

**Competition and Market's Authority - invitation to comment Children's Social
Care Study – 14th April 2021**

**St Christopher's Fellowship – Response to key theme from charitable provider
perspective**

Theme one: Nature of supply

Q1. 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?

A1: Our experience as a children's home provider has been that financial pressures upon local authorities have led to higher thresholds of social need for those young people entering into care. This has meant that only young people with the most complex needs are being cared for within foster and residential care. To respond to this change in need we have had to adapt our delivery with training for enhancement of skills (for example attachment theory), and offer new services (example therapeutic support provided by qualified clinical psychologists). Without these changes we could not sustain being able to safely provide services within the market. This has risen our base line costs per placement. This operating environment exists within the further context of an increasingly consolidated private sector making it harder for us to compete on price (in spite of being a purely not for profit charity organisation), due to disparity of economies of scale.

Simultaneously the increased complexity of young people's needs has resulted in it becoming harder to safely place young people in the same care environment together. In supplement to the paramount moral duty to safeguard vulnerable young people in care the legal regulatory requirements for fostering and children's homes require sufficient due caution and consideration of how the placement of children who may pose risks towards each other is limiting our ability to fully utilise our available capacity. This is driving us as a charitable provider to follow the national trend of smaller home sizes, increasing the operating overhead of individual homes (for example two registered managers needed to accommodate eight children who if lower in need could have been accommodated within a single home).

It is worth noting that the complexity of risks young people are exposed to has risen within society independent of economic factors. Online grooming of young people for criminal and sexual exploitation, child self-harming networks and human trafficking have all increased in prevalence with the growth of the internet and accessibility of smart devices. A shortage of social housing and an aging population are additionally

impacting the recruitment of new foster carers, distorting the market for young people's care.

Q2. 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?

Yes, as a charity we operate on a not for profit basis. Our decision making process is informed by the best interests of the child as opposed to commercial interest. Local labour markets present challenges in recruiting suitably qualified staff and foster carers. Providers with the ability to influence the recruitment market at scale frequently out compete not for profit and local authority homes and agencies, influencing staffing costs.

Q3. To what extent is a lack of availability of suitable residential and fostering placements driving undesirable outcomes for local authorities and children?

We have observed local authorities ending on going placements for young people for financial reasons, counter to the best interest of positive outcomes for the child. Local authorities have continually informed us in private and public forums that they observe no link between the cost of a placement and the outcomes for young people. This observation is driving some local authorities to pursue a policy of placement decisions made nearly exclusively upon a financial basis. The absence of sector standard outcome measurements is further exacerbating this issue as authorities struggle to compare providers in quantitative terms. Placements are ended frequently based upon age chronology rather than young people's progress respective to their age equivalent peers. This is resulting in disruptions to secure supportive relationships, education and health support for young people with each move. The frequency of moves (as observed by 2020 Department for Education data¹), acts as a disincentive to young people to invest in their placements. This makes it harder for outcomes to be attained.

Q4. How have the following four types of children's care home and fostering agency provision developed over the last decade:

- a. Local authority

¹ Department for Education – Office for National Statistics (2020), *Children looked after in England including adoption: 2019 to 2020*, <https://www.gov.uk/government/statistics/children-looked-after-in-england-including-adoption-2019-to-2020>

Our experience is that local authority provision and knowledge of operating children's homes has significantly declined. This may be in part due to a culture of outsourcing reputational risk associated with children's safeguarding and the significant costs of specialising in residential child care.

b. Private – private-equity owned

This type of provision we have observed to become extremely prevalent over the last decade.

c. Private – non-private-equity owned

This type of provision appears to have reduced. Colleagues in the sector have told us that they felt pressure to sell to equity owned business as they could no longer effectively compete. This appears in our experience to be particularly prevalent within independent fostering agencies. We are regularly approached by semi-independent private non-equity businesses seeking to sell themselves to us. This suggests a culture amongst some owner operators that children's social care is a medium term business that achieve maturity in value. This approach is counter to stable relationships for young people and undermines positive outcomes.

d. Third sector private.

