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[✂]

Project Director
Children's social care market study
Competition and Markets Authority

14 April 2021

by email

Dear [✂]

Competition and Markets Authority (CMA) Children's social care market study: Invitation to Comment

Polaris welcomes the CMA's children's social care market study and is pleased to submit this response to the Invitation to Comment.

By way of introduction, Polaris provides a wide range of children's services including fostering, adoption, supported accommodation, specialist education, and more recently, residential homes. Our group was established in 2019 when Core Assets Group and Partnerships in Children's Services were brought together under shared ownership.

We agree that the CMA's attention to children's services is warranted given the profound impact these services have on looked after children. All of us in the children's sector share the privilege of being able to make a positive difference to the lives of looked after children, and it is right that we continuously strive to provide them with the best possible life chances.

Polaris is proud of the achievements made by the children and young people for whom we help care. In

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2020, a difficult year by any measure, approximately 130 young people who live with Polaris foster carers took their GCSEs. Together, they achieved a set of grades that was within touching distance of the national average. Their results are a credit to their efforts and also to the foster carers, social workers, therapists, family support workers and many other Polaris staff who help these young people make so much progress.

There is no room for complacency though. Many of the children we help have complex needs, and the very nature of children's care means that difficult challenges can arise. Strong systems are needed to ensure the best possible care, to identify opportunities to improve that care, and to ensure that when challenges emerge they are met quickly and effectively. Robust quality assurance and governance processes have to be maintained, and strong external regulation is needed too.

Polaris believes that the route to success for our business is by providing the best possible care for children. Poor quality care is not financially rewarding, nor should it be. Our goal is to achieve an Outstanding rating (or equivalent) for each of our services, and we are pleased to be making good progress towards this. Our fostering agencies have, between them, nine Outstanding ratings and fifteen Good ratings.

The four broad themes set out in the CMA's Invitation to Comment are addressed below, while a more detailed response to the CMA's individual questions is attached.

Nature of supply

The Invitation to Comment says that the CMA will be looking at: (i) whether certain ownership models create risks to the stability of supply; (ii) whether variations in costs and placement quality have been driven by a lack of competition and excess profits; and (iii) the impact of unregulated accommodation on incentives to supply across the system.

(a) Ownership models: Polaris is jointly owned by its management and by funds managed by a private equity investor. As such, we look forward to engaging with the CMA in the coming weeks about our ownership model, the outcomes we achieve for children and the advantages our ownership model has in accessing capital to invest in quality and capacity and in helping our businesses adopt robust governance and management systems.

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We do not believe that any of the ownership models identified by the CMA pose an intrinsic risk to the stability of supply. Where there are risks to the stability of supply, and to date there have not been any problems in this regard, it seems far more likely to be a function of how providers are managed. Management challenges, with consequences for the supply of services, seem equally likely to emerge in public, private and charitable organisations.

(b) Competition: the CMA's investigations into mergers between fostering agencies, including the transaction that led to Polaris's establishment, have shown that there is extensive competition between approximately 180-200 national, regional and local fostering agencies across the UK. The absence of any significant adverse findings in these CMA merger reviews indicates that the likelihood of variations in costs and placement quality being driven by a lack of competition is very small.

On the other hand, the supply of fostering services is characterised by features which mean that shortage of foster carers can persist for long periods. Recruiting new foster carers is, rightly, a lengthy and rigorous process, given the responsibilities that foster carers take on. Only a small percentage of those who express an interest in becoming a foster carer are eventually registered. Even when new foster carers are registered, it is often some time before the right match can be made between the care that they can offer and the needs of a looked after child.

(c) Unregulated accommodation: supported accommodation can play an important role in helping looked after children transition to independent living. As a provider of supported accommodation, Polaris does not believe that it has an incentive to favour investment in this service over fostering or its other services for looked after children. Polaris does not, however, believe that this service should continue on an unregulated basis. Polaris has adopted internal quality standards for supported accommodation, and assesses its services against these standards, but we fully support the extension of existing regulatory frameworks to these services.

Commissioning

We understand that the CMA plans to compare local authorities' commissioning practices, and the environment in which they are operating, to see whether lessons can be learned to improve overall outcomes.

