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The Competition and Markets Authority  
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To the Competition and Markets Authority,

**OUTCOMES FIRST GROUP RESPONSE TO INVITATION TO COMMENT**

I am writing on behalf of the board of Outcomes First Group Ltd (“OFG”) to thank you for your invitation to comment on the Children’s social care market study (the “market study”). We are delighted to have the opportunity to share our perspectives and make a positive contribution to this important piece of work. We do so in the anticipation and belief that it can deliver sustained improvements in quality and outcomes for children and young people in our care, which must, as the CMA recognises, be the overriding objective.

Attached as an annex to this covering letter are our detailed responses to the specific questions raised by the CMA’s Invitation to Comment (“ITC”). The purpose of this cover letter is to provide an overview of the OFG business (in particular our specific areas of operation and experience), as well as some context and perspectives on the wider issues raised by the CMA.

**Overview of OFG**

OFG is the largest private sector operator in regulated children’s special needs education and social care, currently providing essential support to 7,100 children right across the UK. Our purpose is to improve the lives of society’s most disadvantaged young people. However, the majority of our activities are in education, which is outside the scope of this market study.

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📄 Outcomes First Group is a trading name of Outcomes First Group Ltd, a company incorporated in England and Wales, company number 09162759, whose registered office is Atria, Spa Road, Bolton BL1 4AG



As an education-led organisation, we have 47 special needs schools which offer approximately 3,400 places, both on a day basis and for those children requiring residential accommodation. These schools operate under two brands, Acorn Education and Care and Options Autism and focus solely on children with autistic spectrum conditions or with social, emotional or mental health needs. As such all our children have an Education, Health and Care (“EHC”) Plan. Education-based services (out of scope of this market study) represent around **[CONFIDENTIAL]**% of OFG’s revenues.

In the social care arena, OFG’s primary involvement is in the delivery of fostering services through 3,300 carers, who look after 4,500 disadvantaged children and teenagers. OFG’s fostering services are provided through a network of 28 local agencies operating under the National Fostering Group umbrella, and serving every local authority (“LA”) in the UK. Fostering represents around **[CONFIDENTIAL]**% of OFG’s revenues.

We also provide a small number of residential services although all of our Children’s homes focus on ensuring children receive a suitable education and make progress to achieve positive outcomes. The majority of our Children’s home residents benefit from education in one of OFG’s schools. **[CONFIDENTIAL]**. We have not sought to materially expand our services in this area (which are generally linked to historic acquisitions) and our market share remains de minimis at c.**[CONFIDENTIAL]**% for England, Wales and Scotland together.

All of our services come under the regulation of either Ofsted or, in a limited number of cases, the Care Quality Commission (“CQC”). We have been recognised by Ofsted as the highest quality provider of fostering services, with each OFG independent fostering agency (“IFA”) rated Good or Outstanding. By choice, we have no presence whatsoever in the unregulated residential market identified by the CMA, or exposure to any other unregulated children’s service.

Our care pathway also extends beyond the age of 18, providing continuity of support for young adults with severe autism who require long term residential support and for foster children who choose to remain with their carers until the age of 21. OFG has a specialist young adults service focusing on education and care services for adults with autistic conditions, some of whom transition from Options Autism’s residential schools. This business accounts for **[CONFIDENTIAL]**% of OFG’s total revenues.

#### OFG’s crucial role in children’s social care

OFG plays a crucial role in the children’s social care sector, providing support to and delivering excellent outcomes for some of the UK’s most vulnerable children and young people. Three factors enable OFG to provide this support: (i) our capability to deal with high acuity placements, (ii) quality of service provision, and (iii) consistency of good outcomes at scale.

- We have invested heavily in recruiting, training and retaining specialist teams across our business, to allow us to support those children and young adults with the most complex

needs and highest levels of acuity. The majority of children suffer from challenging mental or physical issues, making them extremely vulnerable.

- Not only do we assume responsibility for some of the most challenging cases, but we then deliver high quality services, measured in terms of both care and outcomes. In our care settings, for example, 96% of our services are rated by Ofsted as either Outstanding or Good (21% are Outstanding). By comparison, around half of children's services offered by LAs were rated by the same regulatory regime as either Requires Improvement or Inadequate.<sup>1</sup>
- Finally, OFG delivers these levels of quality, not just in a single service, but across the whole group. OFG holds itself to the highest quality standards, adopting the same approach across the UK, and following the most robust standards of care, irrespective of the fact that regulations differ between nations. 99% of our children are in care services (as defined in the ITC) rated Good or Outstanding and we have maintained those quality levels on a sustained basis for a decade or more. Even more impressively, 100% of our fostering services are Good or Outstanding. We are rightly proud of our achievements and more importantly of the management staff, foster carers and support care workers who work diligently and on a daily basis to deliver and maintain the quality of care that we offer. As a result, 99% of our children tell us that they feel well cared for and 98% graduate from our care to positive destinations in further education, employment or training.

The positive impact on individual lives and the wider benefits and savings to society, as a direct result of OFG's role in children's social care, are immense.

#### Interaction between fostering and regulated residential care

Whilst OFG operates a large network of fostering agencies within social care, our very limited exposure to residential care is focused on providing services for high acuity placements, whose individual needs are generally so complex that they could not be supported in a fostering setting. As stated above, OFG's core focus within Children's homes is on providing residential care to children in its schools **[CONFIDENTIAL]**.

Across OFG's homes we have invested in developing a "bridge to foster" service, where we work with LAs to provide the option for suitable children in our residential care services to be placed with a foster family. Despite the fact that "step-down" may only be suitable for a very small number of children, OFG is committed to offering and further investing in this service, given the significantly improved outcomes typically associated with foster placements over residential care (and significant cost savings for LAs).

Were it not for the specialist, high-acuity foster care services provided by IFAs like OFG, residential care would become the default placement setting for a much larger number of children

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<sup>1</sup> Cf. Ofsted inspection data and underlying reports.

(particularly because the children’s complex needs cannot be met by LA carers). This would lead to poorer outcomes for children and at a significantly higher cost to the taxpayer.

### Perspective on fostering

OFG’s only substantial activity falling within the scope of the market study is in the provision of fostering services and we have focused our detailed responses to the CMA’s ITC accordingly. Fostering is a market that is already well known to the CMA and has been the subject of two recent and lengthy merger investigations.<sup>2</sup> Whilst this market study clearly has a different scope and perspective, it is hoped that the learnings from that work will be reflected in the CMA’s current analysis. In addition, there have been, as the CMA recognises, other independent reviews of the fostering market, including the extensive *Foster Care in England Review* by Narey and Owens, which reported only two years ago.

The fostering market is complex and competitive. There are 316 IFAs and 85 of those have entered the market in the past five years.<sup>3</sup> LAs occupy a unique role as both sole customer and primary competitor for placements. LAs use IFAs as “swing capacity” (the CMA itself has previously described IFAs as serving a “spill-over” market).<sup>4</sup> This means there is no guarantee that IFA carers will receive placements, but also that the children who reach IFA carers are those who were unable to be placed “in-house” by the LA, typically because they are both older and have more complex needs.

### The role of the private sector in fostering

The private sector has played a crucial role in providing fostering services over the past twenty years and more. Over the period from 2007 to 2021, IFAs experienced a period of rapid growth. They were called upon by LAs to recruit new carer households in order to provide capacity to meet a continuously growing demand as more children entered care.

The ITC identifies that there are 16,000 households without a foster placement and infers that capacity utilisation is therefore c.72%, though it is unclear how many of these households are truly “inactive”.<sup>5</sup> There is a significant difference between theoretical capacity and available capacity, reflecting (i) the local nature of demand and capacity not necessarily being available within the required proximity, and (ii) the fundamental difficulty of matching children with foster carers (which is a complex process with structurally low probabilities of success).

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<sup>2</sup> NFA’s acquisition of Acorn Care and Education in 2016 and the acquisition of Partnership in Children’s services by Core Assets Group in 2019.

<sup>3</sup> Cf. Ofsted data.

<sup>4</sup> As the CMA found in NFA/Acorn, “LAs almost always seek to fulfil placement referrals using the LA’s in-house carers first, only resorting to external provision in the event they are not able to meet demand in-house” (paragraph 29(a)).