The charity sector has broadly reduced within residential children's homes and remained static for fostering provision. We have observed several social enterprises emerge within the last five years catering for residential children's homes. It is difficult to ascertain whether these types of business are accurately attributed to the third sector as most are hard to differentiate from private non-equity owned in practice and approach.

Q5. 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?

We have observed that local authorities struggle to invest in additional capacity for their own in house provision although this is frequently the cheapest option available to them. Private Independent Fostering Agencies are able to influence capacity by out competing other provisions on payments for carers.

Property prices act as effective barriers to entry investment in several locations (example inner London), leaving many geographies subject to virtual monopolies of providers if they are to meet their locality sufficiency requirements.

Capacity is iterative. The greater a provider's placements capacity the greater the chance they have of safely being able to place a child safely alongside others. This results in growth for the largest providers at the cost of the rest of the sector.

Q6. 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?

As a charity we are attracted to investments that enable us to provide long term outcomes for young people. Stability of investment is therefore more desirable than rate of return.

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

As a charitable provider we are unable to directly comment but observe that a buoyant property market suggests good rates of return for private investment.

- 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?

It would appear so. This kind of investment would inhibit medium to long term strategic partnerships with local authorities and being able to deliver young people's care consistently with secure relationships. As a 150 year old children's charity young people benefit from being able to get back in contact with us as adults to reminisce, share memories and make sense of early life experiences. This affords children in our care long term emotional stability and greater chances of positive life outcomes, mitigating against chaotic periods of adult life.

- 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?

The ability to access additional levels of capital enables PE owned children's homes to out compete charitable sector and local authority provision in salaries, reducing their ability to source and retain the best staff.

- 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?

Our organisation is a UK tax paying charity. [✂].

Theme two: Commissioning

Q1. 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?

Local authorities are increasingly price sensitive. This has resulted in searching for multiple placement types simultaneously and selecting the cheapest (as opposed to most economically advantageous for quality of provision). Scarcity of suitable placements is incentivising local authorities to spot purchase more. This is leading increasingly to placements being made subject to individual terms and conditions, leading to inconsistency of outcomes and disparity of experiences for young people. For example a young person placed in spot purchase arrangements may not have a placement fee subject to a permanency discount, putting the longevity of their placement at risk. This trend towards local authorities losing negotiation leverage is set to continue as the sector becomes less competitive.

Q2. How able are local authorities to secure appropriate placements to meet the varying needs of children in their care, for a reasonable cost?

Local authorities must relink spending to quality, long term provision, particularly within children's residential homes. This will reduce the cost of repeat placement processes and afford young people greater security of relationships engendering better outcomes, particularly through stability of education provisions. Greater comparability of quality would better support local authorities to make value based decisions for children in care. Greater agreement on outcomes measurements at a national level and consistency of young people's assessment and referral processes would enable decision making to be led by children's needs rather than market forces.

Q3. 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;

The need to procure the lowest cost placement is delaying placement decision making for local authorities. Many searches for prospective placements are extended for budgetary reasons after placement is offered meeting the young person's specified needs. These delays frequently mean that the matching risk assessment and young person's views are under pressure to be completed in haste which can inhibit the quality of preparation and early placement experiences for children, reducing their chance of a successful placement. The uncertainty around the length

of placement searches and ability for proper planning for young people's progress moves inhibits a consistent process and trust in forward planning partnership.

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

With reference to our previous answer to a); children's referral for placement profiles are frequently inconsistent in quality and do not represent the individual nature of their needs and strengths. We would advocate for greater protection of the voice of the child within the planning process to enable the best possible holistic understanding of their individual needs, preserving their consent and choice within the placement process. A greater orientation of the market towards the child as the customer would drive improvements in placement stability and outcomes.

