

Q.2-7 Theme 1: THE NATURE OF SUPPLY 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?

From 2011 there was a change in the relationship with the market. Austerity changed the availability of resources to engage and challenge the market and to continue the development of services provided by the Council. Grant schemes such as Supporting People has ringfences removed and were reduced. What followed was an increase in reg 24s and friends and family placements, and greater use of external placements particularly Independent Foster Agencies (IFAs). We have also seen overall increases in children placed at distances from their home area.

Regionally the market has become saturated with unregulated (post 15) provision. The lack of regulatory requirement, making it easy to establish business, combined with the potential high profits to be made, has resulted in a surge of interest including from adult providers. Usage has increased significantly over the decade, and whilst this was initially for young people who demonstrated a good level of independent living skills, more recently they have been used to support young people with high needs and poor independence skills - often young people who have been referred for a regulated placement, but no regulated provider has made an offer for. For local authorities a lot of resource has been put into quality assurance to oversee these placements. At the core of this issue is the fact that the market isn't consistently providing us with the placements we need to fulfil our legal duties.

We have seen new smaller providers with fewer properties enter the market potentially going into the market based as much in on long term property investment as a commitment to the care sector. Given the increased complexity of children needing residential care the trend has been for smaller homes with less "beds" including solo placements

Independent foster care agencies have become more adept at recruitment of foster carers over the last decade outstripping the local authority in terms of resource which ultimately the local authority pays for in fees. Fostering has professionalised with foster carers part of the professional team. Some foster carers have professionalised their own role rather than being a more morally driven community resource. This includes developing specialisms such as therapeutic care.

The provision (supply) of children's homes and foster care has failed to keep pace with the increase in the number of children in care requiring a placement (demand). Moreover, the somewhat inflexible regulatory regime - with its grading of homes - can have a perverse incentive on homes to refuse a placement for a young person with relatively more complex and specialist needs because of the increased risk of it affecting the Ofsted grade and therefore future business. Hence the emerging gap which is where the unregulated accommodation sector has grown to occupy the space that the regulated sector feels least able to fill itself.

The provision of children's homes and foster care has changed in that there is less availability for foster carers of larger sibling groups and teenagers resulting in residential beds being flooded with young people who don't necessarily need this level of care. This has been reported on nationally and regionally. From doing our own research we are aware there are enough beds to accommodate our

young people, however these are not necessarily the right beds at the right time. LAs are therefore having to spend more time shaping the market.

Reduction of housing options for under 18's has been driven by Southwark Judgement & associated case law. This has led to increased numbers of young people (16 & 17) requiring regulated and unregulated provisions. The specific needs of this cohort of young people make their placement in independent supported accommodation provision more likely & this means that YP with the highest level of presenting needs are often placed in provisions with limited capacity and skills to deal with such presenting issues such as mental health, exploitation and substance misuse. Awareness of contextual safeguarding and extra-familial harm (for example gangs and criminal exploitation) make family-based foster or kinship care less likely for some young people, particularly those that are older who entering care. There is sometimes an issue in moving young out of care settings into adult care or housing services.

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 lack of consistency across provision. The operation and quality of service delivery within one children's home, can be different to that of another children's home owned by the same organisation. When providers expand quickly, this is more notable.

Larger providers are often able to dictate the level of support, and therefore fee for a placement, leaving the local authority with little to no ability to inform this decision based upon their assessed needs of their own child. This is based more on the resource than the child's needs and larger providers are more compliance driven, whereby smaller companies appear more flexible and willing to go above and beyond to provide that bespoke and nurturing support that the YP require. Within smaller provisions, this is more often a collaborative exercise, with meaningful (as opposed to tokenistic) review of support packages. More specialist settings will often require an assessment of the child prior to committing to offer a placement - we do not see this often with more mainstream settings. We have not observed the geography to influence these differences.

There are some large providers who won't join a local authority framework as they know they can 'spot sell' their placements at a maximum price point.

Providers will operate slightly differently depending on the type of young people they are caring for and their skills and confidence. The size of the home, number of young people who can be placed, complexity and the skill in care planning can all determine staffing ratios. The geographical location could influence providers due to resources they have access to in the local community and those they must provide themselves. Providers often advertise local authority or health funded provision as part of their "offer".

