

## Box 1: Our themes and key questions

### 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:** provision across the County focus on younger children, as recommended by the Nary report. However, the pressing need in Kent is to find local accommodation for adolescents with more complex behaviour where foster carers cannot be utilised. Provision is increasingly located in the more deprived east of the county, where schools and others struggle to provide the required support.

**Unregulated accommodation:** Used only for Over 18s in Kent. Market driven since 2015 with the influx of UASC with new providers contacting KCC on a regular basis. Lack of available social housing creates a pressure for moving young people on. Equally we aim to utilise either the high quality provision or Staying Put arrangements.

**Foster care:** Some local new growth with some ceasing trading. The greatest issue is an aging population of foster carers and high numbers of placements from other local authorities in Kent which creates competition for ourselves in using local IFAs and the well-rehearsed infrastructure areas such as school places, CAMHS etc. Whilst Kent has strong in house fostering arrangements, we do struggle to place adolescents with more challenging behaviour either in-house or with IFAs.

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?

It appears to be easier to negotiate with smaller not for profit organisations on placement costs and arrangements as they appear to be more flexible and responsive, all however are strict on placement matching for regulated provision very aware of the position of the regulator.

There has been a significant increase in the number of unregulated providers working in Kent recently, which provides us with more opportunities for better placement matching for the appropriate young people.

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

Our primary aim is to place children locally in family based care, or failing that residential care that has a high skills base and can cater for those young people with more complex needs and support them to move to family based care. We want to see a more focused market where some foster carers are better supported to manage young people with challenging behaviour, reducing the reliance on residential care especially for younger children. We also need better mental health support (CAMHS) for those young people in such placements.

Residential provision in Kent, of which there is a considerable amount, attracts large numbers of other LA children, not only creating a range of pressures for Kent services, but also meaning Kent children then have to be placed further from home as we are outcompeted in our own area.

In 2018 and 2019 we did not use any unregulated provision for children under 16 years old. Exceptionally, in 2020 we used it for five children as follows. 2 children were the result of an immediate same day closure of a residential unit, 2 were driven by missing episodes linked to Covid and 1 was a result of significant violence.

Children’s home providers are aware of the views of the regulator in relation to poor outcomes for children and are sometimes reluctant to accept placements where they have needs that challenge services.

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

- a. Local authority – KCC has expanded the in-house fostering service and included therapeutic support and investing more in the support and training of its foster carers. We run short breaks units for disabled children and a short stay unit for young adults with learning disabilities and autism. We do not run children’s homes.
- b. Private – private-equity owned IFA’s have invested in support and training of its Foster Carers including access to therapies and mental health support in some cases for the children and young people. Residential provision develops to the need of the service/provider rather than the needs of YP
- c. Private – non-private-equity owned As b
- d. Third sector private. As b

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?

One local provider decided to reduce their reliance on KCC for Kent Children and withdrew their discount option because they wanted to diversify business and reliance broadly on one local authority. Providers can appear driven more by the business model rather than the needs of the children needing placement by the local authority and reflecting to their statement of purpose.

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?

PE investors have an interest in high profit margins and return on investment over a relatively short (5yr period). Whilst this can mean they have a higher appetite for risk, it also means they can take a relatively short-term view of the market when measured against our interest in longer term stability and development.

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

Property prices are clearly an incentive as this links to overhead and ultimately profitability. This explains why there are more providers in the (poorer) East of the county than elsewhere. As outlined elsewhere this higher concentration is not helpful as it puts increased pressure on health and education services and concentrates the more troubled young people in a tight geographical area, which causes add on pressures for agencies such as the police. County Lines drug dealing being a prime example here.

Property price and availability has increasingly driven the location of provision (residential especially) rather than the needs of children for suitable local placements.

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?

Yes and this does create a tension between short term profitability and longer term planning. Geography, infrastructure pressure and the ability to make longer term plans to reflect changing patterns of need are all affected.

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?

PE-owned firms can carry a higher financial risk profile and higher leverage than other ownership structures, which as we have pointed out links to shorter term horizons.

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 increased consolidation of the market under a smaller number of PE companies with a primary profit rather than welfare focus is probably the key influencing factor as far as we understand it, rather than where that company is registered.

