

Children's social care market study: invitation to comment
Nationwide Association of Fostering Providers
14 April 2021

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?

Independent fostering agencies originally developed because they were able to provide foster care for young people with complex needs that local authorities were unable to provide directly themselves. Over time, they have recruited and retained foster carers more successfully than local authorities. This is largely because of the higher levels of support provided for foster carers by IFAs, at least in part arising from the higher levels of resources invested by IFAs in this vital support.

Local authorities have grown increasingly concerned about the cost of placing children in residential care. This has led to increased demand on IFAs to recruit carers able to care for young people with high needs and to support young people.

Local authority net gain in foster carers is now somewhere close to static (with a small number of exceptions), whilst IFAs continue to grow at a small rate. Their services still include foster care for young people with complex needs, but have somewhat broadened to other children following investment in a wider range of services. IFAs also offer a substantial number of parent and child placements.

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?

IFAs have more in common in the way they operate than they do differences. Geographical factors such as numbers of local authorities they are commissioned by, the performance and behaviours of those local authorities, and number of children in care all have some impact. There are also rural/urban differences, for instance, in how carers spread across a wide (or small) area can be best supported. Thresholds for children entering care also seem to differ across local authorities, and there may be an urban/rural aspect to this.

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

It is difficult to answer this question with any degree of certainty because of the administrative chaos, under-funding and squeezed timescales that characterise local authority placement finding. There is undoubtedly, in our view, an underuse of some capacity. There are also sub-optimal placement decisions made. Local authorities often say that they are unable to find the placement they need, where they need it, when they need it. That is hardly surprising when so many placements are sought at very short notice. The short notice is largely an administrative issue, rather than as a result of an emergency in a family. Placement procedures that direct officers to look to place children with in-house services first (a policy that every local authority

follows, even if it is difficult to implement), weak understanding of costs, and a reluctance to place with children's homes worsens this.

In most, if not all geographical areas, the number of referrals received by a provider will far outweigh the vacancies they have (often because it is not possible for children with complex needs living with foster carers to have other children in care also placed with the same family - often children need what is known as a 'solo' placement, though the recognition of this varies). Whilst providers place a priority on matching the child to the right foster carer, we also know that the relationship they have with the referring local authority can determine whether or not a placement is offered. A foster carer's or social worker's experience of working with the referring local authority is likely to also have a bearing. Providers tell us that where relationships are poor and attitudes towards providers are negative, this increases risk for the provider and they are less likely to offer a placement. In our experience, local authorities do not routinely seek feedback on their own performance from providers. There is also some reluctance on the part of IFAs to give this feedback directly to local authorities as they do not want to risk harming relationships - this is, in part, why NAFP came into being.

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: most IFA capacity falls into this category. Given that most foster care is commissioned and made locally, it is questionable that these larger IFA groups are able to exert large or undesirable levels of influence on the sector.

c. Private – non-private-equity owned: most IFAs fall into this category.

d. Third sector private: very few in number and capacity, with Barnardo's and Foster Care Cooperative being the largest. Few new IFAs start up in this category.

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?

No. Ofsted judgements are somewhat higher for the largest IFAs than for small IFAs or not-for-profit IFAs.

The issue of profit made by private IFAs is hugely misunderstood and often treated in isolation of other factors. We believe that any examination of profit levels cannot be considered alone, but needs to be informed by assessments of value for money and impact. Commissioning activity focuses significantly on the latter two considerations. Local authorities could use data to understand these issues if they chose to. We believe that IFAs, in fact, offer foster care which is likely to be of a higher quality and better value for money than local authority in-house services. These two factors are what impacts most on the experiences of children and accountability for public spending.

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?

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

For IFAs, only to the extent that recruitment of foster carers can be more challenging in areas of high house prices. Children in foster care need to have their own bedroom. Where a three or four bedroom house is expensive, there may be fewer foster carers, for example.

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?

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?

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?

As present, there is no evidence to suggest that there are any implications.

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?