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

a) Local authority

Key points:

- increased competition with IFAs making it hard to keep numbers of LA carers
- IFAs will always recharge costs to LA so can always offer high wages and better support to retain carers

- Motivation of foster carers has changed and is now more financially driven and less morally driven than 10 years ago. This change has been driven by the market and how the opportunity has been presented by IFAs
- A reduced number of residential homes and remodelling from larger settings, to small group homes of 2-4 children.
- LA children's homes are "traditional" and not developed practice at the same pace as the external market although there is not a significant difference in outcomes for young people in internal v external provisions.
- Foster Care: worked hard [simply] to maintain capacity - lots of older carers so high attrition rate.

b) Private – private-equity owned

c) Private – non-private-equity owned

- The ownership chain of care providers can be very difficult for local authorities to identify and understand.

d) Third sector private

- The majority of bigger voluntary sector or not-for-profit providers are no longer in the market. It's felt these were bought by private owners. The big shift is from voluntary to private ownership.

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 (e.g. do they have incentives to invest in new capacity), price, value for money, location and quality of placements?

No, not all providers of a certain type behave in the same way. There doesn't appear to be a huge difference in these factors based solely on the status of the provider. The lack of capacity, quality or shortfall in supply largely cuts across provider status. Some providers appear to have higher costs for similar services and profit motives play a part in this – this includes above inflation increases year on year. For some providers this is noted to include a marketing gloss that does not reflect the quality of service. Private providers will sometimes seek the least challenging child for the maximum price point.

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?

LAs have moved away from what was a majority spot purchased service sometimes called off national contracts to provision commissioned through regional LA consortia arrangements, through frameworks at a council, regional or sub regional. This has been driven in part by changes in contractual rules and regulations. This has resulted in shared intelligence, resource, insight, buying power, market influence and risk has many benefits for the LAs. Block contracting is becoming increasingly popular, driven by escalating placement costs and inconsistency of quality. The increasing complexity of needs presented by Children in Care requires targeted commissioning efforts to respond to these unmet areas of needs for example for young people being discharged from health settings, who may have been sectioned under the Mental Health Act and young people who with offending backgrounds and highly challenging behaviours.

Better use of data and analytics to predict market requirements is likely to become a feature of future commissioning as is joint commissioning with the NHS.

Q.8-11 Theme 2: COMMISSIONING How able are local authorities to secure appropriate placements to meet the varying needs of children in their care, for a reasonable cost?

Ability is restricted by both lack of supply of appropriate placements and lack of sufficient commissioning capacity within LAs. Over recent years, costs have escalated, particularly within residential care. There are multiple examples where demand, and not the needs of the child, have been the determining factor for fees charged. Providers are able to pick their price for a child - and due to the LA having no other appropriate placement on offer for the child, they have little to no influence in ensuring a more reasonable cost. This is most notably an issue with more complex and highly challenging children where no other provider will offer to care for the child. Feedback from providers who do not accept these children, is often regarding their fear of the implications from the regulatory body, Ofsted - also often this is due to ensuring safe matching against other children already placed.

There is little true competition in the market to drive down prices.

Development of strong relationships between a provider and contract manager has had some positive impacts on price in some cases.

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;

Moderately, experience has shown that market position statements don't encourage the market to change to meet demand as there is not enough competition to get providers to change and adapt provision from what is "mainstream". The levels of demand for more specialist needs is volatile and makes planning and investment a challenge for providers.

It is difficult for local authorities and providers to forecast future demand due to the everchanging landscape of social care this would include:

- Internally to the LA - investment in edge of care, children in care and leaving care services take time to embed and may change short-term and long-term demand
- External to the LA – national or local incidents can trigger an increase in referrals, changes in practice, guidance and laws can change demand and further increase uncertainty (for example, unregulated consultation)).

This can be linked to political cycles and can create a gap between supply and demand; especially where long-term procurement arrangements are used or where there might be competing use of limited spaces (for example, neighbouring authorities using the same provision, or national limited secure welfare beds).

b) nature of demand, e.g. age profile of looked-after children or prevalence of complex needs;

Complex need is a big and growing issue driven by better assessments and professional understanding. It is arguably the biggest gap in the market's provision and is suggestive of relatively small volume but very high cost. This is also high risk for providers if something goes wrong so they tend not to want the business and can cherry pick less complex young people. New children's Homes are being set up as 4-5 bed (seen as profit maximisation) where solo or 2-3 bed are what are

required based on the feedback to commissioners that the provider is unable to take the child due to non-matching with others already in placement.

Foster care is difficult to find for teenagers and sibling groups which would require experienced carers. There is a trend with prospective foster carers joining the local authority wanting to care for younger children, with independent fostering agency's then being used predominately for older young people.

