted children's services

7.18 Introducing the annual declaration of not-for-profit status under this option will provide a straightforward mechanism for providers of restricted children's services to demonstrate their adherence to the not-for-profit requirement, reducing ambiguity and the potential of further reactive queries from CIW.

#### CIW

7.19 Introducing the annual declaration of not-for-profit status under this option will provide CIW with a formal mechanism to verify ongoing compliance with section 6A, benefitting regulatory oversight. Additionally

false declarations under section 47 become enforceable, enabling CIW to act swiftly against breaches.

#### Welsh Government

7.20 This option will benefit Welsh Government's strategic ambition of removing profit from children's social care by embedding not-for-profit compliance checks into routine processes.

#### Members of the public

7.21 Members of the public will benefit from greater transparency through the published annual returns confirming providers' not-for-profit status, reinforcing public confidence.

### **Option two – make the legislation. Risks.**

#### Providers of restricted children's services

7.22 The annual declaration of not-for-profit status is an additional compliance task for providers of restricted children's services to complete. This additional burden could risk straining smaller providers with more limited resources however this risk is considered to be very low given this should be a straightforward exercise that should not be onerous to complete.

#### CIW

7.23 The extra staff time and resource required to implement this change including adapting CIW Online may strain CIW's existing resources. However the additional funding provided by Welsh Government to CIW should mitigate this risk.

#### Welsh Government

7.24 There is a small risk of additional budgetary pressure to Welsh Government should CIW's costs to implement this change prove higher than expected. However this risk is expected to be low given CIW's spend to date relating to this (sunk costs) has been in line with their budgetary allocation.

#### Members of the public

7.25 No specific risks to members of the public have been identified under this option.

### **b) General changes to the regulation of social care services**

- (i) **Specifying a time limit for the publication of provider annual returns on or before 91 days following the financial year to which it relates – ie 30 June**

### **Option one – Do nothing. Costs and savings**

7.26 This option does not incur additional costs for the Welsh Ministers (CIW) or service providers.

### **Option one – Do nothing. Benefits and disbenefits**

7.27 Having no time limit for publishing annual returns could provide some providers with greater flexibility, particularly those with limited staffing.

7.28 Placing the requirement to publish on service providers without specifying a timescale will result in annual returns being published at different times and will diminish transparency and consistency. It will mean that the annual return information is not available to the public in a timely way. It will not provide clarity and certainty for service providers.

### **Option one – Do nothing. Risks.**

7.29 Placing the requirement to publish on service providers without specifying a timescale creates a risk that annual returns will be published at different times. It will mean that the annual return information is not available to the public in a timely and consistent way.

### **Option two – Make the legislation. Costs and savings**

7.30 This option does not incur additional costs for the Welsh Ministers (CIW) or service providers. Service providers are already required to produce an annual return and submit it to CIW. The additional costs relating to the requirements in the 2025 Act to publish the annual return on their own websites were dealt with in the Explanatory Memorandum and Regulatory Impact Assessment for the Bill.

### **Option two – Make the legislation. Benefits and disbenefits**

7.31 Specifying a time limit for service providers to publish their annual return will:

- promote accountability and compliance,
- support transparency and public confidence,
- enables timely oversight and inspection planning.

### **Option two – Make the legislation. Risks**

7.32 We have not identified any risks with this option.

- (ii) **Enabling the offence of failure to publish an annual return within the specified time limit to be dealt with via a penalty notice**

### **Option one – Do nothing. Costs and savings**

7.33 This option does not incur additional costs for the Welsh Ministers (CIW) or service providers

### **Option one – Make the legislation. Benefits and disbenefits**

7.34 Non-compliant service providers will avoid monetary penalties.

7.35 Under this option, non-compliant service providers will not be subject to a penalty notice. This may lead to lower compliance rates, enforcement challenges and equity issues.

### **Option one – Do nothing. Risks**

We have not identified any risks with this option.

### **Option two – Make the legislation. Costs and savings**

7.36 Compliant providers will not have any costs. In case of non-compliance, the provider will incur a penalty of £2,500. Non-compliant providers have the option not to accept a penalty notice. The alternative is full criminal prosecution, which may be disproportionate and resource intensive.

