

Children's social care market study - Invitation to comment

Comments form Care Inspectorate Wales (CIW)

1. CIW welcomes the opportunity to contribute to the CMA's Children's social care market study and looks forward to further engagement as this work progresses.
2. Care Inspectorate Wales (CIW) is the independent regulator of social care and childcare in Wales. We register, inspect and take action to improve the quality and safety of services for the well-being of the people of Wales. We carry out functions on behalf of Welsh Ministers:
 - we decide who can provide services
 - we inspect and drive improvement of regulated services and local authority social services
 - we undertake thematic reviews of social care services
 - we take action to ensure services meet legislative and regulatory requirements
 - we investigate concerns raised about regulated services
3. CIW regulates the following services:
 - **Adult services:** care homes for adults; domiciliary support services; adult placement schemes and residential family centre services.
 - **Children's services:** care homes for children; fostering services; adoption services; advocacy services and secure accommodation services.
 - **Childcare and play services:** child minders; crèches; full day care; sessional day care; out of school care and open access play provision.
4. We also have powers to review the performance of local authorities in delivery of social services functions. We carry this out through inspection and performance evaluation activity. In addition, we inspect:
 - local authority fostering and adoption services
 - boarding schools
 - residential special schools (boarding arrangements under 295 days)

- further education (FE) colleges accommodating students under 18
5. CIW is part of but operationally independent from the Welsh Government. Our independence is protected through a Memorandum of Understanding between the Chief Inspector and the relevant Welsh Ministers.

Regulation of care homes for children and fostering services.

6. Care homes for children and fostering services in Wales are regulated under the Regulation and Inspection of Social Care (Wales) Act 2016 (the 2016 Act). The 2016 Act, its associated regulations and statutory guidance forms the regulatory system for these services in Wales. The regulated services are:
- Care home services including care homes for adults and/or children;
 - Secure accommodation services;
 - Residential family centre services;
 - Domiciliary support services;
 - Adoption services;
 - Fostering services;
 - Adult placement services; and
 - Advocacy services.

Care home services

7. The definitions of the regulated services are set out under Schedule 1 of the 2016 Act. Under this schedule, there is no separate regulations for children's homes. All care home services (irrespective of age) are defined as those providing accommodation, together with nursing or care, to an individual(s) because of their vulnerability or need.
8. "Care" means the day to day physical tasks and needs of a person being cared for and the mental processes associated with those tasks or needs, for example eating, washing and administering medication and remembering to eat, wash and take medication. However, care in the context of a care home for children is complex. Therefore, we have sought to provide greater clarity about this in Annex 1 of CIW's [registration guidance](#) which sets out some of the activities likely to fall into the definition of care within a care home for children.

9. “Nursing” is not defined in the Act, but in this context means the provision of care, or the planning, supervision or delegation of the provision of care by a registered nurse as part of a plan prepared for an individual receiving care, by either a local authority, health board or service provider.
10. A service providing accommodation and **support only**, does not meet the definition of a care home service and this provision is therefore not regulated, referred to as ‘unregulated’. Where those services are used to provide support to children who are looked after, placements are made under ‘other arrangements’ (provided for in section 81(6)(d) of the Social Services and Well-being (Wales) Act 2014).
11. While the [Part 6 Code of Practice \(Looked After and Accommodated Children\)](#) states these arrangements will usually only be appropriate for looked after children who are over the age of 16, it does not preclude a child under the age of 16 from being placed in such settings. CIW believes all children under the age of 16 who are under the care of a local authority and require a residential placement should be placed in a regulated service. Welsh Government is considering introducing a requirement that any looked after child under 16 years old is placed in a regulated service.
12. There are also cases where children who require accommodation, care and support are placed in services which are not registered. These services should be registered and are referred to as ‘operating without registration’ which is an offence. Local authorities in Wales who make such arrangements should notify CIW. CIW has a process in place to deal with such services.

Foster services

13. A Fostering Service is the provision of any service provided in Wales, by any person **other than a local authority**, which includes:
- the placement of children with local authority foster parents, or
 - exercising functions in connection with such placement
14. A “local authority foster parent” means a person authorised in accordance with Regulations providing for the approval of local authority foster parents made under the Social Services and Well-being (Wales) Act 2014 or the Children Act 1989.
15. Therefore local authority foster services are not regulated by CIW but are inspected by us.

16. CIW's [Code of Practice for Inspection of Regulated Services](#) sets out the conduct and manner in which we carry out inspections of services regulated under the 2016 Act. In addition, we introduced a new inspection frameworks aligned to regulations and statutory guidance under the 2016 Act. The inspection frameworks for care homes and fostering services are:

[Inspection framework for accommodation based services and domiciliary support](#)

[Inspection framework for regulated fostering services](#)

[Inspection framework for local authority fostering services](#)

Data number of for Fostering Services and Care Homes for Children over the 10 year period from 2012 to 2021

		31/3/2021	31/3/2020	31/3/2019	31/3/2018	31/3/2017	31/3/2016	31/3/2015	31/3/2014	31/3/2013	31/3/2012
No. of Fostering Services:	Total	49	46	45	46	47	49	48	50	49	47
	Local Authority	22	22	22	22	22	22	22	22		
	Private	21	18	17	18	19	20	19	25		
	Third Sector	6	6	6	6	6	7	7	3		
No. of Childrens Homes:	Total	237	204	178	159	149	144	133	129	125	119
	Local Authority	31	28	26	23	23	24	24	23		
	Private	191	162	142	127	117	111	100	101		
	Third Sector	15	14	10	9	9	9	9	5		
No. of Childrens Homes Places:	Total	1002	878	774	729	670	637	590	595	578	586
	Local Authority	144	137	147	139	139	142	132	131		
	Private	769	658	583	547	488	456	419	441		
	Third Sector	89	83	44	43	43	39	39	23		

17. The number of children's care home services has increased from 119 settings with 586 places in March 2012 to 237 settings with 1002 places in March 2021. There may be a number of factors contributing to this increase including;

- increases in the number of children in care overall,
- As part of their looked after children reduction strategies local authorities are working to bring children placed outside of Wales back into their local areas,
- growth of provision in rural areas (particularly in West Wales) where housing prices and staff costs are low,
- with the introduction of the Regulation and Inspection of Social Act Wales (Act 2016), there has been greater focus and clarity on the definition of care and support. This has resulted in some services being required by CIW to register, which may have previously regarded themselves as only providing 'support' and therefore not a regulated service.

