



CMA children's social care market study: Care Inspectorate response

Introduction

The Care Inspectorate is the official body responsible for inspecting standards of care in Scotland. That means we regulate and inspect care services to make sure they meet the right standards and help them improve if needed. We also carry out joint inspections with other scrutiny bodies to check how well different organisations in local areas are working to support adults and children. We help ensure social work, including criminal justice social work, meets high standards.

Across all our work, we provide independent assurance and protection for people who experience care, their families and carers and the wider public. In addition, we play a significant role in supporting improvements in the quality of care, and reducing health and social inequalities, in Scotland. As the scrutiny and improvement body for social care and social work, we have a strong interest in this area and are happy to provide a professional perspective drawn on evidence we hold. We regulate, inspect and support improvement in a wide range of care services for children, adults and older people, and also work with all local authorities, community planning partnerships, health and social care partnerships, and with community justice partners.

Theme one: Nature of supply

- 1. How has the provision of children's homes, unregulated accommodation and foster care for looked after children developed over time, what has driven this development and how will the wider environment shape it in the future?**

Children's homes

In Scotland there has been an increase in the number of privately run residential children's homes over the last nine years, increasing from 47 in 2012 to 145 in 2021. The number of voluntary sector run homes has also increased, from 47 in 2012 to 68 in 2021. The number of local authority run homes has remained largely the same; 114 in 2012 down to 113 in 2021.

There are some private providers who have expanded over the last six years to operate a number of children's homes, while some operate one home only. Some of the newer registrations of private homes are for one or two children with complex needs. All residential care for children operating in Scotland must be registered with the Care Inspectorate and we undertake a robust registration process prior to the opening of any new service.

The reasons for these changes in provision are nuanced, with a combination of local and national factors, changing needs and interdependencies contributing to a landscape that is not homogenous.

Overall, the Care Inspectorate evaluates most care homes for children and young people in Scotland as being good or very good. There has been little variation in the proportion of services evaluated as good or very good by provider type, or over time.

In 2012:

- 82.3% of local authority care homes were graded good or better
- 82.8% of private care homes were graded good or better
- 82.3% of voluntary or not for profit care homes were graded good or better

In 2021:

- 75.5% of local authority care homes were graded good or better
- 81.5% of private care homes were graded good or better
- 88.3% of voluntary or not for profit care homes were graded good or better

It is important to recognise that, regardless of the quality of the residential care provided, there are a number of other important factors which impact on the overall experience of children and their outcomes, including decision-making outside the scope of the registered service. We recognise that finding appropriate resources to meet children's needs can be complex and challenging. In some cases, children's needs may not be well understood, or it may be difficult to fully meet them. Some children move too many times, limiting their opportunities to form trusting relationships and thrive.

We also recognise that the number of children who stay on in a continuing care arrangement in children's homes remains relatively small. We would want to see this change in Scotland with it becoming the norm for young people to stay on in line with continuing care legislation. We recognise that this is likely to require revisiting overall capacity within the sector to ensure sufficient supply of placements to meet the needs of all children and young people who need care.

We have seen an overall increase in the number of registered places available in children's care homes, from 227 in 2012 to 327 in 2021. Within this, there has been a significant increase in the number of registered places for younger children, with places for children aged 0-5 increasing from 122 in 2012 to 198 in 2021, and places for children aged 6-10 increasing from 87 in 2012 to 113 in 2021.

In recent years we have seen an increase in the number of children placed in Scottish care homes for children and young people from other parts of the UK, Channel Islands or Isle of Man. These are commonly known as 'cross border placements'. We recognise that children are sometimes placed a long way away from their family and community even within Scotland and that this can also be problematic. Nonetheless, there are some specific issues associated with cross border placements, not least those connected with the different legislation governing the placement and the authority of the regulator in respect of the placing authorities.

The reasons for the increase are, we believe, complex and require further exploration. We are aware of children who have been placed in Scotland to distance them from serious risks associated with sexual exploitation and gang culture in their home areas. Some decisions to seek a placement in Scotland appear to be in response to a lack of suitable provision available closer to a child's home, with a number being made in urgent response to a crisis.