As previously stated accommodation for 16/17 year-olds and greater use of semi-independent settings (Southwark Judgement) has driven increases in market provision. However quality and ability to manage complex needs is limited.

c) levels of uncertainty of future funding;

Give the annualised nature of local government funding settlements local authorities are often necessarily concerned with short term funding, particularly with regards to in-year 'efficiency targets' which influence decisions and miss opportunities for investments which would achieve much longer term financial and quality/outcomes benefits

Providers tell LAs they are keen on block contracts as a way of securing funding, but securing such contracts can be very difficult as ultimately many providers don't want to join a framework due having more control over price/notice periods etc.

d) level of access to information on providers and individual placement options; e. any other factors?

Local knowledge of markets is good but consistent information when needing to explore outside of these can be patchy and intelligence on quality can also be limited. There is no way to know easily where vacancies exist in the market so effort can be wasted trying to ascertain this. As stated above many providers have substantial marketing skills to present a picture which may not be entirely reflective of their ability to deliver. Ofsted gradings can change rapidly and information from Ofsted can be dependent upon legal and timing issues.

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;

Much improved within the last decade, however further development and improvement achievable with greater capacity and best practices being adopted. DSPs, frameworks, block and volume contracts are all in use. Knowledge is well developed but capacity remains as issue after a decade of reducing what are seen as "back office" functions and a growing demand and expectation from quality management which is not matched by finance. Much spot purchasing is driven by reluctance of providers to join frameworks as they feel this presents challenges in terms of additional scrutiny (through QA arrangements) or limits their flexibility to make profits. However, a small number of local authorities maintain a preference for spot purchasing provision as a mechanism for negotiating the best price.

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

As stated above

- market position statements do not seem to drive provider behaviour as demand remains for their core offer and new developments are seen as “risky”
- specialist need changes quickly
- close local relationships with providers who LAs can form an alliance seems to provide the current best solution in meeting demand
- the use of predictive analytics is not widespread in local authorities but is an area of development

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

This is not a limiting factor. Locally there are some excellent examples of regional and sub regional collaboration, however capacity limits the speed and scope of such work for example joint commissioning with health and very specialist placements. Political accountability and control can be limiting factors to such work in some local authorities and geography and very local markets dictate motivation.

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

This is not reported as an issue and the commissioning, procurement, finance and legal staff are present in local authorities to deliver the function. Skills development and the capacity to release staff for this is noted as a limiting factor in some authorities.

e) any other factors?

Need for improved collaboration and shared responsibility with Health colleagues, CCGs. Increasing issue when planning discharge to community based care placements when young people have been sectioned under the Mental Health Act. Real gap in expertise, capability, capacity in this area, leading inadequate placements and poor planning for these highly vulnerable children

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

- Regional work continues to be strengthened through the East Midlands commissioning leads group, achieving shared resource, intelligence and planning for care placement commissioning. Recent review by Nottinghamshire CCG into the Children's Continuing Care process, which has identified gaps and opportunities for this cohort. Awaiting approval of recommendations made as a result of this review. D2N2 Framework for Children in Care placements - shared procurement and contract resource"
- Collaborative framework at an appropriate size for local placements. Provider forums. Working with other LAs that do have capacity to deliver pan-LA. Regional approach to reviewing fees works really well, for all LAs despite the framework/arrangements they have. Starting to build relationships with NAFFP.
- Developing provider alliances and seeing it as a partnership. This is achieved through regular communications through QA, Contract Management and Collaboration events
- Leicester has a placement commissioning team, which is managed by the same senior leadership team who manage all in-house provision (foster care and children's homes). More recently we have added a strategic commissioning team and a QA and contract monitoring team. With this dedicated resource and working relationships with local providers, we find in most cases that spot purchasing allows for better management of costs, quality and outcomes. Maintaining our own children's homes and a focus on

improving support to our foster carers has provided opportunities for us to be creative in our response to needs as they arise.

- At the regional board meetings, one of the processes with this group is collectively reviewing fee increase requests from providers and collectively responding to these as one region. This has been an effective way of ensuring that increases are kept to a minimum, after considering all factors including the experiences we have encountered. Whereby providers may threaten with termination of contract if the increase isn't awarded, by processing requests, this way collectively we have more influence to reject an increase rather than tackling them independently. Internal cross-team information and relationship sharing has been effective in supporting placement stability and seeking good solutions for young people. Whilst nationally there appear to be large foster care vacancies, Lincolnshire have found this is not reflected in actual capacity for both in-house and independent foster placements – carers may be ill, having a break from caring, not a good match with existing children etc or the complexity of young people's needs are not something they may be confident to manage.