<sup>5</sup> “Inactive” carers are those who have either not taken a placement for a defined period or who have turned down suitable placements on multiple consecutive occasions, which is not uncommon, and has the impact of materially distorting carer both capacity and utilisation statistics.

Despite static carer household numbers, the private sector, unlike the LAs, has been able to continue to meet demand for foster placements by increasing the number of children per carer household. It has achieved this in two ways. Firstly, by supporting and training IFA carers to enable them to take more placements and, crucially, not only more placements, but older and higher acuity placements. IFAs social workers, for example, have significantly lower caseloads than their LA counterparts. Secondly, IFAs have been able to both recruit and retain carers far more effectively than LAs and have maintained the overall size of their carer household base.

#### *The growing importance of scale*

OFG is one of the larger IFAs, with 28 separate agencies in England, Wales and Scotland and a relationship with every LA in the UK. Since 1995 it has grown and evolved to have a national presence with fully scaled operations. Scale is an increasingly important factor in at least four specific areas.

- First and most importantly, scale supports quality and better outcomes. Scale contributes to the provision of carers with a broad range of skills and experience which allows better matching (and the broader geographic reach of carer capacity which can be made available for placements in addition to the local density of the foster carer network). OFG has an external, fully independent Quality and Safeguarding Committee, internal audit and other compliance capabilities. It also exercises independent oversight through performance improvement boards, which mirror those of the regulator, and has developed proprietary tracking tools that enable the organisation to predict quality issues in advance. This has resulted in 100% Good or Outstanding Ofsted quality ratings across OFG's fostering business, a 98% GCSE pass rate and 98% of children graduating to positive destinations.
- Second, scale allows the development of more effective training for carers (online and face-to-face) and sharing of best practice, which in turn supports IFA carers in dealing with higher acuity placements. It also offers the opportunity to have a wide range of dedicated in-house clinical support capabilities for children and young people, improving outcomes and life chances.
- Third, scale allows the development of fully online recruitment platforms and the chance of reaching the next generation of carers. Younger carers, in particular, prefer to be recruited online, to have their application managed online, to be trained online and to be supported online as part of a carer community. Efficient recruitment is critical in a sector where the overall conversion rate from enquiry to approval by the independent panel is less than 2%. This in turn improves sufficiency of supply and increases the chances of matching the needs of a specific child with those of an individual carer.
- Fourth, scale permits OFG to have high levels of innovation and investment. Examples of OFG's innovative programmes include its Youth Voice Portal (an interactive tool to allow children a voice and share their views on their care and education with OFG on an ongoing basis) or NFA World (an app to communicate with and support carers).

#### *Value for money and margins*

First and most critically, value for money in fostering cannot just be seen in absolute terms, but relative to the opportunity cost of alternative care pathways. Fostering is, as the ITC recognises, more cost effective than residential care and delivers improved outcomes for children. **[CONFIDENTIAL]** of OFG's foster placements are made under the terms of framework agreements, and therefore pre-agreed during tendering processes.

Overall prices for fostering have been falling in recent years. As the CMA acknowledges in the ITC (as referenced above), there have been numerous previous studies which seek to compare LA carer allowances and fees paid to IFAs (the most recent being the Narey and Owers Report in 2018). LAs consistently fail to account for any of the costs (both fixed and variable) of recruiting, training, supporting and maintaining their own carer base. Once these are included, plus the costs of contracting that only the IFAs incur, any difference between LA and IFA fees is reduced significantly and, once the increased age and acuity levels of IFA placements are taken into account, no material difference is found. In addition, IFAs bear a disproportionate share of the costs of carer recruitment and have to factor in the loss of carers to LAs as part of their cost base since a proportion of foster carers may decide, once trained, to foster directly for an LA who may offer less complex placements, or the opportunity to foster younger children, not generally offered to IFAs.

With respect to the private sector specifically, price is typically set by the LA with reference to a specific framework agreement and, as far as OFG is aware, does not vary between private equity ("PE") owned or other private providers (including the third sector), and carer allowances are also broadly uniform (acuity/age adjusted). Reflecting these factors, the contribution per carer is similar whether they work for a large IFA, a small IFA or indeed the third sector. Differences in net margins are therefore primarily a function of scale, and permit OFG to make extensive investments into quality and recruitment. Private sector margins fundamentally need to reflect opportunity costs and risks, which include reputational risk, regulatory risk and the significant risk associated with holding spare capacity; spare because of the difficulty of matching at the point of referral (in particular in light of the priority given by LAs to in-house placements).

#### Road map for the future

We see very significant opportunities through this market study to improve the overall operation of the fostering sector, with a view to both improving the number of carer households available, delivering higher levels of quality and outcomes, and improving value for money even further through:

- **Collaboration:** Uncertainty about levels of future capacity is endemic, and capacity is the main constraint preventing successful outcomes for children. LAs should improve their collaboration and communication with IFAs to ensure future demands are able to be met. There is no one size fits all/right commissioning solution, but the process must be sufficiently agile to support the LA with its breadth of needs.

- **Focus on quality of outcomes and long-term value for money:** In OFG's experience, commissioning is currently too focused on price, and not enough on quality and outcomes, both in the short and the long term. Quality provision may cost more but it delivers better value for money (in terms of outcomes) and thereby improves a child's life chances and, in the long term, there is a substantial economic benefit. IFAs in general, and PE-owned IFAs in particular, have achieved the greatest differentiation over their LA competitors in terms of quality of outcomes. IFAs have, through significant investment both in terms of people and processes, been able to achieve the highest levels of quality.
- **Recognition of the benefits of regulation:** OFG believes wholeheartedly that the delivery of children's services should be closely monitored by independent regulation and that this regulatory environment should be applied with equal rigor across both the private and public sector. However, OFG has a number of ideas about how that regulation could be strengthened, including by expansion of remit, more focus on outcomes, more focus on supporting improvement work, reducing variability in the system, taking a more robust and risk-based approach to inspections and a more supportive approach during emergencies.
- **LA responsibility:** In the long run, the private sector is driving the outcomes-driven agenda and is creating the capacity to provide care, both now and in the future. LAs should play a more active role in shaping the future of the sector and account for more effective commissioning of placements in the future.

Next steps for the market study

We look forward to engaging with the CMA throughout this market study and are available to discuss any further questions the CMA may have upon its review of OFG's response to the ITC. We welcome the opportunity to further explain to the CMA our thoughts on the market dynamics, based on our extensive experience, in a separate meeting.

Yours faithfully,

David Leatherbarrow  
Group Chief Executive  
Outcomes First Group

## ANNEX 1

### OUTCOMES FIRST GROUP RESPONSE TO INVITATION TO COMMENT

#### *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?

##### Development over time

- 1.1.1 The provision of services for looked after children ("LAC") is by its nature a highly complex undertaking. At its core, it is the duty of the LA to find the best available match for each LAC, taking into account the child's unique circumstances. While there is a general preference within LAs for foster care over residential care, whether an individual LAC is looked after in foster care, residential care, or otherwise, will depend primarily on the child's circumstances and care needs, and (i) whether these are capable of being met by fostering; and if so (ii) whether an appropriate foster carer is available to take on the placement.
- 1.1.2 The overall population of LACs in the UK has grown consistently over the past two decades and before: from 81,000 in 2008 to 105,000 in 2020 (CAGR 2.1%).<sup>6</sup> The drivers of this growth are clearly understood, widely recognised and would appear, sadly, to be structural. As the number of LACs has grown, at the same time the number of LACs with particularly complex needs has also grown. This is partly driven by the age at which children are entering the care system, which has been increasing over time. Older children tend to have more complex needs. Furthermore, the level of individual need is both growing and evolving, driven by increases in parental abuse or neglect, drugs, gang involvement, youth criminality and child sexual exploitation. Children are increasingly presenting with a range of mental health issues.
- 1.1.3 Over the same time period, the overall provision for LACs has grown to respond to increased demand, but the mix of different types of provision has evolved slowly, as shown below.

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<sup>6</sup> Cf. Department for Education ("DfE").