Among our concerns about cross border placements are:

- Children arriving in Scotland with little understanding or knowledge of their rights and a lack of advocacy support for them.
- Limited evidence around assessment of, and planning to meet, children's needs prior to a move and deficits in information-sharing between placing authority and provider about children's history and needs.
- A lack of appropriate attention to soliciting or taking into account children's views.
- Lack of skills and training in specialist therapeutic care, resulting in services not being able to deliver what they say they can.
- Placements made on a short term or emergency basis which do not meet children's needs appropriately.
- The impact of significant distance on the ability to plan for the child, maintain meaningful contact with family and other key people in a child's life and nurturing a sense of belonging.
- Dislocation and a lack of meaningful contact between children and their social workers, who maintain responsibility for key decisions about children's lives.
- Confusion around competence and applicability of legal orders and a lack of clarity about the interaction of the various legal systems across different UK jurisdictions.

The report of the Independent Care Review, [The Promise](#), published in 2020 is very clear that Scotland must avoid the monetarisation of the care of children and prevent the monetarisation of care in general. It states: "Scotland must make sure that its most vulnerable children are not profited from. Scotland must stop selling care placements to local authorities outside of Scotland. While this review is focused on children in Scotland, it must be acknowledged that accepting children from outside Scotland is a breach of their fundamental human rights. It denies those children access to their family support networks and services. It also skews the landscape for Scotland so there is a lack of strategic planning for children, meaning that children can be put in inappropriate settings if demand has spiked."

There are several complex and challenging issues to be considered in terms of the current provision, particularly around cross border placements and the expansion of private children's homes as we move forward with the Promise in Scotland. The full incorporation of the United Nations Convention on the Rights of the Child (UNCRC) into Scottish legislation adds further impetus for this issue to be carefully considered and appropriate actions taken to address the concerns identified.

Unregulated care

All residential care provision in Scotland is required by law to be registered with the Care Inspectorate and therefore subject to regulation. Care experienced young people who have left residential care, kinship care and foster care may experience unregulated (sometimes unstable and unsuitable) living situations such as temporary accommodation, homeless hostels and bed and breakfast accommodation.

Joint inspections of services for children and young people in need of care and protection, led by the Care Inspectorate, looks specifically at how community planning partnerships in Scotland are fulfilling their corporate parenting responsibilities to young people who have been in their care.

From the eight joint inspections undertaken between 2018 and 2020, we can see that collaborative leadership was less robust for corporate parenting than for child protection. Encouraging and supporting corporate parents to fulfil their duties to care experienced young people to ensure they do not find themselves in unstable and unsuitable living situations remains a priority for the Care Inspectorate.

Foster care

In Scotland it is illegal for commercial, for-profit firms to provide foster care. The number of fostering agencies in Scotland has remained largely stable - there were 33 local authority fostering agencies in 2012, decreasing to 32 in 2021. There were 25 voluntary or not for profit fostering agencies in 2012, increasing to 27 in 2021.

Fostering agencies are inspected by the Care Inspectorate; most are evaluated as being good or very good, and there has been little change in the proportions of these evaluations by provider type, or over time.

In 2012:

- 81.8% of local authority fostering agencies were graded good or better
- 95.7% of voluntary or not for profit fostering agencies were graded good or better

In 2021:

- 78.1% of local authority fostering agencies were graded good or better
- 92.6% of voluntary or not for profit fostering agencies were graded good or better

We are in the process of developing a new quality improvement framework aligned with the key messages of The Promise, which will have a stronger focus on ensuring children are able to experience nurturing relationships and consistency in care.

Our inspections of services for children in need of care and protection have found that the biggest improvements in wellbeing for care experienced children have been achieved for those children in foster care. We know that many children and young

people for whom it is not safe to live with their birth families thrive in foster care. However, we also recognise that the needs of some children are not met well. Some children experience many moves, both planned and unplanned, which can create further trauma and can be damaging for their development. Our scrutiny evidence indicates that more needs to be done to support more effective decision-making and greater placement stability for children looked after away from home.