Polaris's view is that, in fostering, the widespread adoption of framework agreements since 2005 has

helped considerably in improving communications between commissioners and providers, and in developing a shared understanding of commissioners' needs. There is, of course, always room for improvement. We think that more systematic sharing by local authorities of their sufficiency assessments, including information on where they are seeing demand emerge and the types of placements that are likely to be needed, would help fostering agencies better target their investment in recruiting new carers.

There is, at times, a potential conflict between local authorities' roles as commissioners and providers of services. We occasionally see this when local authorities try to attract foster carers from independent fostering agencies to their in-house fostering service. We do not think there should be any barriers to carers switching between fostering services. At the same time, we think that children's interests are best served when the weight of providers' efforts, including both local authorities and independent fostering agencies, is on increasing the total number of foster carers available for children, rather than on trying to attract carers from other agencies.

Regulation

The CMA has said that, in relation to foster care, it will investigate whether regulation makes it unduly difficult to become registered as a foster carer, whether regulation impacts on the willingness of foster agencies or carers to accept certain placements, and whether there are areas where a greater role for regulators could help deliver better outcomes.

Becoming registered as a foster carer is indeed, as mentioned above, a rigorous process, and inevitably it takes time and involves significant costs. It is not, however, clear to us that – other than in some relatively narrow circumstances – the process is excessively bureaucratic or costly given the responsibilities that will be entrusted to a foster carer.

In terms of whether there are areas where a greater role for regulators could help deliver better outcomes, as set out above, Polaris believes that it is important that existing regulatory frameworks be extended to supported accommodation so that children can benefit from the additional oversight that this will bring.

Pressures on investment

The Invitation to Comment says that the CMA will consider whether uncertainty about future demand and

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funding, along with the allocation of risk in the sector, has discouraged private and public sector investment in creating placements and recruiting foster carers.

Polaris's view is that, at a sector-wide level, there is considerable certainty about the demand for foster placements and their funding. Local authorities are under an obligation to provide suitable accommodation for looked after children and demand for placements, in our view, exceeds available supply. Further, our experience is that it is rare for us to have more than one family that is suitable for any placement, and in many cases we may not have any suitable carers available.

Nonetheless, as mentioned above, we believe that having more information from local authorities about demand for foster placements is likely to help us target our efforts to recruit new carers in areas of high demand. We note the CMA's reference to the number of foster carers without a placement, and this may well be indicative of the scale of the challenge of having foster carers with the right skills available in the locations where they are most needed.

Our sense, however, is that while better targeted investment in carer recruitment is likely to help better match carer availability with children needing a foster placement, the more pressing requirement is to encourage as more potential carers to come forward and take on the challenging, but rewarding, endeavour of caring for those children in our community who most need to be looked after.

I look forward to discussing the CMA review with your team further in the coming weeks.

Yours sincerely

Jo August
Chief Executive

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Children's services market study Invitation to Comment, due 14 April 2021

Polaris response

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 (IFAs) were first established in the late 1980s. Indeed, ISP – one of the fostering agencies in the Polaris group – was the very first to be established in 1987. Since then, IFAs have developed alongside local authority fostering services with both playing an important role in helping to care for looked after children.

Many IFAs were first established by former local authority social workers, but as these founder-owners have looked to retire, there has been a transition to different ownership models for these providers. This transition has often helped these providers, many of which have grown quickly, to adopt the robust quality assurance processes and governance systems that are critical to providing high quality care.

New entry into the sector continues to be relatively common, often with staff leaving an established IFA to start their own provider (and frequently recruiting carers from their former employer).

Many local authority fostering services now tend to care for younger children, while older and more complex placements are made with IFAs. This development has been a function of the greater investment in training foster carers that many IFAs have been able to provide.

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?

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There are significant differences, as set out above, between local authority fostering services and IFAs in terms of the types of placement that each caters for. In addition, larger IFAs with a presence in multiple regions are likely to be in a better position to spread best practice across regions, and may have more formalised quality assurance systems. Differences in how providers of children's services operate are, however, likely to be limited (in fostering and residential homes) by the highly regulated nature of the services they supply.

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

As a provider, our focus is on the outcomes for the children that we care for, and we will not necessarily have full sight of the challenges facing local authorities in managing the consequences of a lack of suitable placements. Nonetheless, we believe that there are children in residential settings who could be fostered, and foster care is generally regarded as achieving superior outcomes for most looked after children. As a result, there are likely to be children who are being disadvantaged by a lack of suitable foster care placements.