The development of a procurement approach to commissioning by local authorities over the last decade has had a significant impact. In our view, the best way of spending public funds is to find the foster carer for individual children who is best able to meet that child's specific needs - procurement has made this task even more difficult. There is little evidence that the children's social care sector has benefitted from the procurement approaches we have seen to date. Indeed, we see local authority commissioners regularly changing procurement arrangements to try and find a solution that works - none ever seem to - and using spot purchase arrangements on a regular basis.

As concerns around sufficiency have grown, despite a lack of data, and local authorities increasingly compete with each other for IFA placements, we have seen an increased fragmentation of procurement arrangements across the country at a significant cost to local authorities, though one which they probably do not recognise nor acknowledge. In February 2021 there were 35 different contracting arrangements across England, Scotland and Wales, an increase from previous

years. 15 local authorities currently procure on their own and have decided not to procure with other local authorities. Whilst there are signs in some areas that local authority senior leaders are keen to review and strengthen consortia arrangements, there is a lack of early engagement with IFAs and their representatives which means that new initiatives frequently set out on the wrong track. The relationship between commissioning local authorities and IFAs is significantly more interdependent than local authorities are often comfortable with acknowledging. The greater the procurement bureaucracy asked of IFAs (by way of extensive tenders, method statements, unwieldy monitoring, etc.), the higher their fees are likely to be in order to recoup the costs incurred as a result of that bureaucracy. Similarly, the multiple discounts required of IFAs in contracts (e.g, sibling discounts, long term discounts) will be factored into initial fees for tenders. Discounts may give the appearance of lowering fees but this is not in fact the case, but senior leaders in local authorities seem unwilling to accept this.

Tender terms and conditions are frequently unnecessarily prescriptive and are often not practiced within local authorities. This prevents true partnership working and means that IFAs are subject to greater scrutiny than local authority in-house services.

The development of national contracts in England, Scotland and Wales, with varying degrees of success, is worthy of further consideration. Not least, as some sector voices express an interest in a national commissioning system. The national contract for foster care in England is no more than an off the shelf pro forma, collaboratively developed by local authorities and IFAs, though the Association of Directors of Children's Services in England (ADCS) has chosen not to engage with this. Some local authorities have used this to inform the development of their own contracts, and so the quality of contracting has changed for the better as a result. Scotland Excel and the Children's Commissioning Consortium Cymru (4Cs) manage the national contracts in their respective nations. In Scotland, this has developed positively over time, even without the participation of Glasgow, Scotland's largest local authority. The same cannot be said of Wales, where 4Cs act as a quasi-commissioner, taking an adversarial approach with IFAs. Local authorities in north Wales have also been less willing to use the national contract and this has resulted in further fragmentation.

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

For most children needing foster care, local authorities can place with high quality, value for money IFAs. The particular challenge is when time is short and when young people have particularly challenging needs.

Monitoring arrangements are often ineffective and add cost for little gain. There may also exist a disjoint and poor communication between local authority contracting teams and front line social work teams. IFAs may receive different and contradictory messages about support packages for children and foster carers. In effect, this means that there are poor arrangements for social workers and independent reviewing officers to feed back to contract monitoring officers regarding their views, and the child's views of the placement.

To complicate matters further, there are very mixed views over what constitutes a 'reasonable' cost. There is a very poor understanding within local authorities as to the true cost of foster care and so IFA fees are often unfairly compared to the allowances paid to local authority foster carers. This is not a like-for-like comparison, yet it is not uncommon for local authority officers to be unaware of this. More importantly is the need for both providers and local authorities to make reference to value for money (which takes long term impact or outcomes into account) and to consider together how this can be accurately captured.

We sometimes see a lack of ongoing commitment from local authorities once children are living within an IFA foster family. There may be a suggestion that children will be moved to an in-house carer if the IFA carer does not agree to transfer to the local authority. We captured this in a report in 2015 (<https://www.nafp.org.uk/resources/12-placement-disruption>) and we believe that little has changed since then.

