



Action for Children

Response to the Interim Report from the Competition and Markets Authority

About Action for Children

Action for Children protects and supports vulnerable children and young people by providing practical and emotional care and support, ensuring their voices are heard, and campaigning to bring lasting improvements to their lives.

Action for Children operates residential children's homes in England, Scotland and Wales, and a UK wide fostering service. The evidence provided below is drawn from all four nations of the United Kingdom and relates predominantly to the CMA's findings on the residential placements market.

Situating Care within the Wider Vision for Children's Services

The scope of the CMA investigation is to examine whether the high prices and the limited supply of available care placements are the result of an anti-competitive market for residential care, and to a lesser extent, foster placements. Recognising this, our comments here predominantly focus on what we believe to be failures in the care placements market.

However, it is also important to situate this investigation within the wider questions that are being addressed by the ongoing Independent Review of Children's Social Care. Total demand for residential care, and thus the market opportunity and demands placed on providers, isn't purely driven by the prevalence of social and family issues that typically cause children to enter care. How local authorities manage risk and children's services budgets also has a big role to play. The number of children starting to be looked after each year remains over 30% higher today than in 2008, when the Baby P news story broke.¹ Action for Children research with the Children's Services Funding Alliance found that spend on early intervention services, such as family help and sure start, has declined by almost 50% over the last decade, whereas spend on late intervention has soared.²

Within the looked after population, there have also been notable changes in how residential homes are used, and thus demand for placements. Prior to 1990, up to 40% of looked after children were in residential care³, as opposed to roughly 13% today.⁴ This is to be welcomed. Whereas residential homes play an essential role in providing stability for children that cannot live with a family or in the community, they are not the right choice for many children.

¹ Calculated from National Statistics. '[Children looked after in England including adoption: 2020 to 2021](#)'

² Pro Bono Economics and the Children's Services Funding Alliance, 'Children and young people's services: Spending 2010-11 to 2019-20', July 2021. Accessible at <https://www.probonoeconomics.com/Handlers/Download.ashx?IDMF=fca940e7-7923-4eb3-90d3-be345f067017>

³ Local Government Association and SEC Newgate, 'Children's Homes Research: Final Report', Jan 2021. Accessible at https://www.secnewgate.co.uk/LGA%20Children's%20Homes%20-%20Final%20Report%20January%202021_.pdf

⁴ Calculated from National Statistics. '[Children looked after in England including adoption: 2020 to 2021](#)'



Fixing barriers to entry and anti-competitiveness and enabling local authorities to better signal demand will be important in helping to address soaring costs and adverse outcomes for children entering care today. However, it does not provide a solution to the broader problem of how residential care should be deployed in a just care system, and certainly more should be done to fund effective early intervention services that can help prevent children and families from ever needing care in the first place.⁵ It is not obviously true that a rapid increase in the supply of residential care placements in a better functioning market would be good for children if these places were given to children with needs that are better met through other forms of care. With respect to children's social care, the question should never only be 'Is there enough supply?', but also 'is there too much demand?'. As the investigation moves into its recommendations phase, we caution policy makers from solely applying technical fixes to broader policy questions about the best way to help children and families.

Response to Market Outcomes Analysis

We welcome and broadly agree with the findings of the market outcomes analysis from sections 3 and 4 of the Interim Report.

The Supply Side - Barriers to Entry and Expansion

Healthy competition amongst residential care providers is essential for lowering costs and maintaining high standards of quality. It is our view that the current situation is not being played out on a level playing field, with larger independent providers enjoying financial advantages that enable them to better overcome the significant risk and regulatory barriers in the sector.

As the Interim Report notes, both independent and local authority providers face major challenges in sourcing the 'inputs' to expanding provision, namely finding suitable properties to house children and recruiting staff to care for them. For a non-profit provider like Action for Children, setting up a residential care home in London or the South East is immensely challenging, given the substantial capital costs involved. Although this is a general problem facing all providers, it would be a useful line of enquiry for the CMA to investigate which firms are establishing themselves in local markets with high property prices, and how this is being financed. This could provide insight whether some providers are enjoying an unfair competitive advantage.