**Table 1: Breakdown of care for LACs in the UK**

Types of care	2008		2013		2020	
	Number of placements	Proportion of LAC	Number of placements	Proportion of LAC	Number of placements	Proportion of LAC
Foster care	53,000	65%	67,000 (IFA households: ~19,000; LA households: 32,000; kinship care: 6,000)	72%	74,000 (IFA households: ~20,000; LA households: 28,000; kinship care: 9,000)	70%
Residential care	9,000	11%	9,000	10%	14,000	13%
Other (primarily returned to parents but still under LA care)	19,000	23%	17,000	18%	17,000	16%
	81,000		93,000		105,000	

Sources: DfE data and Ofsted (for England data only); estimated for Northern Ireland, Scotland and Wales (using scaling factor on England data).

Notes: Estimates of placements to the nearest 1,000. No decimal places shown on percentages.

1.1.4 The growth of fostering is a positive dynamic. Fostering has always been the preferred mode of care for LAs, for a number of reasons. First and most importantly, fostering provides demonstrably better outcomes for the children, not least because they are cared for in a stable environment which most closely resembles a family setting. This has been acknowledged in many studies, including the Narey Report (2018). In addition, from the LA's perspective, as the CMA recognise, it provides excellent value for money compared to residential care (both regulated and unregulated). For example, a high acuity residential placement could cost approximately five times as much per week as an IFA foster placement.<sup>7</sup>

1.1.5 In 2020, 15% of the LAC population were in residential care, with a significant proportion being high acuity placements who would either not be suitable for foster care or, if they were older, did not wish to be placed into foster care.<sup>8</sup> However, a proportion of the children currently in residential care could be looked after in fostering, if an appropriate carer match, with appropriate support, could be identified. OFG, as a PE-backed provider, is able to invest heavily in recruitment, training and support for carers to enable these children to be cared for in – and benefit from the

<sup>7</sup> This has been estimated on the basis of residential AWF reported in the *National Centre for Excellence in Residential Child Care (NCERCC) report (2020)* and the AWF of IFAs (Fostering) reported in the *Foster Care in England: A Review for the Department for Education by Sir Martin Narey and Mark Owers (2018)* report

<sup>8</sup> Cf. DfE data.

improved outcomes of – foster care. Moreover, care leavers are themselves more likely to have their own children taken into care, which creates a cycle of neglect. By investing in effective foster care, the cycle can be broken, preventing children from coming into care in the future. Investing into good quality foster care is therefore crucial.

#### Drivers of provision over time

- 1.2.1 Provision of fostering services is constrained by two main factors: (i) the availability of carers; and (ii) the ability to match the specific needs of a child, at a moment in time, with a suitable carer. Matching is dealt with later in this response. Availability is driven by two key factors; the requirements of the role itself and the selection process. Fostering is a highly rewarding occupation but can be very demanding, particularly when caring for higher acuity and, in some cases, older young people. The selection process is rigorous, by necessity, given the nature of the role and the responsibility that carers have for young people.

#### Recruitment of carers

- 1.3.1 Fostering is a structurally supply-constrained market. Despite very significant efforts by all players in the sector (public, private and charities) to increase provision, volume growth in terms of number of carers has been a modest 1% per annum over the past seven years. Recruitment of new carers has been broadly equal to carer losses on a national basis. The costs of recruiting and training new foster carers fall disproportionately on private operators, as explained further below.
- 1.3.2 The typical conversion rate, from initial enquiry to approval by the independent panel of assessors, is c.2% and has decreased over the past decade, with the growth of online recruitment. The process is time-consuming and resource intensive – it takes on average six months to reach the approval panel. This panel is effectively the final arbiter of the selection process and is, rightly, wholly independent of the operator. The operator recruits, selects, trains and supports the carer during the process, but the panel makes the final decision as to suitability of an individual to be registered as a carer.
- 1.3.3 Our own research has given us deep insights into carer supply. We are encouraged by focus groups and surveys which show that people regard fostering as a potentially appealing vocation and one that resonates with a broader paradigm shift in attitudes to work and reward. Money is not, and never has been, the main motivation for attracting new carers; according to our research it is in fact not even in the top five reasons why carers choose to foster.
- 1.3.4 Importantly, however, reaching the next generation of carers requires a significant shift online in terms of recruitment channels. Whilst word of mouth remains important, increasingly internet-based and social media recruitment strategies are becoming key to recruiting new carers. As the lives of children, both in care and out, have moved online, so have those of carers. Younger carers in particular expect to be recruited, to have

their application managed, to be trained and supported online as part of a carer community.

- 1.3.5 Finally, the supply of carers is, to an extent, counter-cyclical. There is a positive correlation between carer growth and unemployment, for example. In the period following the global financial crisis (2008-2013) carer recruitment grew at a historically high rate. It is also clear to OFG, in our own recruitment data, that the structural impact of Covid-19 on the economy is also having a longer term positive impact on carer recruitment (even though OFG [CONFIDENTIAL], as carers have understandably been placing themselves ‘on hold’ due to health concerns).

#### *Changing nature of fostering households*

- 1.4.1 In order to understand how provision has evolved in the past decade, it is important to examine foster households (as a proxy for carers). Between 2013 and 2020 the total number of fostering households has remained static at c.57,000 despite active recruitment efforts.<sup>9</sup>
- 1.4.2 Nevertheless, the mix of foster households has changed. As shown by Table 1 above, whilst the IFA fostering households have also remained static over the period, LA households have been shrinking and have been replaced by kinship care where children are looked after by relatives who are paid carers and supervised by the LA, but are not recruited or trained in the same manner as traditional foster carers.
- 1.4.3 In addition, two specific regulatory issues have also impacted fostering placement capacity in recent years. The first is the right of children to leave home and live independently at age 16. Many of these young people are likely to require residential accommodation, either regulated or unregulated (OFG is not active in unregulated). Secondly, the “staying-put” legislation (Children and Families Act 2014) gave young people the right to remain in foster care beyond 18 and until the age of 21. This has not only reduced the spare capacity of the system, since carer household numbers are flat and this is a new requirement, but has also had the effect of reducing IFA capacity because these young people and their carers were transferred to the LA.

#### *The crucial role of IFAs in ensuring sufficient provision of foster care*

- 1.5.1 The apparent imbalance of growing placement numbers and increasing placements in foster care, despite static carer numbers, is explained by the carer to placement ratio. In LA households (including kinship), the ratio is 1.2 and has been static for the past 8 years, while IFA households have grown this ratio from 1.1 in 2013 to 1.4 in 2020.<sup>10</sup> This is surprising, given LAs place with their own carers in priority to IFAs, and tend to place younger and less acute children.

<sup>9</sup> Cf. Ofsted (for England data only); estimated for Northern Ireland, Scotland and Wales (using scaling factor on England data).

<sup>10</sup> Cf. DfE data (for number of placements) and Ofsted (for number of households).

- 1.5.2 In fact, the growth in placement numbers over the past eight years has only been achieved through: (i) IFA carers taking more placements (and not only more placements, but older and higher acuity placements) and (ii) by the ability of IFAs to recruit and retain carers such that they have maintained the overall size of the carer household base. The ability of IFAs to fulfil this role is a direct result of the significant investments IFAs have made in carer recruitment, training and retention.
- 1.5.3 IFAs have been able to achieve and maintain these higher placement ratios because:
- IFAs are more effective at recruitment compared to LAs (LA applications decreased at 6% per annum between 2016 and 2020 and IFAs generate two to three times as many enquiries from potential applicants).<sup>11</sup>
  - IFAs have better retention rates compared to LAs ([CONFIDENTIAL]% churn per annum compared to 21%) pointing to a stronger value proposition by IFAs to carers, who have a choice about where they work.<sup>12</sup>
  - Perhaps most importantly, IFAs provide enhanced levels of training and support which enables carers to take additional children and children with more complex needs.
- 1.5.4 Notwithstanding its significant investment in recruitment, training and retention, OFG loses a number of carers to LAs on an annual basis. LAs “free-ride” on the investment by OFG in recruiting and training carers (typically [CONFIDENTIAL] per carer). While IFAs have superior carer retention rates, some level of loss to LAs is unavoidable since they are able to offer more choice in placement types, given their control of placements.
- 1.5.5 In the next five years, based on long term trends, the private sector (including private equity (“PE”) owned, non-PE owned and third sector) will account for more than half of the total placements in fostering. Even today, of those children in traditional foster care (as opposed to kinship care), 46% are with IFA carers.<sup>13</sup> This is the outcome of carer choice, more effective IFA support for higher acuity placements, more effective recruitment, and retention on the part of the independent sector.