Many IFAs have invested in therapeutic services and models to improve stability and to provide the right support at a time a child needs it. This is a much better option for children than entering long waiting lists for CAMHS or where the local authority is not able to provide the right support in a timely manner. The cost of IFA therapeutic services can appear higher but the long term gain is young people who begin to stabilise and to heal from their trauma.

NAFP has undertaken a small scale study into IFA fee levels over the past six years and we understand that:

- When RPI accounts for 14-15%, IFA fees for new 'core' placements seem to have risen at most in the region of 5-7%
- At the same time, some legacy placements from old contracts have kept their fees unchanged for as long as perhaps 10 years
- Some of the lower fees across all placements have risen to be closer to the average
- Some of the higher fees across all placements have lowered to be closer to the average (but overall, the range of fees varies +/- 5% across providers)
- Despite the homogeneity of the core service prescribed in procurement terms, there is some price variation between providers, perhaps indicating that there is unlikely to be collusion or price setting

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;

Local authority forecasting and modelling of future needs is very weak. It tends to be based on historical data of placing with IFAs, often not even including the same data for their own in-house services. When local authorities predict demand, this is often a picture that reflects the gaps in provision driven by policy, rather than gaps in provision which are driven by a strategic assessment of children's needs.

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

There needs to be a recognition of the complexities of challenge facing children. There are younger children experiencing several placement moves in a short period of time, when historically this was something we would associate with young people. This may be because of a lack of commitment to ensure the support is needs led - a

wrap around service for children who are highly traumatised and challenging. The investment in “special” carers to care for these children needs to be considered and supported. Such carers are a limited resource and we need to think about how best to use and support them carefully. Local authorities could learn from IFAs in this regard.

Our IFA members tell us that they receive some referrals for young people who are not suited to foster care at that time in their lives. Some children would benefit from a period in residential care and then transitioning to foster care at a time and pace that meets their needs. This is often confused with a belief by many in social care that a family setting is best for children (there are undoubtedly some children for whom that is not the case) and the higher weekly costs of children’s homes, as compared with foster care.

It is not uncommon for referral paperwork to contain information that is out of date, incorrect or perhaps misleading. This appears to happen for a variety of reasons; people who know the child best are not included in completing the forms, reduced time may be available due to the sequential placement finding process referred to above, ineffective administrative systems, lack of training, the way funding panels operate.

Our members would like to see a greater focus on the quality of assessments when children first come into care and on making sure that children are placed in the type of care each individual needs at that time, rather than the preferred type of care being an overarching local authority policy.

IFAs would be willing to work with local authorities and colleagues in the residential sector to effectively transition children to foster care, though there are few examples of this working successfully at scale around the country. Local authority budgets are unable to flex to the uncertainty of when a child may be ready to transition to foster care. It is also very difficult to ask a foster carer to hold a place for a child indefinitely when there are so many referrals in the system.

c. levels of uncertainty of future funding;

IFAs only receive income when a child is placed with one of their foster carers. Outside of that, they have no guarantee of any income. Once a child is in placement, it can be a huge task to agree to increased funding if it becomes apparent that a child’s needs have changed. This is not unusual, as it is often only when a child begins to settle with a foster carer, that their true needs become more known.

This is further compounded by the fact that sometimes referrals received will omit important information on a child (as mentioned above). There can also be reduced opportunity for providers to talk through referral paperwork with social workers and clarify any areas (this can sometimes be due to concern over procurement compliance). Much of the time providers offer potential matches knowing that their offer may be based on flawed referral information. If the placement is made and new information then comes to light which results in a need for additional support/costs, it can be very hard for providers to secure additional funding from the local authority and difficult negotiations can harm already strained relationships. Some providers

who have experienced local authorities refusing to increase fees in these situations may well have built in a risk factor for this into new fees going forwards.

Similarly, when a child has been accepted onto a therapeutic package, once the child is “settled”, this commitment may need to continue, as this is what is keeping the child and carer settled. A responsive and bespoke package of care will require ongoing funding.

