

Who Cares? Scotland's Response to the Competition and Markets Authority Invitation to Comment on Children's Social Care Market Study

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Who Cares? Scotland is a rights-based advocacy and influencing organisation working with people who have experience of the care system through individual and collective independent advocacy. We aim to provide Care Experienced people with knowledge of their rights and the support needed to empower them to positively participate in the formal structures and processes they are often subject to solely because of their care experience.

Introduction

Who Cares? Scotland welcomes the CMA's review into the children's social care market, as an important step in understanding how the current care system operates in terms of provision of a variety of care placements and the drivers of the types of care provided across the UK. We welcome any critical inquiry into any care provision which is motivated by making profit or by existing cultures in commissioning, rather than being shaped and informed by the needs of vulnerable children and families.

In our response to the invitation to comment, we have provided a narrative of our values and observations in relation to some of the thematic areas covered in the CMA, review rather than a direct response to questions listed. As an independent charitable organisation that does not directly provide care services and is not involved in the procurement of residential and foster care, we have instead chosen to share our practice observations and learnings from our experience being alongside care experienced people in a variety of supportive capacities for over 40 years. As an organisation that primarily provides independent advocacy across Scotland, we often see the impacts of how the children's social care system is run in different areas and how children experience the provision of different types of placements.

Framing of the CMA study

Fundamentally, we align ourselves fully with the position of 'The Promise' in that our understanding of children's social care must be one where 'Scotland must avoid the monetisation of the care of children and prevent the marketisation of care'. As detailed in the CMA invitation to comment, we wholly agree with the findings in The Promise that 'commissioning of services must change' and that 'there must be strategic, needs based planning for children; there are challenges in the management of places and the sustainability of settings of care; and, Scotland must improve how it uses data in decision-making but to do so it must take a different approach to how it collects data and information.'

However, from reading the aims of the CMA study, we do not currently feel this study looks far enough at what is needed to shift the drivers underpinning the provision of care placements by the state – whether in Scotland, England, or Wales. To narrow a study of care provision to one of 'supply', 'demand', 'prices charged' and using the language of competitive markets, obscures the overarching aim of our organisation and many others – to shift the

provision of care to one which focuses on the experiences of children and people in the care system as the ultimate driver of care provision. Our strategic vision states that we want to see a 'lifetime of equality, love and respect for all Care Experienced people' and we want that to be the vision that Scotland has when it intervenes in family life and shifts any responsibility of caring for children to the state.

We believe that the current provision of foster and residential care placements is a consequence of wider structural failings to care for children and families, which The Promise seeks to address. Currently, the system has potentially created continuing demand for care placements based on early trauma and disadvantage and as a symptom of wider issues of inequality. The Promise creates an opportunity to rethink this idea of demand and supply, in particular how we understand 'unmet need'. We see that when further capacity is created in the provision of care, that these services can get quickly overwhelmed with unmet need. The existing pipeline in care of how placements are realised is also something that care providers are aware of and we would like to recognise that the supply and demand conundrum this CMA study looks at has been an established and long-term issue for children's social care in Scotland.

With this in mind, we share the following observations in the hope that the CMA study will strive to look beyond the health of a social care market and the nature of providers, to look at why we provide care and view this from the perspective of children who live in these environments.

Shifts in the 'nature of supply' away from institutional care

As an organisation we have witnessed a historical shift and a 'rebalancing' of care in Scotland from a reliance on institutional care to more community-based care placements. This has meant an increase in the numbers of children living in kinship care or who are looked after at home. As a result, we have seen a decrease in demand for foster placements and places in children's home – although, as your statistics show, these care settings have remained a core part of children's care provision in Scotland.

In particular, the diminishing demand for residential care placements has seen a large shift away from institutional care as the default, which we feel is a consequence of slow cultural change. This 'rebalancing', as it could be called, has been part of changing how children are better placed in community-based placements. As a result of this changing picture, we have seen organisations diversify and adapt their business models, for example moving away from increasing the number of secure and residential homes, to expand more into foster care support services. Although it is hard to comment on the effectiveness of care providers changing their models from a focus on institutional care to more diverse forms of care provision and support, it does show that in that developmental and entrepreneurial space, organisations will adapt to create and innovate and often will try to continue expanding their provision of services to meet current social care sector cultures.