[Research](#) undertaken by Dr Christine Jones and Dr Gillian Henderson, of the University of Strathclyde and the Scottish Children's Reporters Administration respectively, (Supporting Sibling Relationships of Children in Permanent Fostering and Adoptive Families, 2017) identified that siblings are too often not placed with each other when removed from home. The longer they remain in the care system, the more likely contact between siblings diminishes.

The Promise also highlights the issue: "Public service planning and commissioning strategies and procurement should be attuned to the needs of brothers and sisters to promote these relationships and prevent separation. There must be sufficient availability of safe living environments for those children who are removed from their families. These must be able to accommodate sibling groups. This will involve robust planning, recruitment, and support for carers."

Our scrutiny evidence indicates that more needs to be done to prioritise the preservation of meaningful contact between children in care and family members, including siblings. The Care Inspectorate is working as part of the partnership Stand Up for Siblings to raise awareness of the importance of sibling relationships and to encourage and support practice improvements.

Incorporation of UNCRC into Scottish law

The Care Inspectorate welcomes the ambitious and progressive approach taken in the recently-passed legislation to incorporate the UNCRC Bill into Scottish law, though we are aware that there is an expected legal challenge in relation to this. If granted Royal Assent, we hope the Bill will help ensure that the full range of children's rights are understood and realised. We note that section 60 of the Bill states that public authorities must not act in a way that is incompatible with UNCRC and recognise that this may have implications for private providers of residential childcare in Scotland who are carrying out functions on behalf of a public body. We would expect them to be subject to this too, with the expectation that they will not act in a way that is incompatible with the UNCRC and that they should be subject to the same reporting duties as public authorities.

Scottish Regulators Strategic Code of Practice

The Care Inspectorate, like other regulators in Scotland, is subject to the Scottish Regulators Strategic Code of Practice. We adhere to the principles of being transparent, accountable, proportionate, consistent, and targeted only where necessary. "Where necessary" is not explicitly defined in the Code. The Care Inspectorate's annual inspection plan is underpinned by a frequency framework which is, in part, determined by a statutory instrument and is agreed by Scottish Ministers.

Under the code we must take economic and business factors into account, which places some constraints on our ability to refuse application to register a care service where the provider is deemed to be a fit and proper person to operate a service, and where all other requirements are in place. The Code is integrated throughout our work and is therefore relevant to this consultation.

2. Are there significant differences in how providers operate, depending for example on the type of provider they are, their size or the geographic region in which they are operating?

There is a complex picture of provision in Scotland, with differing approaches across local authorities. Some run most of their own provision while others rely heavily on the private and voluntary sector. Reasons for these variations are often rooted in historical precedent but the actual impact on children and their families requires further exploration. Those local authorities closest to the Scotland/England border (Dumfries and Galloway and Scottish Borders) have experienced the greatest impact from a proliferation of independent providers offering residential care for children, often in very small services providing care for children with highly complex needs who might otherwise be placed in a secure service.

3. To what extent is a lack of availability of suitable residential and fostering placements driving undesirable outcomes for local authorities and children?

See the comments in response to question 1 regarding cross border placements, contact with family and maintaining sibling and family relationships.

Some of our findings from joint inspections and the emerging evidence from care service inspections and intelligence tell us that:

- Regardless of placement quality, there has been a lack of consistency in achieving real improvements in health and wellbeing outcomes for children who are in and around the care system. Achieving good outcomes requires better provision and quality in *all* services which touch children's lives, and highly effective joint working.
- We have seen kinship care being used increasingly as an alternative to residential care and foster placements, often to ease pressure on resources. While it may be highly positive for children to remain within their own families and communities wherever possible, it should not, and cannot be allowed to be, a cheap option. Support for kinship care (which is not a registered care service) is poorly developed in many areas, inconsistently delivered across the country, insufficiently scrutinised and generally under resourced.
- Multi-agency planning for young people leaving care is generally poorer than for younger children and outcomes for young people leaving care require significant improvement. There is a need for greater creativity to ensure sufficient provision to allow young people to remain in stable, nurturing care placements while also ensuring sufficient provision for children entering the care system at an earlier age and, where necessary, to grow up in sibling groups.