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

Local authorities have done and continue to invest in information systems that they are largely unhappy with. Part of this is a culture of weak IT literacy on their part, partly it is because of time pressures meaning officers look for shortcuts around systems, partly it is because the systems are often based on procurement models and not the needs of children.

Local authorities will access providers in a variety of ways. Although we have seen an improvement in the way that call off arrangements are described in contract documents, it is not always evident that those responsible for finding placements are following protocols described in a contract. One example of this is where a contract may refer to a tiering system being used. This is when a search for a placement in a top tier is exhausted prior to a search in the next tier and so on. In reality, those responsible for finding placements are aware that time is the most valuable asset they have and often they will send the referral to all providers on all tiers at the same time (often after an in-house search has been exhausted) to give them the best chance of finding a placement in the time available. This then means that whilst providers have been led to believe that a tiering system will apply, it does not necessarily happen in reality. NAFP has undertaken small scale studies of referrals received by providers from specific local authorities, where contractual arrangements would indicate that the providers should all receive the same referrals at the same time - this does not happen.

When placement teams are particularly short on time, they may also call individual providers sequentially to ask them to consider a referral. This may result in some providers not being contacted. Some local authorities may also send referrals to providers that are not on a contractual arrangement (such as a framework), as this provides them with a readily available back up option if a contracted provider cannot offer a placement.

Placement matching platforms have been trialled across the country for a number of years with a minimal level of success. Where providers cover a large geographical area and various different platforms are used, this creates particular difficulty and adds to cost. There is a limited appetite from local authorities to all use the same system in the same way for a prolonged period of time.

e. any other factors?

IFAs ability to respond to local authorities is constrained by weak assessment of need, forecasting of need, data capture and analysis, understanding of costs, understanding of impact and coordination across local authority boundaries. National government funding policy towards local authorities over many years has led local

authorities to often work in a crisis led way, with not enough planning and commitment to find the “right” family for a child.

More could be learned from disruptions and placement breakdowns to inform placement-making. Cost analysis should be based on the impact of services for children, as well as placement stability and the cost of placement disruption. This can be confused with outcomes, which arise from the range of support and relationships in the environment around a child. Foster care is an important part of this but cannot guarantee outcomes on its own.

The existence of an independent sector at all is an issue for some local authority officers who see this as a “them and us” culture. Their views and relationships are coloured by this and it underpins their approach to placement finding and contracting.

Local authorities often express unhappiness about the number of IFA placements they make where children live with foster carers outside of their borough. This comes about because of a lack of coordination between local authorities in use of their respective in-house services and IFAs, and because of a large number of last minute placement searches. Out of borough placements may cause local authorities some administrative cost and complexity, but they are often made because of a carer offering the best overall match for a child. IFAs are aware of the difficulties of travel to school and meeting with families caused by distance, but these are considerations alongside the other needs of a child.

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;

There is little learning from past mistakes. We have also seen very few consortia and local authorities using independent evaluation to ascertain the quality and effectiveness of their commissioning arrangements. Local authorities are generally poor at seeking provider feedback regarding the performance of the local authority during the contract period. When they do, they will often expect providers to give feedback directly to the local authority, appearing to be unaware that providers are reluctant to share anything which could damage relationships. Some local authorities have started to liaise more with NAFP and to hear the messages we share from our members. This has had some positive impact, although it has been limited as messages are not always acted on, and the reasons for this not shared. We would welcome local authorities engaging with NAFP and a commitment to ‘you told us, we did’.

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

Historical placement data with IFAs is generally used to forecast demand, often not including use of in-house service over the same period (at keats not in a way that is shared with IFAs). An exercise of where we want to be together in five years etc would be useful - what would things look like for the child, the carer, the partnership, how do we get there, a commitment to the resources that support children throughout all of their childhood.

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

Even where there seems to be good will in initial collaboration between local authorities, very few sustain this for any period of time. Some of this is tied to 'localism', whereby it is presented as perfectly reasonable to do things differently to neighbouring local authorities when there is no evidence to suggest that this is justified.