## 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?

- 2.1.1 As one of the larger private providers of foster care in the UK, OFG benefits both from being local and from operating at scale. We have 28 agencies, which together serve all 204 LAs, operating with a local presence and which are the face of the organisation for both carers and customers.

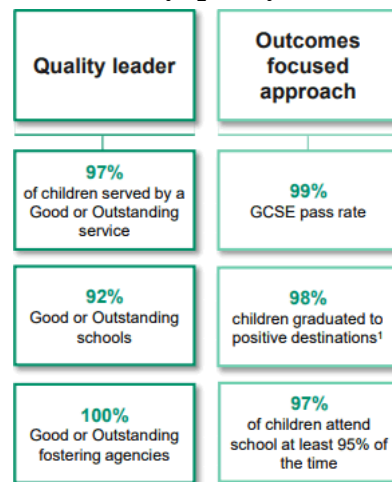
<sup>11</sup> Cf. Ofsted data.

<sup>12</sup> Ibid.

<sup>13</sup> Cf. DfE data.

- 2.1.2 It is these agencies which contract locally on framework agreements, competing in a highly fragmented market with 316 registered IFAs. In this regard, OFG's agencies are no different to other local providers.
- 2.1.3 Nevertheless, OFG is able to use its scale in a number of ways to improve its service offering to the benefit of LAC, LAs and carers. Scale has a wide variety of benefits:
- OFG provides the highest level of training and support for its carers and supervising social workers, through blended learning which combines both standardised and bespoke training, and sharing of best practice, which in turn allows them to:
    - take higher acuity placements whilst at the same time reducing placement breakdowns;
    - offer carers a development pathway with training and higher acuity placements over time which aids retention; and
    - take additional children: experienced carers can take more than one child, given the extra support we can provide, and therefore can expand care capacity.
  - The resources to build a centralised quality, regulatory and compliance function (including internal audit, monitoring and intervention) which allows OFG to develop and share best practice and benchmark performance.
  - Through a centralised clinical team, OFG can provide specialised support to children and their carers in order to minimise placement breakdown.
  - Through increasing sufficiency and the chance of matching a placement with a carer.
  - Allowing significant levels of both efficiency and effectiveness in the recruitment of carers.
  - Most importantly, these capabilities combine to enable OFG to deliver quality at scale.
- 2.1.4 OFG's quality levels have been maintained and delivered consistently over an extended period of time and indeed have improved during its ownership by Stirling Square Capital Partners. In the three years since 2018, Stirling Square has invested significantly in expanding the number of available services offered by OFG and has expanded overall capacity to care for and educate more than 7,000 of society's most vulnerable children. 91% of OFG's IFAs were rated Good or Outstanding in May 2017. This has increased to 100% since October 2018.
- 2.1.5 Critically, inspected quality, in turn, drives outcomes for children. OFG explicitly measures outcomes, both externally and internally, as shown by Figure 1 below.

**Figure 1: OFG performance on key quality and outcomes-focused metrics**



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

3.1.1 The CMA has identified in the ITC that there are currently 16,000 fostering households without a placement. This represents 28% of total carers, or, put another way, the sector is operating at only 72% capacity utilisation. Therefore, there is no shortage of foster carer availability *per se*.

3.1.2 However, these statistics may be explained by three issues: (i) matching, (ii) local availability, and (iii) the issue of “inactive” carers.

- Matching is a complex process with structurally low probabilities of success. It is almost impossible to predict when a child will require care; care in the vast majority of cases needs to be delivered close to the child’s current school; and a suitable carer needs to be available and willing to take the child in question. IFAs are highly motivated to identify a suitable carer match quickly since they are carrying fixed capacity, and IFAs face competitive pressure to respond to placement requests by LAs.
- There are local supply and demand imbalances at the level of individual LAs. OFG sees the national picture and is therefore able to quickly identify, at least to some extent, where there is a sufficient carer base or not enough carer availability and we are able to shift our recruitment focus and efforts accordingly. However, these efforts are most effective when managed hand-in-hand with LAs. Local targeting of recruitment resources is helped significantly by being able to use online channels to focus on specific groups or geographic areas. Given the cost of recruiting and retaining carers, when combined with the fact that LAs use their own carers wherever possible, it is important for IFAs to have the right number of carers per area, despite their willingness to offer out-of-area placements.

- “Inactive” carers are those who have either not taken a placement for a defined period or who have turned down suitable placements on multiple consecutive occasions. It is not uncommon in the sector for such carers to continue to feature as “available” when in reality they are not. This has the impact of materially distorting both carer capacity and utilisation statistics.
- 3.1.3 It is inherently difficult to closely align supply and demand in the fostering market. This is a unique market, catering for vulnerable and disadvantaged children. Each child is a product of a unique set of circumstances and has a unique set of needs (emotional, cultural, religious, linguistic, educational). Similarly, carers cannot be regarded as units of capacity, since they too are driven by complex human factors and personal circumstances.
- 3.1.4 However, where LAs are willing to work together with IFAs, issues of local or regional supply/demand imbalances can be effectively mitigated and commissioning decisions improved. OFG has worked successfully with several LAs to redress local issues.<sup>14</sup>  
**[CONFIDENTIAL]**.
- 3.1.5 The lack of capacity in fostering, where it exists, is not driving “undesirable outcomes” in fostering itself. Quality fostering providers consistently deliver very good outcomes as well as stability. However, local supply/demand imbalances can lead to: (i) children being placed “out of area”; and/or (ii) children who may be suitable for fostering being placed in residential homes instead. Neither of these scenarios are optimal outcomes for LAC.
- 3.1.6 OFG, similar to a small number of other private providers, has invested significantly to build a “step-down” capability, allowing young people in high acuity residential care to move into foster care. We provide specific additional training and support to a number of our carers to enable them to take these placements. This investment, enabled by our PE investors, means that LACs who would otherwise be in residential care are able to benefit from the generally superior and stable outcomes offered through fostering. In addition, the potential savings to the LA of this approach are significant. Nevertheless, engaging with LAs consistently on this service offer has been challenging and currently only a very small proportion of children are given this opportunity.

#### 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

<sup>14</sup> Please refer to OFG’s response to question 28 of the CMA’s section 174 notice dated 14 April 2021.

Overall shift towards private providers

- 4.1.1 Across the fostering sector, there has been a structural and long-term change in the mix of providers of care, which has witnessed the reduction in LA provision and significant growth of the private sector (in terms of the number of placements but not carer households). Since 2008 the private sector, including PE-owned, non-PE owned and the third sector has more than doubled the number of placements of LAC for whom it provides care.<sup>15</sup> Put simply, IFAs have supported the vast majority of the growth in the availability of fostering placements for children over the past decade.
- 4.1.2 Had the private sector not added the incremental fostering placements, those children would have needed to be placed in residential care.
- 4.1.3 IFAs have also been the partner of choice for carers. Carers have a choice and, in theory, LAs should be the preferred employer since they pay the same (when adjusted for age and acuity), utilise their own carers as a priority and are therefore able to offer a wider choice of placement type (age, sex, ethnicity etc.). Carers are also free to move between IFAs and LAs and frequently do so. OFG's own carer surveys reveal that the preference for IFAs over LAs is driven by greater levels of support and training, the potential for career development and a desire to work for the highest quality provider.
- 4.1.4 There are a number of drivers of the growth of the private sector, in terms of placements, over the past decade:
- IFA growth has reflected the underlying changes in the needs of children entering care, and fostering in particular. Children requiring care within IFAs are typically older and have higher levels of acuity. In 2017 for example, 72% of IFA children were over the age of 10, compared to only 53% of LA children. IFAs are more likely than LAs to look after children with complex multi-dimensional problems, parent and child, and those seeking emergency placement.<sup>16</sup>
  - IFAs have provided enhanced levels of support for carers, by investing significantly in training, development and clinical support services, which in turn has allowed their carers not only to look after higher acuity children but also to care for more placements per household than LAs. For example, 81% of IFA carers complete their training modules on time compared to 66% of LA carers.<sup>17</sup>
  - IFAs employ supervising social workers whose primary responsibility is to support a group of carers. Caseloads tend to be lower than for similar roles in LAs.
  - IFAs have been more effective at recruiting carers, generating more enquiries, primarily driven by their online expertise, although LA conversion rates to applications are significantly higher.
  - IFAs are more effective at managing potential carers through the selection process.