- c. levels of uncertainty of future funding;

The market does not influence this as much as hesitancy towards long term investment in developing local authority capacity. If a provision of local authority's spot purchase spending was recycled into new internal capacity development this would increase supply whilst reducing overall costs of placements over five to ten years.

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

As a registered UK charity with published accounts we would evince that voluntary sector provision operates with a desirable level of cost and practice transparency. Local authorities do not often consider the true cost of children's placements (including indirect costs such as training, recruitment, cost of living increases in wages). Whilst the private sector does not share the same extent of commercial information as charity providers local authorities would be well positioned to take account of unforeseen and indirect costs in value for money decision making processes.

- e. any other factors?

N/A

Q4. 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;

As a charitable provider of children's services we would advocate further use of block contracts and frameworks which afford greater parity of terms and outcomes

for young people and their placements. Having internal capacity through local authority provision and block contracts affords local authority a greater understanding of practice enabling better accountability of providers. The long term nature of the contract (preferably in excess of three years with option to extend), affords greater scope for long term partnership working to respond to changes in profiles of need demand. [✂].

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

Most authorities are good at proactively forecasting trends in demand and actively seeking to attract providers to their area. Economic barriers prevent them from growing capacity. Geographies with relatively cheap property and mobile skilled labour are easier to enter. If placement fees are raised respectively this can assist however this disproportionately disadvantages rural areas in particular. The result is many young people placed at distance from their local areas and support networks detrimentally to their outcomes.

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

This can work well. The West Midlands residential and fostering frameworks are examples of consistency of practice enabling members' greater access to a range of providers on shared agreed terms. However local authorities compete with each other for available placements and directly for foster carer recruitment. This competition pressure inhibits collaboration. Particularly within acute high population geographies such as London.

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

We have observed great consistency in local authority procurement and planning functions. However turnover in children's social workers is more problematic with an erosion of long term knowledge of children's individual needs.

- e. any other factors?

N/A

Q5. Are there examples of good practice within or among local authorities that have been effective in overcoming any of these potential difficulties?

The Commissioning Alliance is a positive example of local authority collaboration influencing practice driven by quality. Their dynamic purchasing systems take account of the diversity of providers within the sector and mentor new providers to

meet regulatory requirements as well as young people's needs. To take this further a compulsory single style referral form for young people's placements adopting a strengths based perspective of young people's resilience would enable greater comparability of needs and placement value for money.

Theme three: Regulatory system

Q1. 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.

Regulation works well as a major driver to incentivise local authorities to keep their young people as local as possible in the face of rising economic pressures. Regular Ofsted inspection ensures that placements are not solely determined by economic factors and orientates procurement practice towards young people's needs.

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

Semi-independent services should be regulated in a similar approach to that of children's homes. This would ensure that the basic rights and needs of children in care are met uniformly.

- 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.

More dedicated resources within Ofsted to support the registration of new homes would be beneficial in securing new supply, in particular allowing new entrants to participate in block contract tendering exercises.

Q2. Are there particular problems in the way placements are supplied and commissioned that the current regulatory system is not well-equipped to address?

The absence of a standardised placement referral form and universally agreed quantifiable outcomes measurements inhibit best value for money placements based upon quality. An Ofsted prescribed referral form for children's homes that protects the voice of the child in the referral process would enable greater comparability within the sector and placements better orientated towards young people's needs.

Q3. Does any aspect of regulation create any perverse incentives on local authorities, providers or other actors, which are driving sub-optimal outcomes?

With increasing complexity of need within the young people's care population risk assessment and safety matching in line with the children's homes standards has risen in complexity. Thorough matching is essential to ensure the best possible outcomes for young people but is easier with fewer children, as less risk interplays need to be considered. This is increasing the cost of care per placement and driving recruitment needs on a national and regional level. The regulation does not exacerbate this however but rather highlights the need to address the underlying economic and social factors influencing supply of good quality provision within the sector.

Q4. 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?