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

The many commissioning officers NAFP work with are often skilled and knowledgeable. Our members also tell us that they largely have positive relationships and daily contact with local authority placement officers, many of whom know individual children, social workers and the services that providers in their area offer. The issue is not their poor understanding of the issues, there may well be differing priorities within a local authority. It is sometimes the reluctance of directors to take into account the view of commissioners, as well as local authority and provider staff working at the frontline of placement finding.

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?

We see pockets of good practice in local authorities and consortia. For example, the structure of a consultation process; changes to proposed contract terms following NAFP and IFA input; or training for local authority placement teams which has included independent providers. Many IFA fora are held and they present opportunities for shared understanding. These are all good examples, but unless there is good practice across all elements of a commissioning cycle, it will not transform into improved outcomes for children and good value for money. As above, this also relies on the support of senior leaders to support commissioning officer recommendations.

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

There is a widespread confusion of data capture, reporting and terminology. Lots of data is captured across government, but little is of benefit.

Ofsted inspections are not like-for-like between local authority in-house fostering services and IFAs, so it is not possible to compare performance directly. In fact, IFAs are subject to much greater accountability. There is also too much unexplainable variation across Ofsted regions in the way inspections are undertaken and recorded.

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

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.

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

The regulator does not currently appear to have sufficient interest to consider how commissioning arrangements impact on children. Nor, how Ofsted delay can impact on the viability of what might otherwise be a good service. There is a lack of understanding as to how commissioning and social work practice interplay, and the subsequent impact of this on children.

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

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?

n/a

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.

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;

b. Levels nature and certainty of future demand;

As with other answers in this response, data on this is weak.

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

IFAs have to set sustainable fee levels, based on their particular financial models. Fees tend to settle around an average (+ or - 5%) so initial market research will also indicate approximate fee levels. IFAs are likely to anticipate little or now future price prices, so are likely to consider fee levels across a five year time horizon.

d. Regulatory and policy frameworks;

Registration of a new IFA with Ofsted takes time. If an IFA has to recruit and pay a registered manager during that time, and in the early days of operation prior to recruiting foster carers and gaining any fee income, that can take significant investment with little certainty of when this is likely to be repaid.

e. Barriers to attracting and retaining appropriate foster carers;

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

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?

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?

Where a child in care lives, is still too much of a lottery characterised by bureaucracy, lack of choice and fragmentation between organisations. From the perspective of IFAs, one change which could make a huge difference would be to see local authorities and IFAs truly working in partnership with each other. This is where the CMA study could shine a light on historical and baseless divisions. We would welcome the opportunity to work with government, be it the CMA, DfE or Independent Review of Children's Social Care, and the commissioning local authorities to agree a strategic approach to meet children's needs and improve the difference foster care makes to their lives. We would like to see a commissioning environment where the independent fostering sector does not compete with local authority partners but complements their own services. There is no question that IFAs and their foster carers offer excellent care for children - 93% are judged good or outstanding by Ofsted. And we know IFAs offer value for money for the public purse - the significant efforts local authorities put into commissioning and procurement ensure this is the case. But there are some difficult structural issues to address. The best use of cash-strapped local authority budgets is surely to spend on services which most meet children's needs.

Yet, the historical adversarial approach between local authorities and IFAs has meant that procurement focuses too little on the needs of children, and adds unnecessary cost and complexity. It also results in a negative public debate where each side seems to blame the other, doing little to show children in care that we are collectively trying to do our best for them. This must surely put off many people who would consider becoming a foster carer when they see so much in-fighting in the public domain, much of it based on myths and historical, baseless divisions.

Thankfully, this is starting to change and we are hopeful the outcome of the Procurement Green Paper will also address this. We need a better understanding of children's needs, the cost of services (whoever they are provided by) and, above all, the impact of these services on the lives of children. We are in danger of knowing 'the price of everything and the value of nothing'. With their detailed examination of care services, I hope the CMA will help on the road to this much better understanding.