<sup>15</sup> Cf. DfE data.

<sup>16</sup> Cf. *Foster Care in England*, Sir Martin Narey and Mark Owers, February 2018, page 59.

<sup>17</sup> Cf. Ofsted data.

- The carer deregistration rate has been up to three times higher for LAs than IFAs in the past few years; for example, in 2020, LA de-registrations were 6.2 households per thousand compared to 2.3 for IFAs.<sup>18</sup>
- Similar statistics apply to carer churn overall. In 2020, LA foster household churn was 21.1% compared to [CONFIDENTIAL] for IFAs.<sup>19</sup>

#### *Position of PE-owned private providers*

- 4.2.1 In 2020, around one-third of the 27,000 placements in the care of IFAs (representing around 12% of total placements) were managed by PE-owned companies (OFG, Polaris and Compass Fostering).
- 4.2.2 PE-owned IFAs have been growing and seeking economies of scale to reinvest into quality, generally through acquisition of other private operators. The main source of acquisitions has been retiring IFA owners, mostly relatively small businesses serving a limited number of local LA customers. Investment into such agencies retains capacity in the market that could otherwise be lost.
- 4.2.3 OFG is the oldest PE-owned operator, having been in PE ownership since 2005, during which time it has made more than 20 individual agency acquisitions. It is important to remember that whilst acquisitions drive scale, the need to drive recruitment is a constant imperative because the whole carer base churns within a [CONFIDENTIAL]-year cycle. By way of illustration, the like-for-like organic growth of OFG since 2015 has been [CONFIDENTIAL] per annum in carer volumes but in that time the business has recruited a total number of [CONFIDENTIAL] carers.

#### *Entry of new IFAs*

- 4.3.1 Whilst PE has generally grown by consolidation, the number of agencies in the market continues to grow substantially. In 2020 alone there were 22 new agencies registered and over the last five years there were 85 new entrants, or 25% of the total number of agencies in the industry today.<sup>20</sup> That reflects the dynamic nature of the market and the fundamentally low barriers to entry.

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?

#### *General*

<sup>18</sup> Cf. Ofsted data.

<sup>19</sup> Ibid.

<sup>20</sup> Cf. Ofsted data.

- 5.1.1 We have examined briefly each dimension in turn, particularly focused on the OFG's PE-owned perspective, but commenting more broadly where appropriate.

*Number of placements (incentives to invest in new capacity)*

- 5.2.1 OFG, along with the other private equity owned operators in the sector, has a strong incentive to invest in incremental capacity:
- Carer churn is, on average, c. [CONFIDENTIAL]% per annum.<sup>21</sup> This means that, over a [CONFIDENTIAL] year period, the whole carer base is replaced. This churn represents a mix of carers leaving fostering or leaving OFG (primarily to foster through LAs).
  - The cost structure of the business encourages investment, since the cost base is fixed and semi-fixed in nature.
  - Investment in carers drives scale, and scale has numerous benefits, both to the business and to children:
    - Fundamentally scale helps to drive quality and outcomes.
    - Scale increases sufficiency and the likelihood of matching and at the same time reduces volatility.
    - Scale contributes to the provision of carers with a broad range of skills and experience which allows better matching.

*Price*

- 5.3.1 As the ITC recognises, and we would strongly re-iterate, price is meaningless unless linked to value of both quality and outcomes. Those outcomes must be both short term and long term and must be transparent and measurable. Commissioning must be outcomes-based and not simply price-based. Sadly, this is not the case today and this must change, as explained further below with respect to LA commissioning.
- 5.3.2 As the CMA itself has acknowledged in recent merger reviews in the fostering sector (such as National Fostering Agency (“NFA”)/Acorn Care 1 Limited, CareTech/Cambian, Core Assets Group/Partnership in Children’s Services), price in the sector is established through framework negotiations and “nearly all the key parameters of competition are set during the framework tender stage” (CMA in *NFA/Acorn*, paragraph 6). This includes price, which is fixed through the framework tender process at set levels for each “tier” of provider. What price is paid to each provider is therefore not dependent on its ownership, but rather the position it “won” on the framework through a competitive tender process. The process which provides that IFA with no guarantee of placement, but only the right to bid for placements at a pre-agreed price.
- 5.3.3 The framework process is transparent, structured and has been established for more than a decade. LAs often group together for the purpose of tendering; invitations to

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<sup>21</sup> Cf. Ofsted data.

tender are open to all IFAs; the resulting framework agreements are comprehensive, multi-year, without automatic uplifts and include time-based extensions without reference to participants.

- 5.3.4 The CMA makes reference in the ITC to spot purchasing increasing significantly. However, this is not the case in relation to fostering, where [CONFIDENTIAL] of OFG's placements are procured by reference to the framework.
- 5.3.5 Prices may vary by acuity level of the child, their age and geographical location (since the underlying cost of living varies in areas across LAs). Even where children have complex needs, the structured and detailed framework agreements will outline the basis on which the additional services or care, required by the individual child, will be priced.
- 5.3.6 The historic evolution of price over the past decade is highly instructive. Taking the past decade as a reference period, from 2010 to 2019 (data not available as yet for 2020) the average fee per IFA placement declined from [CONFIDENTIAL] per annum to [CONFIDENTIAL] per annum in nominal terms.<sup>22</sup> This is in spite of the fact that acuity levels have been rising over the past decade as has the average age of children entering foster care with IFAs.
- 5.3.7 Furthermore, over the same period, LA "fees" (allowances paid to carers, which do not include all relevant costs) have increased from [CONFIDENTIAL] per annum to [CONFIDENTIAL] per annum, an increase of [CONFIDENTIAL] %.

#### Value for money

- 5.4.1 Since price is set by the LA, and carer allowances are also broadly uniform (acuity/age of placement/location adjusted) the issue of value for money is common across the whole private sector. The allowance per carer is similar whether they work for a large IFA, a small IFA or indeed the third sector.
- 5.4.2 As the CMA acknowledges in the ITC, there have been numerous previous studies which seek to compare LA carer allowances and fees paid to IFAs. The most recent, referenced in the ITC, is the Narey Report (2018).
- 5.4.3 Whilst this comparison draws significant attention from commentators (the ITC itself quotes a comparative figure of £500 per week), it is, as these studies conclude,<sup>23</sup> both spurious and misleading, since LAs fail to account for any of the costs (both fixed and variable) of recruiting, training, supporting and maintaining their own carer base. Once these are included, plus the costs of contracting that only the IFAs incur, the difference is reduced to £270 per week.

<sup>22</sup> Fees have been derived based on the total spend in the year by all LAs on fostering services by IFA/LA services and then divided by the average number of placements in the year (using the beginning and end of year figures).

<sup>23</sup> For example, "[r]eflecting the greater challenge of children cared for in the IFA sector, the IFAs in our sample spent significantly more than local authorities on carer allowances and fees ... taking into account of these differences, the cost differential between local authorities and IFA costs narrow considerably to the point where, in some instances, there is very little between them ..." (Foster Care in England, Sir Martin Narey and Mark Owers, February 2018, page 62).