- The educational attainment gap still remains too great between children who are looked after and their non-looked after peers. Contributing factors include: children placed at distance from their schools; moves in care driving moves of education placement; and the continued acceptance of part time timetables, limited curriculum options and lack of support for learning outside the classroom for children in care, especially children in kinship placements and children looked after at home under an order from a children's hearing.
- Local authorities are significantly challenged in finding or making available families willing and able to care for sibling groups. It is hard to see how a presumption against separating siblings could be implemented without clear strategies to recruit and keep in reserve appropriate placements for when and where they are needed and the resourcing necessary to do so, including willingness to adapt housing, provide suitable transport and so on. Our statistical bulletin [Fostering and adoption 2019-20](#) noted that recruiting households that would foster sibling groups was a challenge for many fostering services, particularly local authority services, with 78% finding it difficult compared to 33% of independent services. The main reason for this, as described by services, was accommodation constraints.

4. How have the following four types of children's care home and fostering agency provision developed over the last decade:

- a. Local authority**
- b. Private – private-equity owned**
- c. Private – non-private-equity owned**
- d. Third sector private.**

See response to question 1 above.

5. Does the status of the provider (ie Local authority, private equity, non-private equity or third sector) significantly impact on the nature of the homes and fostering arrangements they put in place, in terms of: the number of placements (eg do they have incentives to invest in new capacity), price, value for money, location and quality of placements?

The Care Inspectorate is not able to comment on this. As already detailed, there has been an increase in the number of privately run children's homes in Scotland over the last six years. Anecdotal evidence suggests some local authorities purchase residential care and foster placements for children with the most complex needs primarily or exclusively from independent providers, rather than using their own provision. We are aware of services recently established or reoriented to provide residential care for children with particularly complex needs who have told us they are providing placements for children from outside Scotland exclusively because of an apparent lack of demand from Scottish local authorities for their services.

6. With regards to private equity ownership of children's care homes and fostering agencies:

- a. What features of children's care homes and fostering agencies attract PE investors? Are these the same compared to non-PE investors?**

The Care Inspectorate is not able to comment on this.

b. To what extent are property prices a driver of PE incentives to invest?

The Care Inspectorate is not able to comment on this.

c. Do PE investors in the sector have a shorter-term investment horizon than other types of providers, and if so, what effect does this have on the service they provide and investment in future capacity?

The Care Inspectorate is not able to comment on this.

d. Do PE-owned children's homes or fostering agencies carry a higher financial risk profile or leverage than the other types of providers, and if so what effect does this have on the service they provide and investment in future capacity?

As already noted, there are no PE-owned fostering agencies in Scotland and the Care Inspectorate is not able to comment on this in relation to children's homes.

e. What are the implications for the number of placements, price, value for money, location and quality of placements if group companies providing essential services such as children's social care are registered offshore?

The Care Inspectorate is not able to comment on this.

Theme two: Commissioning

1. How has the way in which local authorities commission places in children's homes, unregulated accommodation and foster care developed over time, what factors have driven this, and how is it likely to develop in the future?

As noted earlier, there is significant variation in the provision available to local authorities across the country on a range of factors, with varying trends and patterns. Increasing and sustained financial constraints on local authorities have been a major driver in influencing placing authorities to reduce reliance on specialist placements, especially high cost out of area placements. Over the last six years, most local authorities have made significant efforts to reduce out of area placements, with varying degrees of success. There have been positive benefits and examples of very good practice where services have worked together to redesign services for the benefit of children. Implementing strategies for children to remain in their own communities, wherever safe to do so, is very welcome but it has not always resulted in better outcomes for children because resourcing to support appropriate provision, including education support, has not always been made available.

The findings of the [Independent Care Review](#) are likely to have a profound influence on how care for children is delivered in Scotland. It is a call for radical change to how

children and families are supported in Scotland, its recommendations have been accepted in full by Scottish Government and it has the strong support of the First Minister. It is an ambitious long-term plan, which states: “Multi-agency partners must plan strategically for both family carers and child services based on outcomes from aggregated individual family and child plans. This must involve concurrency planning for care.”

The Independent Care review has identified strategic commissioning as a key priority, stating: “How Scotland commissions services must change as a result of this care review, so that children and families are at the centre of decision making.”

We will continue to work with Scottish Government and other relevant stakeholders to support improvements in joint strategic planning and commissioning and better experiences and outcomes for children as a result.