18. It is important to note at any one time not all of the capacity in care homes for children will be in use despite there being a demand for placements. In [CIW's national review of care homes for children in Wales](#) undertaken in 2018-19, we found 77.1% of the maximum capacity was in use and of this 31.8% was commissioned by non-Welsh authorities. This is because sufficiency is about having the right placement to meet a child's needs as opposed to any place. For example, a child's needs may be such that they need to be placed alone with no other children in that placement.

CIW national reviews

19. In 2019, CIW undertook two thematic reviews in this area:

- National review of Care Experienced Children and Young People published in June 2019 ([link to report](#))
- National Review of Care Homes for Children published September 2019 ([link to report](#))

20. Our view is that regulated care and support for children and young people should not be considered in isolation. The demand for foster care or residential care will be impacted by the availability of early intervention support to enable children to remain with families.

21. We have highlighted the need for better analysis of factors influencing children becoming looked after; the effectiveness of early intervention and preventive services; what works and what makes a difference would assist in planning effective targeted support services for children and families at the earliest opportunity.

22. In Wales there has also been an increase in children receiving kinship / connected care. Local authorities identified whilst the increased use of connected carers was positive, assessing and supporting such placements is more difficult to plan.
23. Many local authorities reported connected carer assessment had reduced their capacity to recruit and undertake mainstream foster carer assessments. Support for connected carers is also essential and local authorities were trying to develop more bespoke training to meet their needs.
24. It is also important to note that placements are not solely commissioned by local authority children's services. Some placements may be jointly commissioned with education and/or NHS, albeit children's services are usually the lead commissioner.
25. Local authorities are increasingly working regionally and collaboratively through organisations such as the Children's Commissioning Consortia Cymru. Work was also being progressed through regional partnership boards in relation to developing collaborative services for children and young people with complex needs; often using monies secured from Integrated Care Fund.
26. The National Fostering Framework is drawing to a close and transferring to an all Wales Local Authority collaboration. This will be governed under a joint committee arrangement in conjunction with the national adoption service. Governance and structures have been agreed to align all 22 local authorities and will work towards improving and developing LA fostering provision.
27. Consultation on Welsh Government's White Paper 'Rebalancing Social Care' has recently ended. It sets out a new direction for commissioning in Wales. <https://gov.wales/sites/default/files/consultations/2021-01/consultation-document.pdf>

Relevant findings from our national reviews

Sufficiency

28. Most local authorities are struggling to meet their sufficiency duties and find suitable placements to meet the needs of children and young people. This adversely affects placement choice, permanency and stability and consequently outcomes for children.
29. Uncertainty about needs and demand makes commissioning and market development complex.

30. The needs and risks factors of children looked after have increased in complexity. There needs to be more urgency given to commissioning of a greater range of services and choice of placements to meet these complex needs by local authorities and their partners.
31. Better local commissioning arrangements are required to ensure children's needs are met as close to home as possible. We found a mismatch between the location of care homes for children in Wales and the placing authorities from which children originate.
32. We found children who had experienced several placement breakdowns leading to a significant number of moves between services. This included fostering, residential care and, for some children, secure placements.
33. The lack of range and choice of placements had a significant impact on outcomes for children and their experience of being looked after. This included a lack of strategic planning and recruitment strategies in local authority fostering services to enable them to provide placements to children which provided choice and stability.
34. Lack of sufficiency has been particularly marked where children have significantly complex needs and where a secure placement is required. Some children and young people have been placed far away from their community in other parts of the UK outside Wales.
35. We have found the lack of availability of suitable placements to meet children and young people's assessed needs has resulted in some children being placed in unregistered settings.
36. We found particular lack of choice in placements for teenagers. This sometimes resulted in young people being placed, at least initially, in settings that are unable to meet their often complex emotional and behavioural needs and makes them vulnerable to placement breakdown. This was also found to be one of the main factors for children and young people requiring out of local authority area placements.

Foster care

37. The quality of the relationship between foster carers and children was a key factor in the sustainability of a placement. Change of placement caused significant instability for children and young people. Foster carers told us improved information sharing

before the commencement of a placement would have reduced the impact of such changes and enabled more effective matching.

38. We found in our fostering inspections a lack of focus on the recruitment of local authority foster carers and on matching placements to best meet children's needs. This was due to increased demands on fostering teams to support family/connected fostering placements.
39. Lack of foster placements is leading to young children being placed in residential care. This then has a knock on impact of reducing availability of placement for older children with complex needs.

When I'm ready

40. Local authorities identified the projected growth in the number of care leavers and the potential increase in demand for 'When I'm Ready' placements will result in additional pressures. They also recognised the tension of meeting future demand for 'When I'm Ready' placements without having a detrimental impact on placement choice for other looked after children. This potential growth in demand needs to directly inform future foster care recruitment and training programs.