- 5.4.4 However, even this comparison is incorrect, since it fails to account for the higher levels of acuity (and age) that IFAs support when compared to LAs. Once this is adjusted for, there is no material difference in the cost to the taxpayer on a like-for-like basis. This view is supported by early studies dating back as far as the 2008 report by the National Audit Office.<sup>24</sup>
- 5.4.5 In addition, there are two further material aspects – not accounted for by this cost analysis – in which IFA’s costs substantially exceed those of LAs, namely specifically the risks associated with spare capacity and the disproportionate costs of recruiting/training carers.
- 5.4.6 Value for money cannot just be seen in absolute terms, but relative to the opportunity cost of alternative care pathways. Fostering is, as the ITC recognises, more cost effective than residential care and delivers improved outcomes for children.
- 5.4.7 Fundamentally, as the ITC recognises in the first paragraph, the most important measure of value is outcomes. Outcomes need to be measured in both the short term and long term, and for both the individual and society. The reality is that there are no systematic or standardised measures in use today, by LAs or private providers, and therefore it is extremely difficult to make any meaningful assessment as to the relative value provided by different operators. However, while the ITC suggests that quality levels between LAs and private providers are similar, this is not supported by data. In 2020 IFAs (all providers) had 92% of services assessed at either Outstanding or Good (OFG has consistently been 100%). LAs by comparison had inspected quality levels of 50%.<sup>25</sup>

#### Location

- 5.5.1 OFG, along with the other private equity owned operators, are national businesses operating across the UK. OFG has a presence on all 45 framework agreements and with all 204 LA in England, Wales and Scotland.
- 5.5.2 Since LAs are both customers and competitors, a national footprint helps to diversify risk, reduce volatility caused by imbalances in local supply and demand, and increase the probability of matching placements and carers.

#### Quality of placements

- 5.6.1 The strongest period of historic growth for IFAs (2008-2013) coincided with a rapid growth in the number of LAC caused by the impact of the global financial crisis, the acceleration of underlying societal factors and a number of high-profile abuse cases. IFAs proved better able to recruit carers, support them to take higher acuity placements in greater volumes and to do so with significantly enhanced levels of quality.

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<sup>24</sup> See [Pressures on children's social care \(nao.org.uk\)](https://www.nao.org.uk/publications/2018/pressures-on-childrens-social-care/).  
<sup>25</sup> Cf. Ofsted data.

- 5.6.2 It is in the area of quality and outcomes that IFAs in general, and PE-owned IFAs in particular, have achieved the greatest differentiation over their LA competitors. IFAs have, through significant investment both in terms of people and processes, been able to achieve the highest levels of quality, as measured by the regulatory inspector, Ofsted, and to do so at scale (as set out above).
- 5.6.3 Achieving the highest level of quality is fundamentally a moral imperative for OFG given its importance to the children within its care, but it is also critical to its commercial success.
- 5.6.4 Importantly, inspected/reported quality is not necessarily the most important metric. The measurement of outcomes is, as indeed this ITC recognises. However, outcomes are barely defined, let alone being measured consistently across the sector and between different providers, both LAs and IFAs alike.
- 5.6.5 Finally, the OFG, as the largest IFA, is seeking to influence the market in a positive way, with the goal of delivering the highest quality and best outcomes for children and providing value for money services to the LAs. We engage proactively with LAs, seek to collaborate wherever possible and are at the forefront of driving innovation in the sector.

## 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?

- 6.1.1 OFG's PE investor, Stirling Square Capital Partners ("Stirling Square"), invests in a wide variety of different companies, each with specific investment requirements and time horizons. **[CONFIDENTIAL]** The mandate of Stirling Square is to be the long-term investment partner to management teams to achieve their stated objectives to grow and strengthen the companies they manage.
- 6.1.2 Over the past decade there has been an increasing interest from investors in finding opportunities to support businesses which deliver a positive social benefit, part of a wider movement known as "impact investing". This investment strategy is also aligned with the broader environmental, social, governance agenda.
- 6.1.3 The key attractions of fostering as an investment, whether as a PE investor or otherwise, are as follows:
  - The market has long term trends which have proved to be relatively predictable; the gradual growth in the number of LAC; fostering growing as the preferred care pathway for LAC versus residential care; the private sector growing its share of provision within fostering.
  - Funding from local government is supported by legal frameworks and has remained stable recognising the importance of private sector provision.

- 6.1.4 The fostering market is highly fragmented. There are 316 registered private sector agencies in the UK many of whom are small operators. Larger agencies provide an “exit” route where individuals or families can sell their businesses as they retire. Typically, PE investors introduce improved discipline, corporate governance and resilience to these agencies without losing their underlying identity. Scale allows larger agencies to spread the cost of overheads and so improve profitability on a group basis.
- 6.1.5 Whilst it is possible to point to aspects of the market which are attractive from a PE perspective, it is important to recognise that there are also significant risks (such as regulatory risk, reputational risk and specific market risk).

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

- 6.2.1 Fostering is asset-light, i.e. property is not relevant, other than to provide a registered office for a local agency
- 6.2.2 Stirling Square does not use any separate property financing such as OpCo/PropCo, which it does not see as sustainable financing structures.

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?

- 6.3.1 There is no evidence of short-term investment cycles in fostering, it is quite the reverse. Stirling Square invested into the predecessor of OFG, NFA, in 2015 and still owns the business today six years later. Compass Community is owned by Graphite Capital since 2017 and was previously owned by August Equity for five years.
- 6.3.2 Today PE-investors need to have a long-term mindset as businesses can only be successfully sold to the next owner if they are already well-positioned for the coming five to seven years of growth. Therefore, the actual planning horizon of a PE investor today will at least be five years during its own period of ownership, and a further five years upon divestment.
- 6.3.3 In fostering, this long-term mindset is even more pronounced as the sector has relatively low growth and the main drivers for value are improvements in quality, which by definition take time, especially given inspections often only occur every three years.
- 6.3.4 OFG specifically has heavily invested into long-term initiatives, despite these potentially impacting profitability in the short term. For example, **[CONFIDENTIAL]**

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?

- 6.4.1 PE-owned fostering agencies do not carry a higher financial risk profile *per se* than other IFAs (or indeed than LAs). PE-owned operators tend to be larger and more diversified, whilst at the same time having stronger management systems and processes. Their scale also enables them to attract high-calibre management. PE-owned businesses have more comprehensive financial management reporting and information, including detailed operational and financial metrics.
  - 6.4.2 PE-owned fostering agencies may have more leverage than other non-PE IFAs, but the CMA should collect information across the market on this. Historically, the sector has been characterised by long term growth, predictable funding and a stable regulatory environment, factors which have enabled PE-owned businesses to maintain sustainable levels of leverage. Indeed, during the past 20 years of PE involvement in the sector, including the global financial crisis and Covid-19, no PE-owned operator has failed, no operator has ever, to the best of our knowledge, experienced any issues in relation to the level of debt financing.
  - 6.4.3 PE-owned businesses by definition, have access to pools of capital, including both equity and debt, supporting investment by the IFA which means they tend to have more stable financial and cashflow positions than other competitors in this space.
  - 6.4.4 It is typically not the strategy of PE firms to extract capital from their portfolio companies through dividends or other means – all available cash is reinvested to fund investment in quality, improving outcomes and future capacity expansion.
- 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?
- 6.4.5 All services within the OFG Group are registered in the United Kingdom.
  - 6.4.6 OFG pays corporation tax in the UK.

### *Theme two: Commissioning*

- 7.1.1 Commissioning is considered above and therefore we do not respond here to the individual questions raised, but rather make some broad observations about how commissioning could be improved.
- 7.1.2 LAs primarily commission under framework agreements, which have been widely used since 2008. Framework agreements allow LAs to pool purchasing power and gain full visibility of costs in order to achieve reasonable fees. They also front-load any price negotiation with IFAs. However, framework agreements are essentially pre-approved supplier lists which operate on arm’s length terms, rather than facilitating the development of genuine partnerships.