2. How able are local authorities to secure appropriate placements to meet the varying needs of children in their care, for a reasonable cost?

Local authorities are better placed to respond to this question.

3. To what extent do features of the market limit the ability of local authorities to secure appropriate placements at reasonable cost, including:

- a. levels and uncertainty of future demand;**
- b. nature of demand, e.g. age profile of looked-after children or prevalence of complex needs;**
- c. levels of uncertainty of future funding;**
- d. level of access to information on providers and individual placement options;**
- e. any other factors?**

Local authorities are better placed to respond to this question.

4. To what extent does the capacity, capability and practice of local authorities limit their ability to secure appropriate placements at reasonable cost, including:

- a. the relative use of frameworks, block contracts or cost and volume contracts, as against spot purchasing;**
- b. the extent to which local authorities proactively forecast demand and seek to attract providers into their area;**
- c. levels of collaboration between local authorities in planning and purchasing;**
- d. ability to recruit and retain appropriate staff to carry out their planning and procurement functions.**
- e. any other factors?**

Local authorities are better placed to respond to this question.

5. Are there examples of good practice within or among local authorities that have been effective in overcoming any of these potential difficulties?

Local authorities are better placed to respond to this question

Theme three: Regulatory system

1. Please briefly describe the regulatory system and your assessment of its effectiveness in supporting good outcomes in children's social care. In particular, we welcome comments on:

a. The interplay between regulators and government, local authorities, and providers.

As the independent regulator and scrutiny body for social care and social work, the Care Inspectorate is responsible for assuring the quality of care across Scotland. We are a scrutiny body that supports and drives improvement. The Care Inspectorate is the national agency responsible for regulating and improving care services including services for adults, early learning and childcare, children's services, and community justice. This includes registration, inspection, complaints, enforcement, and improvement support.

Regarding registered care services, our scrutiny role starts at registration where we have a duty to make sure that providers are fit to operate a care service and that they have all they need in place to do so safely and effectively. We need to do this in the context of legislation which provides us with a number of powers but which also provides some limitations to our actions.

We use a quality improvement framework which is designed to be used as a self-evaluation tool by the service provider and which has been made widely available across the sector. In this way, there should be no surprises when the same framework is used as the basis of assessment during inspection. The basis of the framework is the Health and Social Care Standards, the development of which we led jointly with Healthcare Improvement Scotland. The Standards are clearly focused on human rights and wellbeing and there is a focus on the importance of enduring and nurturing relationships for children and young people.

If we have serious concerns that a service needs to urgently improve, we can issue requirements for change and check these are met. If we believe there is a serious and immediate risk to life, health, or wellbeing, we can apply to the Sheriff court for emergency cancellation of a service's registration or apply for changes to how they operate.

Our duties include helping to improve the quality of care where that is needed. This means we work with services, offering advice and guidance and sharing good practice, to support them to develop and deliver improved care.

We fulfil our duty of providing public information about the quality of social work services for children and families through leading joint inspections aimed at assessing how well care and support is provided by community planning partners and how this impacts on the experiences of, and outcomes for, children and young people. Our joint inspection programme is carried out at the request of Scottish Ministers. We have fewer statutory levers to enforce improvements in respect of local authorities or health and social care partnerships than we do in respect of

registered care services. Nonetheless, we are able to influence improvements through the power of public reporting, targeted improvement support and sustained scrutiny including follow up inspections.

We influence social care policy and development at a national level, sharing our learning with others. For example, we have recently published practice guidance on continuing care and welfare assessments developed in partnership with Clan Child law and the Centre for Excellence for Children's Care and Protection (CELCIS). We have a very constructive working relationship with the office of the chief social work advisor in Scottish Government. We share information on a regular basis to develop intelligence about the sector, target improvement support where it most needed and identify and respond proportionately to risks.

Like the Independent Care Review, we recognise that the care experienced community needs to be at the heart of our work to improve outcomes for care experienced children and young people in Scotland. We involve young people with personal experience of using care services in our scrutiny work of both registered care services and strategic partnerships as young inspection volunteers. Having young people with lived experience involved directly in our scrutiny work greatly enhances our understanding of the things that are important to children and young people.