We have also seen the variety in approaches which different residential care providers take. For example, the organisation 'Harmeny Education Trust' in Scotland is an organisation that we work with to provide independent advocacy for children placed there. We have seen their

focus is on the quality of its existing placements and that they have a small but quite focused provision of residential care, alongside wider education services. We observe that organisations like Harmeny are not so focused on expansion or extending their reach across the country. This in contrast to other providers we work with, such as Kibble and Spark of Genius, that continue to evolve and develop their services and look at how to expand and extend the reach of their provision geographically. These providers appear to work using a more traditional service/business development method. However, we do not believe this necessarily influences whether the experience of care in either Harmeny or Kibble/Spark of Genius is positive or negative for children living there. We have seen that providers like this are in some ways genuinely trying to gather views from their young people to improve the service and some of the innovations they make are often much easier in private and third sector set-ups, than in local authority provided placements.

As the CMA has identified, we agree that supply of placements can also be driven by providers rather than planned local authority decision-making ahead of time. We have seen how some residential resources have been created in anticipation of what local authorities might need in future rather than local authorities taking a lead in asking for resource needed. We have seen that opportunistic business models can develop to create different offers, which has led to new providers stepping into the space. In contrast, we have also seen that the provision of residential care in Scotland is an incredibly competitive market and that commissioners have shaped and formed the behaviour of the providers.

Observations of foster care provision

We have seen examples of current foster care provision being overwhelmed and the very real impact on children of the lack of availability of suitable foster care placements which can lead to immediate unintended outcomes. Interestingly, some local authorities are reviewing the existing foster carers they have as with The Promise rolling out there is a recalibration opportunity to understand the quality of foster care they are providing.

For example, there are some local authorities who have an explicit shared plan to bring their children from out of authority care placements back to their original local authority area. The aim is that all children in care need to be cared for within their own local authority area and this strategy will shape commissioning and demand for services. In another local authority area, a more macro approach is being taken, with a wider focus across services of trying to keep the wealth of that local authority in the local area – this overall cultural change is likely to inform the shape of local services, such as a re-think on how resources are invested across the spectrum of localised early intervention to residential services. It also recognises that there is the possibility that some of the responses to the need for alternative care may already exist in communities rather than in commissioning new service provision.

Regulation

We recognise the role of regulation in the shaping of care provision. For example, in Scotland, the inspection process by the Care Inspectorate changed several years ago, with a more focused interest on the quality of environment which existed within registered residential services. This may have informed a change in both local authorities and service providers, as

they invested more financial resource in creating new residential houses or enhancing existing provision.

This could be viewed as care being driven by regulation rather than the needs of young people using the service, despite the fact that a good quality living environment is not likely to be something a young person would object to. We would, however, question whether using regulation alone will create the quality-of-care children need and we would want to see the needs and experiences of young people as the main driver for how care is shaped, with regulation being an important lever for change.

Concerns with 'pressures on investment'

We would like to express our concern with the framing of the fourth thematic area in the CMA study on 'pressure on investment'. The question presumes that investment in new children's homes or houses is a default position and an inevitability and looks at how that can be managed in the best way. We would challenge the effectiveness of this line of questioning as Scotland moves forward with The Promise, which looks to reimagine the types of supports and services in children's social care. We want the conversation around the provision of residential homes to be about how we ensure there is less need for those higher end services, rather than how we continue to expand them without addressing the underlying need for institutional environments in childhood. Particularly in the Scottish context this section of the CMA's study does not feel appropriate and creates a provider-led framing when addressing how services are created for children in need. We encourage the CMA to engage fully with The Promise on how to better frame the study for the trajectory of Scotland's children's social care sector.

Conclusion

In sharing our brief observations of the children's social care market with the CMA, we would like to reiterate the need to challenge the framing of this study, which reinforces some of the structural issues of social care being seen as a fixed commodity that is sold. The study currently focuses on the purchasers and providers of children's social care in specific areas, and we question if this is the most valuable way to understand the quality of care provided to children. We would encourage the CMA to approach this area with a focus on the human cost and the children who are experiencing the services being commissioned and provided. We believe it is still possible to look at costs involved in providing care, but from a starting point of need of children and young people instead. The invitation to comment welcomes views from 'looked-after and care-experienced children and their advocates, and other interested parties', however, we encourage a pro-active approach from CMA to reach out to those with experience of care to understand how it feels to grow up as a 'beneficiary' of children's social care. Children and young people are the CMA's most important stakeholders to hear from, their voices must be central to the understanding of changes needed to the children's social care sector. To conclude, our hope is the supply and demand of the market are not the drivers of service design for children's care in Scotland, instead we want to see an ambitious programme of change which The Promise have committed to lead out which is shaped by Care Experienced people's views.