- 7.1.3 This limits how well LAs and IFAs can work together to meet sufficiency requirements. Sufficiency is key for LAs, and the young people they are statutorily required to care for, but there is limited definitive engagement from LAs as to how they achieve that goal. There seems to be a nervousness from LAs, due to lack of understanding of how to interpret procurement legislation, which is detrimental to developing a dynamic marketplace and prohibits strong partnership working.
- 7.1.4 Imbalances in supply and demand can mean that, despite there being a sufficient number of foster carers on a national basis, these carers are not always located in the right areas, or trained with the right skills, to take the placements that arise. Current commissioning tools and approaches limit flexibility to address these issues.
- 7.1.5 From an IFA perspective, there is in general significant uncertainty around levels of future demand. To the extent LAs provide an insight into demand, it is broadly in the here and now, it rarely looks at future trends and how future demand is going to be serviced either in the current format or in more creative ways. The market (providers) are forced to respond to a LA's need, but often in a reactive way because the partnership engagement does not take place in a meaningful way. This makes solving for demand more challenging and it is almost impossible for independent providers to deliver meaningful sufficiency planning to support LA need. Nor can they invest in the areas (or specific needs) of the LAs.
- 7.1.6 This is exacerbated by the fact that we are seeing more complex young people coming through the system. IFAs are adapting and reacting to this need, in real time, providing the necessary capacity, but without collaborative long-term planning on behalf of LAs. This cannot continue.
- 7.1.7 Often the provider and LA are aligned with meeting the needs of complex LAC, but regulators take a different view. For example, what can be viewed as a great outcome and significant improvement by LA and IFA would still be regarded as a problem by the regulator. For example, if a foster carer is able to work with an LAC such that the relevant young person is missing from home less frequently or having fewer absences from school, this would be viewed by the LA and IFA as a great outcome. The regulator, however, would still consider the nights away from home and school absences as problematic, agnostic to any improvements, and flag a safeguarding risk. With the LAC population growing increasingly in complexity and acuity, , this issue is becoming increasingly prevalent and may result in providers being overly cautious around certain characteristics of placements due to reputational risk.
- 7.1.8 Stronger relationships would improve this, and as a provider we try and communicate our available capacity per LA. Our preference would be to be more closely engaged to support the relevant LA in determining the best course of action to meet a particular challenge. A change to commissioning arrangements – for example, a move to block contracts – would support this.

- 7.1.9 There are a number of exceptions that prove the rule and, where LAs have been willing to engage, OFG has worked in collaboration to address sufficiency and appropriateness of provision.
- 7.1.10 A further issue is the difficulty in comparing providers and outcomes achieved, since there is no common framework for assessing outcomes. Ofsted is considering how to better allow for like-for-like comparisons of outcomes across the industry. This is important and should be prioritised.

### *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.

#### General points

- 8.1.1 OFG's IFAs are all judged to be Good or Outstanding (or equivalent in Scotland/Wales), a group performance well above levels seen nationally. 92% of OFG's stand-alone residential homes (within the scope of the CMA's investigation) are judged to be Good or Outstanding (above national levels as published by Ofsted). At OFG, we have one team of quality experts who are focused entirely on outcomes, another team focuses on supporting safeguarding and policy, another on regulatory visits (and those services OFG inspects voluntarily) and the national care improvement team.
- 8.1.2 The regulatory framework allows providers to develop their own approaches to service delivery – therefore taking the best elements and scaling these to deliver greater numbers of Good or Outstanding services. The framework does not specify how a service should be delivered and this is a positive element of current inspection. Good providers have opportunities to grow the range of services on the back of consistently strong regulatory performance. This in turn allows providers to extend their good practice through other homes and smaller providers (through acquisition) and thus improve the wider sector of care. Good performance in quality and outcomes metrics attracts further investment. The regulatory framework contributes to this.
- 8.1.3 Ofsted holds the appropriate powers to inspect and take action as required. OFG consider that it is wholly appropriate that the regulator can take compliance action including closing services. However, inspections do not sufficiently take account of the

outcomes of children in foster care or residential care. Commissioners have the responsibility for outcomes, but they are often focused on the immediate and not the longer-term generational change outcomes. If society, through commissioning, wants to break the cycle of care and improve outcomes, it must focus less on cost and short term success measures and assess performance, based on more medium-term indicators: i.e. ensuring that children stay in education, employment or training and contribute to society as adults (i.e. achieve economic and social independence). Short-term decision-making is unhelpful and only continues to perpetuate the cycle.

- 8.1.4 Ofsted has been unable to continue to inspect services during Covid-19 in such a way that would allow those services to demonstrate improvement or not. This has impacted on the ability of providers to take placements, thus impacting further on the challenge of supply and demand. Some services may not have had monitoring or assurance visits for nearly two years.

Expand remit of the regulators' functions

- 8.2.1 OFG does not operate in unregulated accommodation and does not consider it appropriate to do so. We believe that the lack of regulation of some services for children is concerning and must be addressed by government. Any service looking after a young person should be subject to external scrutiny and OFG considers that Ofsted should be given these powers immediately.
- 8.2.2 OFG believes that the use of public finances to deliver children's services should be closely monitored. High quality services that deliver very good outcomes require investment and ongoing capital to maintain a good standard of provision (for example replacing damaged doors/kitchen/furniture). Services that are not regulated are not held to account for the use of public finances or outcomes delivered and the quality of provision is therefore known to be highly variable.

Focus more on supporting improvement work rather than constantly "assessing" to see if it has improved.

- 8.3.1 In situations whereby services are consistently Good or Outstanding, Ofsted (or another new non-departmental government body) could focus on supporting improvement i.e., providing guidance or sharing best practice through networks of providers to improve the wider sector. A care improvement body would have a greater impact on outcomes than constantly reviewing outstanding services to confirm that they are still Outstanding (accepting that occasionally performance might decline). This shift would require a review of the skills of inspectors, meaning different capability may be required to drive improvement.

Strengthen the approach by focusing more on outcomes:

- 8.4.1 Ofsted currently uses more qualitative information, rather than quantitative data, to evidence impact. If the regulator focused on outcomes and reported on these more

robustly it would, we believe, drive further improvements in quality and allow comparison of impact between different types of service and provider.

- 8.4.2 The Ofsted framework is designed to be focused on outcomes for children and young people and the difference that a service makes. However, it does not currently use any form of comparable data to benchmark services. Although this is known to be difficult, more emphasis should be placed on outcomes-based accountability including measures such as attendance, attainment, and destinations (education, employment or training) etc. These measures would apply equally to fostering and residential care. Placement stability should be an indicator of quality – i.e., children should not be moving around the system constantly given the disruption this causes to them and the challenges in securing appropriate placements. In the past, the inspection of children’s centres<sup>26</sup> balanced national performance data with both qualitative and quantitative outcomes to make informed judgements based on quantifiable measures. OFG is of the view that the comparative benchmarking approach was successful, and would encourage this approach to be considered by Ofsted..
- 8.4.3 OFG has developed an outcomes framework which guides what services should focus on. The framework, which was co-designed with young people, is focused on four aspects: staying safe and well; education; health; and next steps/adventures. The outcomes framework is measured in different ways: through the voice of young people (and an app designed by OFG and young people) and robust data collection. As a result, it is clear that children in OFG foster care attain better results than their LAC nationally for example.

*Reduce variability in the system (human, regional and national)*

- 8.5.1 The inspection regime relies heavily on the human application of a framework (and less on data). As a result, the quality of inspection practice is at times highly variable between inspectors and somewhat variable between Ofsted regions.
- 8.5.2 The centralised approach – i.e., through one regulator in England – is appropriate. Leaving regulatory oversight to LAs, for example, would simply create an even greater level of inconsistency. However, the approach between England, Wales and Scotland is too wide and, where possible, the government should seek to align regulatory practice between the nations. For example, there is no regulatory requirement in Scotland for independent visit reports. OFG replicates the English model as it believes that this improves practice – but many providers do not, because they are not required to do so. This is a cost of delivering a high-quality service, but it is not accounted for when LAs consider placement fees.
- 8.5.3 There is a perception that Ofsted is more thorough than Children in Wales (“CIW”) and Children in Scotland (“CIS”). While this sets a high benchmark for children’s care,

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<sup>26</sup> Children’s centres offer a variety of services to support LAC, child protection and children in need, as well as health visiting, midwifery, education (nursery or stay and play type provision) employment support, parenting programmes, healthy eating, etc.

it does not create a level playing field in terms of quality expectations across the UK. Likewise, CIW does not provide judgements on services, so a provider must interpret whether their service is good or not.

*Consider frequency of inspections on a risk-based approach*

- 8.6.1 The frequency of inspections of homes judged to be Good or Outstanding is appropriate (i.e., at least annually). Likewise, the frequency of inspections of fostering services seems appropriate (once every three years). For example, inspection frequency could be lengthened to reduce regulatory resources allocated to services that are consistently Good or Outstanding.
- 8.6.2 The CQC broadly inspects every three years. There appears to be very little sharing of inspection practice between the CQC and Ofsted. Government could consider combining children's care with adult care inspection and leaving Ofsted to focus on education – its original core business.