We understand that a key concern is whether a lack of suitable placements at regulated providers is resulting in children being diverted to unregulated accommodation. Supported accommodation, which is not currently regulated, is an appropriate part of the care pathway for looked after children, helping with the transition to independent living. However, it is important that these services are properly regulated so that young people that can benefit from high quality supported accommodation, and poor quality services cannot persist.

4. How have the following four types of children's care home and fostering agency provision developed over the last decade:
- Local authority
 - Private – private-equity owned
 - Private – non-private-equity owned
 - Third sector private.

Please see response to Q1.

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?

Since IFAs were first established they have, as set out above, tended to take on placements for older children and those with more complex needs (including specialist services, such as for children with disabilities or children that have suffered sexual exploitation), while local authority fostering services have tended to look after younger children and children with less complex needs.

Within IFAs, we think that all providers – regardless of whether they are private or charitable and regardless of whether there is private equity investment – have an incentive to invest in new capacity and provide high quality services. The demand for placements means that it will be rare that investment in expanding the supply of placements will be poorly utilised (although as set out elsewhere there is scope for improving the targeting of this investment).

Polaris also believes that providing high quality services is the route to success for our business, and we believe that this applies equally to other IFAs as well. The regulatory regime for fostering is effective in ensuring that there are significant financial consequences for providing poor quality services, and as a result, there is no financial or any other incentive to do so.

Local authorities have a choice between many different IFAs when deciding which will be admitted to the frameworks through which they procure services. This competition means that no provider – regardless of its ownership model – can offer consistently poor value for money to local authorities.

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

Children's services offers an investment opportunity that is unlikely to be affected by the economic or business cycle. As such, it is attractive for both private equity and other investors seeking stable businesses in which to invest. Fostering does not involve significant property exposure, and as a result, property prices are not a driver for private equity investment in this part of the children's sector.

Those IFAs that offer the highest quality services are likely to be the most valuable. High quality services lead to lower staff and carer turnover and more referrals from local authorities. As a result, any IFA owner that wishes to eventually sell their business will have a strong incentive to ensure that they provide high quality services as this will secure the greatest return. Moreover, a business that offers poor quality services is unlikely to find a willing buyer given the financial and reputational challenges that such a business would pose for a new owner.

The financial risk profile of fostering agencies is unlikely to be a function of their ownership model. To the extent that there are financial risks in the provision of children's services, and to date there have not been any significant problems in this regard among large-scale providers, then this seems more likely to be a function of how providers are managed. Management challenges, with consequences for the supply of services, seem equally likely to emerge in public, private and charitable organisations.

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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?

In fostering, there has been a transition to the use of frameworks since 2005, such that nearly all local authorities are now part of a framework agreement, and the vast majority of placements are made under the terms of these agreements.

There has also been some movement towards increasingly large consortia of local authorities in commissioning framework agreements. This can, unfortunately, result in more limited contact between providers, such as Polaris, and their local authority customers, which can in turn make it more difficult for Polaris to understand its customers' needs. Nevertheless, in recent times Polaris has seen some greater recognition of the importance of one-to-one meetings between providers and local authorities, and it welcomes this development.

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 fostering, framework agreements are – for the most part – effective in putting in place different tiers of services which reflect the different range of needs for children placed in foster care. The procurement process for framework agreements, and the large number of IFAs that local authorities can choose between, means that local authorities can specify a wide range of services to meet the varying needs of children. (The effectiveness of these arrangements in securing a sufficient number of appropriate placements will, of course, also be affected by those factors discussed under Theme one.)

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;

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

As set out above, Polaris believes that at a sector-wide level there is a relatively high level of certainty about demand for fostering placements and funding for these placements. However, uncertainty amongst IFAs about current and future demand may be constraining the effectiveness of IFA investment in recruiting new carers. Better information about likely future demand seems likely to help with recruiting foster carers in the locations where they are most needed and/or with the ability to cater for the types of placements most likely to emerge.

At the same time, a significant constraint on local authorities' ability to secure appropriate foster care placements is likely to be an overall shortage of foster carers, and the length of time it takes for additional foster carers to be recruited in response to a shortage. As set out above, one of foster care's features is the lengthy and rigorous process for recruiting new foster carers. This means that shortages of foster carers can persist for long periods. Only a small percentage of those who express an interest in becoming a foster carer will eventually be registered. Even when new foster carers have been registered, it may be some time before the right match can be made between the care that they can offer and the needs of a looked after child.