Anecdotally, within recruitment we also see the unbalanced financial situations of providers playing out, with larger independent firms offering significant joining bonuses to secure Registered Managers from a relatively small pool of qualified professionals. This makes it much harder for smaller or less wealthy providers to recruit and retain the staff needed to maintain high quality standards. This is not in itself anti-competitive behaviour, but illustrative of the mechanisms by which access to better terms of credit among the larger independent providers could, over the long run, squeeze smaller providers to the point of exit, without further efforts from government to increase the children's sector's labour supply. It is worth noting that the rise in independent for-profit provision of residential care placements is a relatively recent phenomenon. The cost to local authorities of private provision has risen by 83% in just the last six years.⁶ Before this, the supply side of the sector was predominantly made up of non-profit and local authority homes. As the Interim Report notes, whereas the current market shares of the largest firms would not usually cause alarm for a competition regulator, the trend

⁵ Action for Children's Recommendations for the Independent Review for Children's Social Care can be read at [Our response to the 'Case for Change' report | Action For Children](#)

⁶ Calculated from Department for Education Statistics '[LA and School Expenditure: 2019-20](#)'.



seems to be towards increased concentration of a small number of large providers financed by risky lines of credit. In a sector that is providing for the most vulnerable members of our society, the government should be asking questions about who is competing and how they are competing, not just what competition there currently is.

The Demand Side - Commissioning and Signalling Demand

We concur with the assessment made in the Interim report about the challenges local authorities face in predicting demand and procuring care placements.

Within commissioning, the lack of options available to local authorities makes commissioning a highly competitive process. In practice we find that this means the current commissioning frameworks are designed predominantly to drive down costs, when securing a mixed market and sufficiency should be the primary goal. It also leads to a 'single placement mentality' where social workers, under pressure to find a child a home, are incentivised to repeatedly find placements for individual children without reference to the broader picture. Relationships between providers and local authorities in this context can become transactional, and this prevents partnership working to work out what is best for looked after children, and what outcomes both parties want to achieve. In other words, the current system leads to a focus on finding a bed for a child, instead of working together to plan a life for a child.

On forecasting future demand, from a provider perspective the lack of clarity is indeed a significant source of risk, and therefore a barrier to establishing new residential care placements. Local authorities, or bodies responsible for commissioning, need to be able to credibly signal future demand for the market to function properly. It is difficult to ignore the context of recent funding cuts on this front, which strips away local authority capacity to plan ahead by both limiting staff capacity and preventing local authorities from being able to secure outside options, whether it is through establishing their own provision, or through establishing contracts which require long term financial commitments.

Response to Proposed Remedies

Commissioning

We agree with the Interim Report that regional commissioning and encouraging the use of bulk purchasing and block contracts are the most promising avenues to resolve issues relating to the demand side of the care placement market. **As the 4Cs example demonstrates, we think regional commissioning is the best solution to resolving the issue of year-on-year variance in residential care demand at a local authority level and preventing local authorities from competing for limited placements.** We also think the establishment of these bodies will create some capacity in the system to better forecast demand, which would loosen some of the barriers to creating more supply. **We also recommend that a national body is established to commission and ensure sufficiency of placements for children with very complex needs.**

More widespread use of block contracts would also be a clear policy gain, with some firms currently charging in excess of £10,000 a week for single placement. These contracts are better for local authorities and are better for enabling a more vibrant mix of providers to compete and innovate.

On the question of anticipating unintended consequences, we do urge caution around



recommendations on regional commissioning. First, it is a general lesson of the children’s social care system that the separation of duties from local authorities to external or affiliated bodies can create cracks through which children can fall. If the move to regional commissioning does not resolve the key issues around securing sufficiency, and a ‘single-placement mentality’ remains, then creating a new commissioning body simply adds another party to what can already be a complex negotiation between local authority and provider. Furthermore, the success of such a policy will likely depend on getting the geography of commissioning right. On this front, we suggest three criteria that could help. First the geographies chosen must be large enough to enable a prediction of stable demand. Second, the commissioning bodies will be most effective if they bring together areas that are already competing for care placements. Third, the regional bodies will work best in areas where there has already been a history of successful collaboration between local authorities. Wherever possible, these existing ties shouldn’t be broken in order to impose new collaborations.

Market Entry and Expansion of Provision

On the supply side, we recognise the limited scope of the CMA to make recommendations that would have a significant impact on the ability of a broad spectrum of providers to expand provision. However, we also think the CMA has an important role in flagging what policies would likely have the most impact. **On the issue of regulation, and in particular Ofsted, we agree that there is likely some benefit to loosening some of the regulation that can hold up the opening of new homes.** We also note that there is a somewhat of a bottleneck in getting new placements approved.

However, what we do not think is sufficiently clear from the Interim Report is the relative importance of both the property and recruitment challenges facing the sector. Together these represent the most pressing and long-term structural challenge facing residential home providers. **To address this, we have recommended that the government establish a capital fund to enable non-profit providers to expand provision in underserved areas of the country. We also think government needs to provide more training opportunities to recruit people into the care sector,** which, including adult care, is already one of the largest and fastest growing industries in the UK. Whereas the CMA might not be responsible for the modelling that needs to be done to resolve these challenges, we believe it is important that the final recommendations of this investigation clarify how these challenges cause and exacerbate market failures in the residential homes sector and provide clear direction that government should work to resolve them.

[Redacted text]