7.37 For the Welsh Ministers (CIW), there might be a transitional cost for familiarisation of inspectors with the new regulations. However, this will relate to the implementation of the penalty notice system rather than the Amendment Regulations. The potential costs for the implementation of a penalty notice system were dealt with in the Explanatory Memorandum and Regulatory Impact Assessment for the 2016 Act.

### **Option two – Make the legislation. Benefits and disbenefits**

7.38 The proposed approach provides consistency with the existing offence of failure to submit an annual return to CIW within the specified time limit.

7.39 Setting a penalty notice for non-compliant social care service providers offers several important benefits:

- Promotes accountability and compliance by reinforcing the seriousness of the obligation to meet the time limit.
- Provides regulatory flexibility by enabling CIW to use alternative enforcement tools other than rely on criminal prosecution.

### **Option two – Make the legislation. Risks.**

7.40 The Annual Returns (Miscellaneous Amendments) (Wales) Regulations 2026 may have an adverse monetary impact on a non-compliant service provider. The fixed £2,500 penalty may disproportionately affect small providers.

## **8. CONCLUSIONS**

### **a) Removing profit from children's social care**

8.1 Based on an appraisal of the costs, benefits and risks of both options, **option two is the preferred option. Make the legislation:** Amend existing

annual returns regulations to require a declaration from providers of restricted children's services, that they continue to meet the not-for-profit conditions set out in the 2025 Act.

**b) General changes to the regulation of social care services**

- (i) Specifying a time limit for the publication of provider annual returns on or before 91 days following the financial year to which it relates – ie 30 June**

8.2 Based on an appraisal of the costs, benefits and risks of both options, **option two is the preferred option. Make the legislation:** Amend existing annual returns regulations to specify a time limit for the publication of provider annual returns.

- (ii) Enabling the offence of failure to publish an annual return within the specified time limit to be dealt with via a penalty notice**

8.3 Based on an appraisal of the costs, benefits and risks of both options, **option two is the preferred option. Make the legislation:** Amend existing penalty notice regulations to make failure to publish an annual return within the prescribed time an offence which can be dealt with via a penalty notice.

## **9. COMPETITION ASSESSMENTS**

**9.2 Overall, in relation to the general changes to the regulation of social care services,** the requirements in the Annual Returns (Miscellaneous Amendments) (Wales) Regulations 2026 are not expected to have a negative impact on competition in Wales, or the competitiveness of most businesses.

## **10. POST IMPLEMENTATION REVIEW**

10.1.A formal evaluation of the removing profit work is expected to be undertaken as the policy is implemented. This would include an evaluation of any significant impacts as a consequence of the secondary legislation including this amendment.

# REGULATORY IMPACT ASSESSMENT FOR: The Regulated Services (Registration) (Wales) (Amendment) Regulations 2026

## 11. OPTIONS

### a) Removing profit from children's social care

11.1. Two options have been considered regarding the annual returns process relating to removing profit from children's social care, listed below:

11.2. **Option 1 – do nothing.** Do not make proposed amendments to the Regulated Services (Annual Returns) (Wales) Regulations 2017 to ensure that applications to register, or to vary registration in respect of restricted children's services include sufficient information to demonstrate compliance with the statutory requirement that such services are provided by not-for-profit entities

11.3. **Option 2 – Make the legislation.** Amend existing Regulated Services (Registration) (Wales) Regulations 2017 to ensure that applications to register, or to vary registration in respect of restricted children's services include sufficient information to demonstrate compliance with the statutory requirement that such services are provided by not-for-profit entities

### b) General changes to the regulation of social care services: Information to be provided within an application a service provider makes to cancel their registration

11.2 [Section 14 of the 2016 Act](#) allows a service provider to apply to the Welsh Ministers for cancellation of their registration, where they intend to cease operating altogether. [Section 15 of the 2025 Act](#) amends this, to confer a power on the Welsh Ministers to prescribe the form of and information to be contained within such an application.

11.3 The regulation-making power enables the Welsh Ministers (in practice, CIW) to require information from service providers about how they will continue to comply with requirements as to the standard of care and support to be provided, until they cease to operate.