A market that is less diversified invariably offers less choice. Very specialist provision for more troubled older children requires long term planning and investment which is not necessarily reflected in the current market structure. Locating provision in the cheaper, overcrowded (in terms of residential provision), poorer east of the county makes sense from a cost/profit perspective but leads to a form of “ghettoization”. Schools and health services struggle to offer services to these young people.

### **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?

There has been an increasing move from local authorities’ side towards the use of framework agreements and sub regional commissioning of the full range of children’s placements. Developing a sub-regional commissioning approach in Kent is difficult as it will potentially attract even more other LA children to an authority that is already struggling to properly support their health and education needs.

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

We do struggle to secure appropriate placements at a reasonable cost. Limited supply of available regulated places does seem to be driving above-inflation price increases and due to competition from other authorities, we often have to resort to placing YP out of county, far from home.

In regard to foster carers for children with complex needs, additional wrap around support services are more common now to support placement stability, all of which is driving up costs. However, we want to see more foster carers able to operate at that more complex end of the market. Competing with IFA’s for foster carers in the low/middle range makes limited sense.

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;

In Kent LAC rates, excluding UASC, have remained relatively static over the last five years. It does appear that either complexity of behaviour in young people or willingness to work with that complexity has led to increasing difficulty in placing young people with more complex needs without incurring significant expense. Fluctuating levels of UASC have been impossible to predict and have required rapid adjustments within the market.

The increasing level of consolidation within the market (as evidenced in Revolution Consulting document January 2020<sup>1</sup>) and the linked higher profit margins within some sectors provides challenges for local authority commissioning approaches and for a desire for flexibility and value for money within the market. Higher profit ratios and return on investment from some sectors has clear links to increasing costs (but not necessarily quality) for LA commissioners.

a. nature of demand, e.g. age profile of looked-after children or prevalence of complex needs; The changing profile of needs can constrain local authorities’ ability to secure appropriate placements at reasonable cost. Meeting the needs of children with more challenging needs is increasingly complicated and this may link to the profit/risk ratio that providers continually assess, especially when linked to the role of the regulator in this sector.

c. levels of uncertainty of future funding;

Increased pressure on local authority budgets is a significant factor. Local authorities are not able to take the strategic investment decisions that could help to limit price growth when there is uncertainty about long-term budget positions.

d. level of access to information on providers and individual placement options;

Although not a major problem, the placement search process could be made far more efficient if there was a common platform for sharing information on placement vacancies and options.

e. any other factors?

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

It appears this question is mainly directed at providers. However, from a KCC perspective we employ the full range of alternatives to spot purchasing set out above where they are appropriate. The issue for commissioning of children’s placements is that they are low volume, high complexity/variability which creates complexity within the commissioning approach. ]

b. the extent to which local authorities proactively forecast demand and seek to attract providers into their area;

It appears that this question is mainly directed at providers. From a KCC perspective we do predict demand and, save for UASCs, this is quite accurate. Attracting even more providers into Kent would fly in the face of our experience that large numbers of LAC from other LAs placed in Kent puts excessive pressure on existing infrastructure and leads to additional problems in area such as access to school places and CAMHS provision. Again, these places are disproportionately located in the poorer more deprived areas of the county, compounding rather than alleviating existing problems.

It is an irony that whilst there are high numbers of residential placements in Kent, these are largely absorbed by other LA children, meaning that Kent children often have to be placed far from home often in placements in the midlands and sometimes further north.

c. levels of collaboration between local authorities in planning and purchasing;

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<sup>1</sup> <https://www.revolution-consulting.org/wp-content/uploads/2020/03/Profit-Making-and-Risk-in-Independent-Childrens-Social-Care-Placement-Providers-Final-29-Feb-2020-report.pdf>

Some authorities have seen significant benefits from adopting a sub-regional approach to commissioning, but for Kent introduces potential problems as outlined above.

d. ability to recruit and retain appropriate staff to carry out their planning and procurement functions;

KCC has been able to attract and retain good commissioning and procurement staff

e. any other factors?

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

Strong internal commissioning arrangements have allowed Kent to deliver value for money services for children when measured against benchmark data. Sub regional commissioning arrangements (EG West London Alliance) have a good track record and the The Valuing Care model may be worth further exploration. The increasing domination of the market by a smaller number of very large providers may suggest a new approach is required.