Another feature of children's services is the significant spillover benefits for local authorities of IFAs recruiting additional foster carers, which allows local authorities to avoid the additional costs that the system bears when children are unable to be fostered and must be accommodated in other ways.

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,

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

On the whole, the system of framework-based procurement of foster care placements is an effective way of ensuring that local authorities are able to select between a wide range of providers that offer an appropriate range of care at a reasonable cost (subject to overall constraints on the supply of foster placements that are discussed in Theme one). The framework system only encounters significant difficulties as a purchasing mechanism when local authorities occasionally try to set framework prices at an artificially low level, which then impacts on providers' willingness to participate.

As set out above, improvements in the extent to which local authorities proactively forecast demand and provide this information to IFAs will help IFAs better target their investment in recruiting carers and thus allow local authorities to access a larger number of appropriate placements.

Other improvements that could potentially be made by local authorities include considering placements at IFAs at the same time as in-house fostering services. This is likely to lead to better placements for children, given that the full range of potential foster carers would be considered at the earliest possible stage, and could reduce the number of last minute, emergency placements with IFAs that tend to be more destabilising for children, are more likely to break down and involve higher costs.

More generally, improving the process of referring children for placements with IFAs will improve the quality of matches between children and foster carers, reduce the number of placements that break down, and may ultimately reduce the number of

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children that are placed in more expensive residential care.

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

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.
 - 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.

Polaris believes that the regulatory system is effective in supporting good outcomes in children's social care, and for this reason supports its extension to unregulated accommodation.

There may, however, also be opportunities to make operational improvements in the way in which regulation is carried out. For example, greater information sharing between regulators and local authorities (in their role as commissioners) could reduce the regulatory burden on providers without undermining the effectiveness of either regulation or commissioning.

Further, greater consistency between Ofsted inspections in different regions would help in ensuring that common, uniform guidance could be issued across all of our regions. (Currently, Polaris can experience situations in which different inspectors have different interpretations and different requirements on the same issue.)

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

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The current regulatory system has little involvement with how placements are supplied by local authorities. There is an opportunity for regulators to pay greater attention to this issue as a means of encouraging best practice.

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

As with any regulatory system, there is a risk that it becomes too focused on inputs and processes and not sufficiently focused on outputs and outcomes for children. This can have the perverse effect of encouraging an undue focus on defensive management that is targeted at managing regulatory requirements rather than focusing on improving the quality of care for children. It is important that Ofsted is alert to, and manages, this risk.

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?

There is an element of overlap between commissioning and regulation in children's social care. While there is no regulatory framework for unregulated accommodation, local authorities still have a commissioning role that involves ensuring that placements are appropriate and reviewing these placements once they have been made.

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? Please consider:
- Levels, nature and certainty of future funding;
 - Levels, nature and certainty of future demand;
 - Expectations of the level of prices in the future;
 - Regulatory and policy frameworks;
 - Barriers to the acquisition of appropriate property;
 - Barriers to the recruitment and retention of appropriate staff;

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

The main constraint on expanding fostering services, in our view, is in recruiting sufficient foster carers to make such an expansion viable. As set out above, recruiting new foster carers is a lengthy process, and it involves considerable expense especially given the small number of applicants that are ultimately registered as foster carers. Moreover, new foster carers need to be in the right location with the right skills to cater for those children in need of placement. Information from local authorities about their view of potential demand may ameliorate this latter challenge to some extent.

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?

Polaris has not seen any evidence of providers' appetite to recruit new foster carers being affected by their ownership model. As set out elsewhere, Polaris makes considerable investments each year in seeking to expand the number of foster carers that are registered with it.

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

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it is required?

Actions that could potentially be taken by government to support the expansion of fostering capacity fall into at least two categories:

- First, actions that raise awareness of fostering as a choice for potentially suitable families. Local authority and IFA based awareness raising and recruitment measures are inevitably focused on their own service, but there is likely to be merit in sector-wide community messaging about the potential to become a foster carer.
- Second, greater government and community recognition of the valuable role played by foster carers, and the significant learning and skills involved in caring for looked after children, may help attract more people to foster caring and also help retain those carers already within the sector. This is less straightforward in terms of giving rise to an obvious set of actions for government and others to adopt, but increasing the esteem in which foster carers are held by society is likely to be just as important as many other potential measures aimed at increasing the number of carers.

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