11.4 This will ensure CIW has relevant information about the intended operation of the service(s) and assurance as to the ongoing care, safety and well-being of individuals using or living at the service(s), to enable it to carry out its regulatory duties effectively during the closure period.

11.5 Two options have been considered in the analysis of the costs, benefits, and risks of creating regulations which require providers of care home services and domiciliary support services to submit additional information when cancelling their registration.

11.6 For this aspect of the RIA, the two options under consideration are:

**11.7 Option one – Do nothing.** Do not amend the Regulated Services (Registration) (Wales) Regulations 2017 to require specific information in an application to cancel a service provider’s registration and do not specify the form of the application.

**11.8 Option two – Make the legislation.**

**(i) Use the regulation-making power within section 14(1A)(a) of the 2016 Act to require that an application to cancel a service provider’s registration includes the following information:**

- a. The proposed date on which cancellation of the service provider’s registration should take effect;
- b. The reason for making the application;
- c. For each regulated service provided, a statement as to how the service provider intends to comply with the regulations made under section 27 of the 2016 Act (standard of care and support to be provided) until the cancellation takes effect;
- d. For each regulated service provided, details of any notice given about the intention to cease providing the service to service users; to the local authority within whose area the service is being provided; to the Local Health Board within whose area the service is being provided; and to any other person;
- e. Where the service provider is applying for cancellation of their registration less than 3 months before the proposed effective date, a report as to whether any of the regulated services they provide or any place at, from, or in relation to which they provide a regulated service has ceased or is likely to cease to be financially viable within the next 12 months.

**(ii) Use the regulation-making power to specify that the application must be made via CIW’s online system.**

## **12. COSTS, BENEFITS AND RISKS**

### **a) Removing profit from children’s social care**

The costs, benefits and risks have been subdivided into the potential impacts on three key groups most directly impacted by the registration process: providers of restricted children’s services, CIW and Welsh Government.

**Option one – Do nothing. Costs and savings**

12.1 No additional costs or savings have been identified under this option, either to providers of restricted children's services, CIW or Welsh Government.

### **Option one – Do nothing. Benefits and disbenefits**

#### Providers of restricted children's services

12.2 Under this option providers of restricted children's services would not need to meet new registration conditions or provide extra evidence of not-for-profit status, reducing administrative burden. Existing registration processes would remain unchanged, theoretically minimising disruption for providers of restricted children's services.

#### CIW

12.3 Under this option CIW would avoid the need to implement new registration checks or develop additional guidance at registration. This would avoid extra workload for staff or IT system changes to accommodate the new registration requirements, potentially benefitting organisational stability. However as set out in the risks section this benefit may come at the cost of reduced assurance that providers meet the not-for-profit requirement at registration.

#### Welsh Government

12.4 This option would avoid introducing additional changes that could create additional confusion or resistance amongst providers of restricted children's services during the implementation of a significant policy that has already created significant apprehension amongst some providers.

### **Option one – Do nothing. Risks.**

#### Providers of restricted children's services

12.5 Without introducing updated registration requirements, providers of restricted children's services may inadvertently fail to meet the not-for-profit definition, exposing them to enforcement later. If breaches are discovered by CIW through complaints or intelligence rather than structured checks at registration, providers risk facing sudden investigations, increasing the risk of disruption.

#### CIW

12.6 Under this option CIW would lack a clear mechanism to verify compliance with section 6A at registration, risking weakening their regulatory oversight. Additionally, without explicit registration conditions, CIW may risk facing difficulties in acting promptly against providers who do not meet the not-for-profit requirement. This may pose a reputational risk to CIW in being seen to fail to ensure accountability in the sector and adherence to the policy and primary legislation.

#### Welsh Government

12.7 Not introducing updated registration requirements risks Welsh Government's core policy aim of removing profit from the care of children looked after if CIW are unable verify compliance with section 6A at registration, leading to a potential risk of providers being registered who do not meet the section 6A not-for-profit definition. This may subsequently erode trust in Welsh Government's commitment to reform and safeguard children's interests.