Q.12-15 Theme 3: REGULATORY SYSTEM 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.

Ofsted's expectation is very clear, and the local authority understand this and reinforce this to providers. Some communications from government seem ill informed or naïve and show ignorance or a disregard of the LA and Ofsted positions.

The regulatory system, whilst clearly playing a vital role in assuring quality of provision, does have unintended consequences, e.g. around acceptance to accept certain placements, and generally disincentivising the expansion of the market into certain 'spaces'. Ofsted expectations are seen by some providers as a considerable business risk and limit provider willingness to take more complex children without a financial premium or mean they serve notice on placements to maintain their reputation and reduce financial exposure.

The Ofsted relationship with regional commissioners developing and viewed as useful. Helps to align messaging to providers.

If there is an issue for time taken for new placements to get Ofsted registered. There are a lot of system issues, they are process driven so if one form or box isn't completed then can't take the next step.

There are times when little notice is available to local authorities when regulators visit children's homes and concerns are raised, leading to the need [on occasion] to move children at short notice – which often results in increased costs, swift and not always optimum placements and poorer outcomes

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

Overall it is felt that the current level of regulation is about right. Closer, more regular and more open communication between contract managers and LAs and Ofsted might reduce some of the risks of provider "failure". Strategies to reduce the disruption that is caused to children by regulation should be reviewed such as support for providers who are struggling.

The expansion of regulation to semi-independent provision is welcomed but there are concerns about how it will be enacted and the consequences for costs and sufficiency.

Previously Ofsted judgements would be made on local authority fostering and adoption services separately, which supported the service and supported development. For the unregulated market, there is some concern that Ofsted registration might result in destabilisation and a rise in costs passed onto the local authority; or a risk that the same providers could provide adult services under a less rigid CQC regulation.

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.

The consensus is that the remit and objectives of the regulator are correct. A more overt understanding of their actions on the market would be welcome as would better intelligence sharing and contingency planning as described above.

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

Largely no, although as previously described the system of regulation engenders an unhelpful approach to reputational and financial risk by some providers when considering more complex placements. Commissioning of emergency, same day provisions is an issue. Providers are penalised for accepting same day admissions unless they are registered to do so and a regulatory change could improve market choice in these circumstances.

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

The restrictions regarding fostering and regulation 24. This limits LAs as the full fostering regulations have to be applied for Friends & Family. We are therefore missing people who are assessed good enough to provide the care a child needs but who won't meet these standards.

Many LAs are committed to only placing children with Ofsted rated 'Good' or 'Outstanding' providers. This can deter providers from accommodating more complex children, due to fear of implications to their Ofsted rating and therefore loss of future LA business. In the same theme, providers will terminate placements for challenging children with little to no notice given to the LA, due to fear of Ofsted implications. This can have a hugely detrimental impact on these children and requires LA to then seek emergency placements, which are often inappropriate, further compounding the issue. Higher staffing ratios are viewed as being well-favoured with Ofsted, which can lead to providers demanding increased funding for higher ratios, not based upon the child's need and impact on the child, which is not always positive.

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?

Accredited schemes and frameworks require providers to apply to work with the LA, therefore having to provide evidence regarding their suitability to deliver these services - this often requires commitment to deliver services in line with the LAs service specification. Quality Assurance visits and contract management functions review performance, issue resolution, complaints, background and staffing checks, references, social work feedback. Local authorities use mechanisms to review all placements within unregulated provision through multi-agency panels and sign off processes

providing senior manager oversight. LAs may look to collaborate on regional solutions, decrease the number of children within unregulated settings and decrease the number of providers they work with to better manage quality improvement

The process is unlikely to change in light of the government's announcements. We do expect additional costs from providers to implement any new regulation and anticipate the same issues as with children's homes with an increase in provider failures and short or no notice moves. We also anticipate some providers will leave the market.

Q.16-19 Theme 4: PRESSURES ON INVESTMENT

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;

From a local authority perspective these can be summarised as:

- Available upfront finance for capital and revenue
- Proving "saving" or "cost avoidance" to justify the investment
- Concerns about staffing and also generous terms and conditions compared to the private sector

We believe from a private and third sector provider position the issues are:

- Planning issues
- Availability of suitably trained and experienced staff, particularly registered managers
- Risks of growing too quickly
- Risk of adverse Ofsted decisions on homes financial viability
- Lack of financial incentive vs risk

b) Levels, nature and certainty of future demand;

Whilst volatile the continued high level of demand is a driver, not a barrier although as above market position statements have not developed the market with most providers consolidating "core business".