### 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.

Providers’ general preference is for younger children, in line with the Nary report. Where children challenge services, there is greater risk of placement breakdown and poor outcomes for the child. Providers will choose children with standard levels of need (over those displaying more challenging behaviours) and on that basis receive high levels of referrals. They know that the regulator will assess them on their ability to maintain placements for children and may penalise those which cannot through poor inspection ratings. In our experience the regulatory framework dis-incentivises providers from offering placements to those with higher levels of need, who arguably need those placements the most.

We have experienced some confusion in regulation where it spans Ofsted and CQC with both regulators pointing back to the other with no resolution.

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

[looks like this question is mainly directed at providers]

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.

[looks like this question is mainly directed at providers]

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

We have outlined that sometimes there appears to be a perverse lack of incentive through inspection risk for providers to take more challenging young people. It would be beneficial if the regulator was able to better work with local authorities and providers on the placement of more challenging young people.

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

See (2)

4. 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?

KCC has a range of unregulated placements for those aged 16 years and above which have been sourced by the Council’s Commissioning Team through robust contracting arrangements. Part of the process and arrangements is the systematic review of a provider’s performance, quality of provision and adherence to a range of requirements including health and safety, staff recruitment, safeguarding and financial viability. We provide Placement Guides to our social workers and personal advisors to assist them in understanding the requirements of each placement. We would welcome the introduction of national standards as outlined in the government’s announcement.

Whilst supportive of the proposal for better regulation of the unregulated market, we need to approach this carefully to ensure it benefits rather than disadvantages looked after children. Specifically, we need to guard against (or at least work to mitigate) some of the following:

- Ensure that increased regulation does not lead to decreased placement choice, whilst recognising that some providers need to make improvements in quality.
- Ensuring that providers do not increasingly pick and choose which children they will accept, which could lead to the same placement problems of looked after children in residential care being mirrored in the semi-independent sector.
- Recognising that increased regulation is likely to lead to increased cost, which will invariably be passed onto the local authority.

Ultimately, regulation must lead to better placements and better placement choice for children within a manageable cash envelope.

#### **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 funding;
- b. Levels, nature and certainty of future demand;
- c. Expectations of the level of prices in the future;
- d. Regulatory and policy frameworks;
- e. Barriers to the acquisition of appropriate property;
- f. Barriers to the recruitment and retention of appropriate staff;
- g. Any other factors you think are significant drivers or barriers.

Significant barrier for local authorities is the preference for placements within families and the risk of bed voids for authorities operating individually. The drive to maintain residential care mainly for those with more complex needs makes investment by individual authorities increasingly risky due to the low numbers involved.

Main barrier for private and voluntary sector providers is the level of risk involved in creating additional residential capacity, especially at a time when local authorities (as the sole purchasers of this provision) have signalled their intention to make much less use. New or existing providers may therefore be unwilling to take the risk associated with making very substantial initial investment

(e.g. buying or leasing property, recruiting and training staff, employing staff pending registration etc) when they have no certainty about whether their fixed costs will be covered.

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;
- b. Levels nature and certainty of future demand;
- c. Expectations of the level of prices in the future;
- d. Regulatory and policy frameworks;
- e. Barriers to attracting and retaining appropriate foster carers;
- f. Any other factors you think are significant drivers or barriers.

The local authority perspective is that we are in direct competition with IFAs, we are effectively “fishing in the same pool” and that we are much cheaper. IFAs have a strong role to play however and that is especially the case where the placement needs considerable additional support.

Local authorities are looking at their offer for foster carers to ensure that it more competitive financially but also in terms of wrap around support services to aid placement stability.

For IFA’s demand outstrips supply particularly for placements needed for adolescents, step down from residential care and parent and child placements. Recruitment of new carers is particularly difficult in the South East and there is sufficient choice of where carers wish to be registered so they are able to shop around to determine what overall package and culture of organisation best suits them. IFAs are constantly aware of the need to be competitive and consider how to retain carers. The sheer difficulty of recruiting sufficient carers does impede the ability of fostering services to grow. Some local private IFA’s choose to remain small and not expand their business and this is their response to remain focused on the quality of provision

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?  
[seems to be directed at providers]

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?

A recognition across identified agencies, including the regulator, that the placement of older young people with challenging behaviour is the single biggest challenge being faced and that all need to work together to ensure that there is more choice, locally available and better quality of provision and that any perverse incentives to undermine this are managed appropriately.