Each local authority/health and social care partnership and all large or major providers of care services for children are allocated a strategic link inspector or relationship manager. There is ongoing dialogue between the link inspector/relationship manager and key personnel in the service and, where appropriate, commissioning authority. This affords opportunities to develop trust and understanding, gather intelligence, monitor service improvements and collaborate on developments.

b. The range of the regulators' functions and whether they ought to be reduced or expanded in any way?

The Care Inspectorate currently has a wide-ranging remit. The Independent Care Review has identified the need for some radical changes to care for children and families in Scotland, with a strong focus on more intensive preventative support for families. This would necessitate greater attention and a shift in resourcing towards services which are not regulated by the Care Inspectorate and/or a change of focus for joint inspections.

As noted above, there is some limitation to the Care Inspectorate's powers in respect of registration of services. For example, there is currently no requirement for providers to demonstrate a clear need for a service to be provided in a specific location in order to register that service.

We describe above a number of concerns about the rise in cross-border placements and the operation of small services catering for children from other parts of the UK with very challenging needs. Of particular concern are the pressures this places on other local services and the consequences for the child and for local services should the placement disrupt. We are currently working with the Scottish Government to

gather more data on cross-border placements, with a view to exploring whether additional legislative powers for the Care Inspectorate would be helpful.

The Independent Care Review has called for closer joint working across regulators to ensure they are working to a common value base, collaborating effectively to support improvements in the areas identified as most important to children, and to reduce duplication and unnecessary burdens on service providers. The Care Inspectorate will work alongside colleagues from the Promise Team and others as the implementation plan is developed. We are already working on and supporting several associated workstreams.

c. The operational effectiveness of regulators and whether this could be strengthened by reform of their remit and objectives, resources and skills-sets and/or powers.

See comments under b.

3. Are there particular problems in the way placements are supplied and commissioned that the current regulatory system is not well-equipped to address?

See the comments in relation to question 1 about cross border placements. We welcome opportunities to work on a national basis and address some of the complex issues identified. In terms of the legislation, there are limitations in terms of our powers to refuse registration if, for example, the proposed service is in a very remote location. There is also an ongoing piece of work to review the categories of registration, which may result in them being more flexible in future.

4. Does any aspect of regulation create any perverse incentives on local authorities, providers or other actors, which are driving sub-optimal outcomes?

We are not aware of any in Scotland. We try to work collaboratively with providers to support innovation. For example, we worked closely with a provider to register a new service that bridged the gap between residential and foster care, providing an enhanced fostering service for young people who needed intensive support.

5. Where local authorities use unregulated placements, how do they ensure that these are appropriate in the absence of regulatory oversight? In England, how might this change as a result of the government's recent announcements?

Not applicable in Scotland.

Theme four: Pressures on investment

1. What are the main drivers of, and barriers to, decisions to invest in new children's homes capacity by local authorities, private sector and third sector providers? Please consider:

a. Levels, nature and certainty of future.

In taking forward the findings of the Independent Care Review and keeping The Promise, there are likely to be some radical changes in the provision of care in Scotland. Some services which do not currently exist may be developed to work in different and innovative ways with families, including better support at 'unsocial' times when families may most need help. Some services that currently exist may not be needed. A challenge will be to find sufficient resource to develop new preventative services before the need for acute or crisis services has diminished.

As Scotland progresses with this change agenda, it will be essential to be aware of the potential for unexpected and unintended consequences with careful parallel planning in place to minimise disruption and risks to children and young people while changes are taking place. For example, investment in new services may mean less investment for existing provision. Some private providers may be under pressure to fill vacancies and offer inappropriate placements to young people. To some extent we have started to see this happening with some of the cross-border placements referred to in question 1. It will be important that there is market awareness and oversight.

b. Levels, nature and certainty of future demand;

See comments in relation to a.

c. Expectations of the level of prices in the future;

The Care Inspectorate is not able to comment on this.

d. Regulatory and policy frameworks;

See earlier responses.

e. Barriers to the acquisition of appropriate property.