*Strengthen day-to-day and month-to-month indicators information*

- 8.7.1 The use of monitoring visits, under Regulation 44 of the Children's Homes (England) Regulations 2015, provides Ofsted with regular oversight of residential homes in England. However, Ofsted could consider a standard online template for use by all providers which would reduce variability in provider reporting and improve consistency (and perhaps improve timeliness of reporting). Similarly, children's homes are monitored by an independent visitor once every month and the report is sent to the regulator. Regulatory oversight is therefore more frequent than only at the time of inspection. OFG undertakes 1200 visits and produces 1200 reports per year for example. These reports are a highly valuable source of information for the regulator.
- 8.7.2 The use of notifications is positive and provides the regulator and provider with oversight of key issues. However, Ofsted could consider producing a system to report on these that is accessible to both providers and the regulator (i.e., a systematic way of reporting on numbers of notifications by category or type to better identify services causing concern). This would help to promote the risk-based approach to inspection mentioned above.

*When a service is judged to be less than Good, re-inspect it as soon as possible*

- 8.8.1 A service that believes it is ready for re-inspection should be able to request an inspection at its own cost. When a service is judged to Require Improvement, the time to re-inspection is often far too long and the service is 'stuck' with the inspection judgement. It may not therefore be able to accept new placements. Likewise, it can be detrimental for the children who are cared for as they often know about Ofsted and the judgement that has been given. Providers should be able to formally request an inspection when they believe that the service meets the criteria for Good.

Take a more supportive approach during emergencies

- 8.9.1 Remote inspections of services are not fit for purpose and should not be used in any future pandemic. The CQC took an approach of simply calling services to offer support and advice during the pandemic – children’s homes were not routinely contacted by their link inspector. Ofsted should take a supportive approach during any future emergencies.

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

- 9.1.1 Local Authorities should be judged on placement stability and outcomes. i.e., they should be held to account for poor placement stability and poor outcomes. Inspections of LA services should take into account the role of commissioning and the difference this makes to young people’s lives.

- 9.1.2 At present, the way accountability is apportioned between various stakeholders is unclear and therefore does support focus on optimal long-term outcomes for LAC. Providers are held accountable for outcomes through inspection, but many aspects of a child’s outcomes are beyond their control. If inspections of LAs were to focus more on outcomes ultimately achieved (as well as stability and quality of placement), OFG believes that LAs would share accountability for success and become more supportive. In OFG’s view, this focus on what is appropriate for individual children (rather than other, more easily quantifiable measures such as cost) would help to ensure LAC are provided with a stable home environment and the support to move on to further or higher education. In the long term, this would help to break the cycle of children in care being more likely to become parents of children who also require social care provision. Measures of success are currently too focused on the immediate present and not longer-term generational success.

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

- 10.1.1 The lack of regulation of some types of care provision means that LAs may place with services that offer a lower price, but only because they do not deliver a quality outcome and do not incur the costs of high-quality regulation (i.e. monthly quality assurance visits from an independent visitor). This does not provide optimal outcomes for children.

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?

- 11.1.1 OFG does not have any comments on this question. OFG does not operate in unregulated accommodation and does not consider it appropriate to do so. We believe that the lack of regulation of some services for children is concerning and must be addressed by government.

#### *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.
- 12.1.1 Given the capital-intensive nature of the business, it is only possible to construct new services where there is close collaboration with the LA regarding local supply and demand and a clear commitment to commission.
- 12.1.2 The services, in line with both regulation and best practice, tend to be relatively small (between three and six beds). Units are only profitable when more fully occupied and therefore return on investment is linked to long-term occupancy. Property prices, care staff availability and wage rates vary significantly across regions making some areas unattractive.
- 12.1.3 This has led the private sector to focus almost exclusively on higher acuity service users who have more predictable lengths of stay and lower volatility, whilst the LAs' focus has been on lower acuity children.
- 12.1.4 The independent or private sector has continued to build capacity in the past five years, adding some 700 beds over that period, whilst LA residential services have been closing at an alarming rate.<sup>27</sup> More than 22% of LA capacity closed in the period from 2015 to 2019. This was due, potentially, to high profile failures of the care system, financial constraints and in part to legislative changes which gave greater rights to 16-year-olds to independent accommodation and access to benefits.
- 12.1.5 As a result, there has been a growth in private unregulated accommodation to cater for this specific segment of the market. These children tend to be older and lower acuity. In theory, a proportion of these children would be in foster care, but, might perhaps, choose not to be in regulated care at all.

<sup>27</sup> Cf. DfE and 3rd Edition of Children's Services Report - LaingBuisson.

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;
  - c. Expectations of the level of prices in the future;
  - d. Regulatory and policy frameworks;
  - e. Barriers to attracting and retaining appropriate foster carers;
  - f. Any other factors you think are significant drivers or barriers.
  
- 13.1.1 As explained in more detail above, in OFG’s experience, LAs currently “free-ride”, to a significant extent, on the extensive and costly recruitment undertaken by providers such as OFG. LAs could contribute to building capacity by recruiting more actively themselves, and refrain from causing frictions and inefficiencies by poaching IFA carers. This would also reduce the fixed cost base of IFAs, who must account for significant leakage in their fee structures. However, this would require LAs to improve the effectiveness of their carer recruitment, as well as dedicating more resources to allow this to take place.
- 13.1.2 In addition, a key challenge, as outlined above, is the lack of certainty about levels of future capacity; capacity is the main constraint preventing successful outcomes for children. LAs should work collaboratively and in close dialogue with IFAs to ensure future demands are able to be met.
  
3. Within the private sector, does the ownership model, particularly whether a firm is private equity-owned, affect the appetite of a provider to invest in providing new placements?
  - 14.1.1 PE investors, like Stirling Square, are long-term investment partners helping management teams achieve their stated objectives to grow and strengthen the companies they run. Stirling Square will only generate value for its investors if, during its ownership, it has contributed to the organic growth and improvement of that business, such that it has a higher value at the conclusion of Stirling Square’s ownership. As such, it is a long-term investment focused on growth and ensuring a high-quality service, that drives long-term value in the business. This also leads directly to improved outcomes for LACs and in greater numbers.
  - 14.1.2 Stirling Square is able to provide management discipline, corporate governance/ accountability and access to strong capital reserves. All profits are reinvested in service delivery, quality and therapeutic infrastructure. In the six years since 2015, Stirling Square has invested significantly in expanding the number of available services offered by OFG and has significantly increased overall capacity, thereby allowing the company

to care for and educate more than 7,100 of society's most vulnerable children. Stirling Square notes that its ownership has permitted OFG to raise capital that would have been more difficult to raise without patient private investors.

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?*

15.1.1 In OFG's view, the following improvements could be made:

- Uncertainty about levels of future capacity is endemic and capacity is the main constraint preventing successful outcomes for children. LAs should work collaboratively and in close dialogue with IFAs to ensure future demands are able to be met. There should be more rigorous and frequent forecasting regarding future capacity requirements, with LAs conducting planning in partnership with IFAs.
- OFG considers there to be merit in more certainty regarding capacity allocation. For instance, when block contracts are published, there is often market engagement where LAs' sufficiency need/demand is communicated, and they therefore support the ability of providers to adequately plan for and provide future capacity.
- Avoid delays in foster panel assessment. As stated above, the recruitment and selection process is time consuming and resource intensive – it takes on average six months to reach the approval panel. Although this process is effective, independent and robust, the delays are unhelpful and cause unnecessary constraints to fostering provision, particularly against the backdrop of a supply constrained market.
- Given the inherent advantages, particularly in terms of quality, stability and outcomes, of IFAs discussed at length above, OFG is of the view that there is an argument that IFAs should meet the base load capacity of the sector, with LAs providing "swing" capacity. The reverse is currently the case, meaning that less efficient, lower quality and lower-rated providers are currently the first choice to look after young people requiring social care. Allowing IFAs to meet more of the demand would free up LAs for work they are better suited to do.