We commission independent inspections of our semi-independent services that mirror the standards of the Quality Assurance Framework and the Social Care Common Assessment Framework relevant to the needs of 16-21 year olds. Several authorities use distinctive quality assurance processes tailored to their individual outcome measurements. This increases the cost of compliance for providers and in some cases can be more significant than that of a single regulator. We would welcome Ofsted regulation of all services for young people in the England.

Theme four: Pressures on investment

Q1. 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;

Central government investment in new service development such as the Department for Education's Innovation Programme is vital to the generation of new service time and practice approaches for local authorities and voluntary sector providers whose access to investment is limited in comparison to their private counterparts.

- b. Levels, nature and certainty of future demand;

As a charity we are driven by the needs of young people. New areas of demand would increase our likelihood of developing new homes and services.

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

The link between price and the quality of services is essential to establish and retain to ensure that provision is sustainable and meets the needs of young people. Greater understanding of the link between price and staffing would enable local authorities to commission services for the future with confidence.

- d. Regulatory and policy frameworks;

We operate under the assumption that regulation represents the minimum standards required to meet the needs of young people and strive to always exceed requirements. Regulation is less likely to influence our ability and decision to invest in capacity than emerging demographics of need. A greater emphasis upon quality of provision would give us greater confidence to invest within semi-independent provision. Greater regulation would support this.

- e. Barriers to the acquisition of appropriate property;

Greater collaboration between children's services, town planning and Ofsted would remove logistical barriers to establishing new services, expediting the process of opening new provision.

- f. Barriers to the recruitment and retention of appropriate staff;

Ability to recruit, sustain and retain good quality, qualified staff and carers in relevant geographies is essential to adequately meet young people's diverse and varied needs sustainably. Mobility and skill of the local labour market significantly influence our decision to develop new services in new localities.

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

N/A

Q2. 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;

Future funding influences the ability to pay and the rate paid to carers, however for our carers professional development, transparency and security of the young person's placement are key drivers for retention.

b. Levels nature and certainty of future demand;

The ability to predict future demand and respond by adequately preparing carers with appropriate training in a timely manner is essential to retaining and expanding carer bases. Greater flexibility and accessibility of training supports a culture of continuous development.

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

As a charitable provider of fostering we are currently able to pay carers a competitive rate as we do not make a profit on individual placements. This model incentivises on going placements. An expectation of the ability to raise prices in line with the cost of living regularly enables us to ensure our carers and staff are paid a fair equitable living wage.

d. Regulatory and policy frameworks;

Fostering is a long term commitment for carers and young people. Changes to regulatory and policy frameworks are unlikely to influence investment and expansion of fostering in the short term as long as sufficient support for training and compliance is offered by providers.

e. Barriers to attracting and retaining appropriate foster carers;

Geographic economic factors such as property prices and the spare room subsidy strongly influence local authority and Independent Fostering Agencies' ability to recruit and retain carers. Where prospective carers are able to earn more by letting out their room to a lodger or tenant there are disincentives to commence caring.

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

Local Authorities and charity IFAs recruit carers who want to foster to give back to their communities and make a difference. Greater acknowledgement of the incredible role Fostering contributes to society by central government would support better recruitment and retention of carers across the sector.

Carers may join an agency for financial reason however they tend to stay for the support and training they receive. This is increasing in relevance as young people in care's needs rise in complexity. The accessibility of support for carers is important for them to feel well supported within their roles, however this needs to be mirrored

in greater out of hours support for young people. When both these elements are established placement stability is greatly enhanced.

Q3. 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 would assert that the need of the young person to be matched with the most appropriate placement that meets their requirements is paramount in the decision to offer a placement.

Q4. 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?

Greater resourcing of the regulator's ability to register new children's homes would expedite the delivery of new block contracts. Similarly where property for block contracts is made available this enables greater access to compete for block contracts. Joint commissioning of single homes by multiple authorities could potentially lead to conflicts of interest and internal competition for placements within individual resources. Single authority block contracts are therefore most effective and preserve young people's needs driven services.