This will very much depend on evolving and changing needs. Very high property prices in some areas of the country impact on decisions about service location. We undertake a registration process which aims to assess the extent to which the proposed provider is able to meet the needs of the children for whom the service is designed. This includes careful consideration of the location and environment, as well as evaluation of financial risks.

f. Barriers to the recruitment and retention of appropriate staff.

Alongside the Scottish Social Services Council, we publish data which gives a national overview of vacancies and recruitment based on information sent to us on an annual basis. The most recent data for 2019, published in 2020, shows that 47% of care homes for children and young people in Scotland had vacancies. This was further broken down to show that the figures were 50% of private providers, 47% of voluntary sector providers and 45% of local authority providers.

The data also shows that there were difficulties in recruiting appropriately qualified candidates with 70% of providers of care homes for children saying this was an issue. Just under a third of providers indicated that the hours staff were expected to work in care homes for children and young people was a barrier to recruitment.

These figures are significant in terms of ensuring staff working in the sector have the appropriate knowledge and skills to meet the needs of children who are likely to have experienced trauma and need attuned, specialised care. They may also impact on the availability of more flexible and innovative services that are identified to respond to changing needs.

g. Any other factors you think are significant drivers or barriers.

See earlier responses.

2. What are the main drivers of, and barriers to, decisions by local authorities to expand their use of in-house foster carers, and to new independent fostering agencies entering the market or expanding their operation? Please consider:

a. Levels, nature and certainty of future funding;

See response under 2b.

b. Level, nature and certainty of future demand;

As noted earlier, the Independent Care Review, the Promise, has articulated the need for radical changes to care for children in Scotland. There is a strong emphasis on supporting children and families at an early stage to enable families to stay together. In the longer term this may mean the need for fewer foster families or for foster carers to provide support differently, for example in models of shared care with birth families. The Promise has indicated that as far as possible brothers and sisters who cannot live with their families should be together. There may therefore be a need to look at how capacity can be created to care for sibling groups on a long-term basis, particularly for larger groups.

The Promise states that “rules, regulations and payment must align to allow young people to stay with foster carers (if that is what they want to do) for as long as required.”

The legislative framework in Scotland is progressive in that it recognises that for children and young people who are care experienced there are many benefits to remaining with foster carers on a continuing care basis. We know from our contact with services and from national data that practice in promoting continuing care varies between local authorities and that there is a need for much more effective and consistent messaging to children, families and professional staff about children’s rights to make use of continuing care legislation.

Despite the progressive legislative and policy framework, young people in Scotland typically leave care at the age of 17. This contrasts dramatically with non-looked after peers who typically leave the family home aged 26. If we are to change the

leaving care age in Scotland to be much more in keeping with non-care experienced young people, a huge shift in practice and culture is needed. A big part of this would be enabling young people to stay in foster placements for much longer. Ideally young people would be able to leave their foster family and move on in a much more gradual way, returning home if they need to in a similar way to other young people. This would mean a significant increase in capacity and changes to how fostering is currently organised.

c. Expectations of the level of prices in the future;

The Care Inspectorate is not able to comment on this.

d. Regulatory and policy frameworks;

As already indicated, the findings of the Independent Care review has articulated the need for radical changes in the provision of care in Scotland.

e. Barriers to attracting and retaining appropriate foster carers;

We know that there are significant difficulties in attracting and retaining appropriate foster carers. As set out in our statistical bulletin [Fostering and adoption 2019-20](#), the total number of foster care households has decreased each year since 2016 and coinciding with this decrease fewer new households were being approved (312 in 2019 compared to 370 in 2018) and a higher number of households were deregistering (434 in 2019 compared to 406 in 2018). This is an area which will need to be carefully considered as Scotland moves forward with implementing the findings of the Independent Care review.

f. Any other factors you think are significant drivers or barriers.

We note above concerns about cross-border placements. It is possible that legislative changes will be considered which could impact on the trend for placement in Scotland of children from other parts of the UK.

3. Within the private sector, does the ownership model, particularly whether or not a firm is private equity-owned, affect the appetite of a provider to invest in providing new placements?

The Care Inspectorate is not able to comment on this.

4. Are there actions that government, regulators, local authorities (acting independently or collaboratively) or other actors could take to support more investment in capacity where it is required?

See responses above.