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

Many providers consistently make above inflation / national living wage increases. This indicates providers expect increased profits whilst local authorities see these as unjustified.

d) Regulatory and policy frameworks;

There are no significant barriers with the regulatory and policy barriers to investment outside of planning issues, as failure to secure planning can lead to significant wasted costs.

e) Barriers to the acquisition of appropriate property;

Finding suitable properties and planning regulations and concerns from local residents are the biggest issues in acquiring appropriate property.

f) Barriers to the recruitment and retention of appropriate staff;

We know that being assured that there will staffing availability with the correct skills and/or qualifications is a factor that can limit investment. These concerns are exacerbated in rural locations where the need for a relatively local workforce is necessary. There are read across to employability and skills strategies and to careers advice and academic course availability.

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

No.

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.**

Foster placements are usually the preferred placement type therefore will always be a demand, although the level of this will vary depending on the success of prevention strategies, presentation of children needing placements and the skills and resilience of the available foster carers.

Recruitment of local authority foster carers is a significant issue. There is competition with IFAs for local foster carers and IFAs have both better marketing strategies and can offer significantly better financial incentives which they then ultimately recharge to local authorities. If local authorities try and match these IFAs can simply improve their incentives charge thee back to a local authority.

The case for “investing to save” by recruiting sufficient numbers of able, skilled and experienced foster carers is easily made. The complexities of recruitment and retention make benefits realisation more challenging.

Housing can be a barrier to recruitment of foster carers who do not have or can’t access appropriate accommodation but where individuals wanting to foster do not have enough room in their homes, systems and capital to support this can be limited.

Availability of carers “on the books” in reality may be different from theoretical numbers. Carers may be ill, having a break from caring, not a good match with existing children etc or the complexity of young people's needs are not something they may be confident to manage. In addition, in-house foster care numbers have declined due to a number of factors including the age profile of carers and change of career (mid-term to suit family needs rather than 'for life') as well as significant numbers of children placed with kinship carers.

In addition to cost, a significant driver of LA expansion is control/understanding of availability in their area. As IFAs will place young people all over the country with no affinity to the LA they are living it, this distorts the geographical availability of placements. As Local Authorities have a Sufficiency Duty, there is therefore a need to secure sufficient local placements which is impossible in a market of excess demand and minimal control.

A difficulty for small unitary authorities is the geographical boundary - where the area of a LA is small, this has a significant impact on the number of inhouse foster carers recruited, and due to national shortages of carers, bordering LAs do not have surplus that they are willing to provide. A common misunderstanding re supply of carers, is that if there are carers with spare beds then there must be supply there. However, carers have preferences for caring (ie for those of a specific age/gender etc, or preference for caring so many days per year) so beds that are not occupied does not equate to available beds.

There is a need for LAs to invest in matching the financial, support and training offer of IFAs.

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?

We have not identified any particular differences based on the ownership model, although as stated above the exact nature of ownership is not always clear to a local authority.

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?

The opening of new homes and how the commissioner, provider, planning authority and regulator come together to ensure that homes are opened quickly and safely when required would be a major step forward. Duties for all partners to ensure this happens would be welcome.

Government investment through support to “not for profit providers” to alleviate pressure or create new resource in relevant parts of the system without increasing private profits should be looked into.

Recent reviews have highlighted the issues in the market but arguably have not helped local authorities to address issues or led to change at a national level. Findings from these existing reviews, such as those on Fostering and Residential Children’s Homes in England in the last five years, should be used to enable resource to focus on outcomes and support for local authorities and providers. A national campaign for recruiting foster carers would be welcomed; as would government support for innovation in this area. Local authorities are often competing against each other to recruit foster carers. Regional partnerships were previously considered for fostering, similar to the arrangements in adoption, but have not picked up – is this something to be re-considered?

Investment to improve local infrastructure to enhance the in-house offer, working with regional colleagues to enhance information sharing around capacity cross-border. This will help us to understand provider skills and vacancies, especially when linked to increased focus on relationship building. However, having a good relationship with a provider doesn’t mean they will have vacancies when and where you want them but we can seek to use this relationship to plan future placement moves. Enhancing the in-house offer will facilitate greater wraparound support and better outcomes and would therefore be the preferred option. However where the market needs to be approached, greater support could be afforded to the 'not for profit' organisations.