## **Option two – Make the legislation. Costs and savings**

### Providers of restricted children's services

12.8 Under this option providers of restricted children's services will need to provide additional evidence that they meet the definition of a not-for-profit entity when registering with CIW. Preparing this additional documentation and evidence required for registration may result in some additional costs in terms of additional staff time in collating the documentation as well as time training staff on the new process. It is not possible to determine with certainty the precise time or cost that providers will incur in preparing the additional documentation required for registration under the new requirements. This is primarily because these are new obligations being introduced, and therefore there is currently no established baseline or historical data on how long providers typically take to complete these specific tasks. Furthermore, the structure and scale of providers of restricted children's services in Wales varies considerably. This will likely influence the time and resources needed to comply. It is anticipated that the additional cost will be minimal since the requirement largely formalises information that providers should already hold as part of good governance.

### CIW

12.9 Under this option there will be an additional cost to CIW in terms of extra staffing time required to process the new registration requirements and verify compliance. CIW staff will also require training on new processes relating to this.

12.10 In addition to costs associated with processing the new registration requirements and reviewing compliance CIW will also need to adapt its CIW Online platform and internal systems to capture the new registration questions and integrate compliance checks. This involves bespoke IT development and ongoing maintenance.

12.11 In addition to processing and IT costs CIW will also incur additional costs in terms of staff time for producing clear guidance for providers around the changes to registration costs.

12.12 Regarding the costs associated with the above CIW has been allocated £251,000 in 2025-26 (sunk costs already incurred), rising to £627,000 in 2026-27 and 2027-28 for eliminate implementation costs more broadly. This incorporates the additional costs associated with points 12.9, 12.10 and 12.11 above as well as the potential costs associated with the proposed changes to annual returns described in the previous RIA section.

### Welsh Government

12.13 As outlined in the anticipated costs for making changes to the annual returns process there are costs for Welsh Government regarding stakeholder engagement for the removal of profit work more widely. The RIA for the 2025 Act anticipated Welsh Government comms costs specifically as £13,273 per year between 24-25 to 27-28 (the costs for 24-25 and 25-26 being sunk costs). A proportion of this communications activity up to and including 26-27 could include communicating the changes to the registration process (alongside other changes including the proposed annual returns changes) however this is anticipated to form a very small part of the communications approach given the Welsh Government focus is likely to be on the broader implementation milestones e.g. the restrictions from 1 April 2027 on adding additional beds to existing children's homes or approving new foster carers.

### **Option two – Make the legislation. Benefits and disbenefits**

#### Providers of restricted children's services

12.14 Introducing the clear registration requirements regarding not-for-profit status under this option will provide a straightforward mechanism for providers of restricted children's services to demonstrate their adherence to the not-for-profit requirement, reducing ambiguity and the potential of further reactive queries from CIW.

#### CIW

12.15 Introducing the strong registration requirements regarding not-for-profit status under this option will provide CIW with a robust mechanism to ensure providers meet the not-for-profit definition from the outset. Having this information from the outset about the organisation type will also benefit CIW's ongoing monitoring and strategic planning.

#### Welsh Government

12.16 Embedding the not-for-profit requirement in registration regulations benefit Welsh Government in ensuring the strategic ambition of removing profit from children's social care is implemented effectively. Including these clear legal requirements at registration also reduces the chance of policy failure as providers will have to clearly evidence their not-for-profit status from the outset.

### **Option two – make the legislation. Risks.**

#### Providers of restricted children's services

12.17 The additional requirements within the registration process represent an additional task for providers of restricted children's services to complete. This additional burden could risk straining smaller providers with more limited resources and the additional information required could increase the risk of mistakes in registration applications. However the risk is considered to be low given the proposed CIW actions to communicate the proposed changes and update guidance (which is already underway).

## CIW

12.18 The extra staff time and resource required to implement this change including adapting CIW Online and the increased workload for processing the new elements of registration applications may risk straining CIW's existing resources. However as with the proposed changes to annual returns the additional funding provided by Welsh Government to CIW should mitigate this risk.

## Welsh Government

12.19 There is a small risk of additional budgetary pressure to Welsh Government should CIW's costs to implement this change prove higher than expected. However this risk is expected to be low given CIW's spend to date relating to this (sunk costs) has been in line with their budgetary allocation.

### **b) General changes to the regulation of social care services: Information to be provided within an application a service provider makes to cancel their registration**

#### **Option one – Do nothing. Costs and savings**

12.20 This option does not incur additional costs for the Welsh Ministers (CIW) or service providers.

#### **Option one – Do nothing. Benefits and disbenefits**

12.21 We have not identified any benefits with this option.

#### **Option one – Do nothing. Risks.**

12.22 The risk with option one is that the Welsh Ministers (CIW) do not have the statutory basis to require the information necessary to carry out its regulatory duties effectively during the closure period. The Welsh Ministers (CIW) will not have assurance as to the ongoing care, safety and well-being of individuals using or living at the service(s).

#### **Option two – Make the legislation. Costs and savings**

12.23 Requiring providers to submit a statement about how they will comply with quality standards is estimated to take around 4 hours to complete. It is not anticipated the extra information required will add considerably to the process.

12.24 To provide an idea of potential cost for the whole of the service cancellation, the Annual Survey of Hours and Earnings (ASHE) provides figures on hourly earnings for different occupations across the different regions. The below table sets out the figures for health and social services managers and directors, who would be required to complete this statement.

Table: Hourly Pay – Gross (2024)

Occupation	Code	Median Hourly Pay (£)	Hourly gross pay including on-costs (30%)	Cost to complete statement (assumes 4 hours, rounded to nearest £10)
Health and Social Services Managers and Directors	117	24.10	31.33	125
Social services managers and directors	1172	22.94	29.82	119
Managers and Proprietors in Health and Care Services	123	20.07	26.09	105
Residential, day and domiciliary care managers and proprietors	1232	19.93	25.91	104
Average		21.76	28.29	113

Source: - [Earnings and hours worked, occupation by four-digit SOC: ASHE Table 14 - Office for National Statistics, 2024](#)

12.25 Based on the estimate that a statement would take 4 hours to complete, the cost per full statement is therefore likely to be approximately £113.

12.26 It is not possible to determine with certainty how many regulated social care service providers will exit the market in Wales in the future and so it is not possible to aggregate the cost of this step. However, for comparison purposes:

- during 2023-24 CIW received 93 applications to cancel registration from providers of regulated social care services.
- during 2024-25 CIW received 119 applications to cancel registration from providers of regulated social care services.

12.26 This gives an average illustrative cost of approximately £12,000 per annum.

### **Option two – Make the legislation. Benefits and disbenefits**

12.27 The Welsh Ministers (CIW) will have relevant information submitted in a standard format about the intended operation of the service(s) and assurance as to the ongoing care, safety and well-being of individuals using or living at the service(s), to enable it to carry out its regulatory duties effectively during the closure period.

## **Option two – Make the legislation. Risks.**

12.28 We have not identified any risks with this option.

### **13 CONCLUSIONS**

#### **a) Removing profit from children’s social care**

13.1 Based on an appraisal of the costs, benefits and risks of both options, **option two is the preferred option. Make the legislation: Amend existing Regulated Services (Registration) (Wales) Regulations 2017 to ensure that applications to register, or to vary registration in respect of restricted children’s services include sufficient information to demonstrate compliance with the statutory requirement that such services are provided by not-for-profit entities.**

#### **b) General changes to the regulation of social care services: Information to be provided within an application a service provider makes to cancel their registration**

13.2 Based on an appraisal of the costs, benefits and risks of both options, **option two is the preferred option. Make the legislation: Use the new regulation-making power within section 14(1A)(a) of the 2016 Act to require that an application to cancel a service provider’s registration includes specific information and to specify the form of the application.**

### **14 COMPETITION ASSESSMENTS**

**Overall, in relation to the general changes to the regulation of social care services**, the requirements in the Regulated Services (Registration) (Wales) (Amendment) Regulations 2026 are not expected to have a negative impact on competition in Wales or the competitiveness of businesses.

### **15 POST IMPLEMENTATION REVIEW**

A formal evaluation of the removing profit work is expected to be undertaken as the policy is implemented. This would include an evaluation of any significant impacts as a consequence of the secondary legislation including this amendment.