

The Competition and Markets Authority,
The Cabot,
25 Cabot Square,
London, E14 4Qz
By email

12 Nov 2021

Dear Madam / Sir,

Re: Children's social care market study: Interim Report

Thank you for the opportunity to comment on the interim report of the Children's social care market study.

BASW represents over 22,000 social workers across the UK. Many of our members work directly with children and young people or are involved in management roles within children's services, so BASW is well placed to comment on this report.

The issues covered by the study have been a matter of concern to BASW's Policy Ethics and Human Rights Committee for some time. While we recognise that the remit and priorities of the CMA is very different to the remit and priorities of social work and social workers, we welcome the attention and focus that the CMA has given this vitally important issue. While we have opted not to address the specific economic or market related questions that the interim report poses, we hope that our observations are useful to your deliberations.

The remit of the interim report covers three of the four countries of the UK: England, Scotland and Wales. As the interim report notes social work is a devolved responsibility and there is increasing divergence around the primary legislation under which children's social work services are delivered, differing policy priorities and both existing and future plans for service delivery. These differing systems include children's residential and fostering services. BASW's response to the interim report therefore comes in four parts: a general response on some of the findings of the interim report followed by more specific responses to the findings and conclusions in application to the situation in England, Scotland and Wales.

BASW concurs with several of the key findings of the interim study: that the effect of the market in this area has real and deep impacts on the lives of vulnerable children and that the risks that might be acceptable in other markets are not acceptable in the provision of services to the most vulnerable children; that there is a shortage of appropriate places and high prices, that the market is not providing sufficient appropriate places and that as a result placements are too far from home, do not provide the therapy of facilities children need or separates them from their siblings.

From BASW's perspective this means that the current system fails to respect the rights of children in certain critical ways.

Further, that some providers are able to earn sustained and significant profits and that there is a need for more places that better match the needs of looked after children at reduced cost to local authorities.

We note one of the possible conclusions identified by the report of ‘exploring potential recommendations around the need for larger-scale national or regional bodies with a remit to help ensure that children are able to access the right placements for them’ and the logic behind this.

England

BASW England notes that overall, there is an overbearing focus on a “well-functioning market” and the need to stimulate diverse markets rather than [BASW’s Social Work Children and Families Vision](#) which places children’s rights and needs as its core. This can be seen, but are not limited to, the following themes highlighted below.

Role of Competition Market Authority and Local Authority in house provision

It is noted that the role and expertise of the CMA is in the area of businesses and markets rather than direct in-house provision of services by local authorities or collaborative working with the not-for-profit partners. Therefore, it is not expected, especially with the change of scope, that the CMA report would have thoroughly analysed the positives in terms of care planning and child welfare of a significant increase in the in-house provision of residential and foster care by local authorities. It is the view of BASW England that an enlarged local authority in-house sector of both of these (working closely with their health authorities for those needing residential mental health placements) would have the effect of growing the number of appropriate close-to-home placements and lead to the third sector for-profit and not-for-profit sectors being appropriately financed to provide the range of services to meet need.

Deregulation

Any proposal for deregulation to make the market run more smoothly that does not hold children’s rights at its core may benefit business and encourage others to “enter the market” but may not advance child wellbeing.

Centralisation or regionalisation

Any move towards centralisation or regionalisation must have a sound evidence base that again places children’s rights, needs and wellbeing at its core.

Risks

It is noted that risk is not discussed in-depth and is often viewed as a risk to the market rather than to children’s wellbeing. BASW England also understands that the fewer providers and the more they are in debt, the bigger the risk of collapse (e.g. Southern Cross).

Whether by omission or because this is outside the remit of the CMA a more comprehensive systems view would be welcomed. This would also provide insight into the impact on the market from policy and other services. These other services would include preventative services, the growth of in-house foster care and residential services, the promised additional provision of children’s mental health services.

It would be helpful to take a more in-depth look at ownership of these 'independent organisations', ensuring they are accountable and subject to monitoring and appropriate regulation. Furthermore, does their very existence and market dominance, when compared to in-house provision, result in short term decision making of local authorities and courts and having to make inappropriate and overly priced placements? BASW England understands that this question is no longer within the scope of the report. However, this is key and still needs to be explored.

BASW England also questions whether the report gives sufficient weight to the difference between nations and how this can impact ways forward (e.g., in terms of geography, and child welfare culture, history and legislation). Similarly, it would also be helpful if the CMA commented more fully on the likelihood of Scotland and Wales reducing or banning the 'for-profit' organisations. How has this impacted the market, but most importantly, how does it affect children's rights and needs being met?

Scotland

The CMA will be aware that in August 2021 the Scottish Government published proposals for a National Care Service (NCS) and the specifics of this are currently under consultation. One of the proposals is that there be a national agency for children's services, replacing local authority provision. There would thus be a national agency which would include responsibility for the commissioning of residential children's services. As we understand it, this proposal broadly parallels the recommendation made by the CMA to move to a national or regional body for commissioning of residential children's services. Members of SASW (The Scottish Social Work Association), part of BASW, have recently endorsed the move to a national agency for children's services in Scotland. As the interim report notes 'for profit' fostering services are, of course, illegal in Scotland.

Wales

The Welsh Government have recently produced a White Paper 'Rebalancing care and support'. Three critical areas have been identified where focused action is needed to deliver improvement: refocusing the fundamentals of the care market – away from price towards quality and value; reorientation of commissioning practices – towards managing the market and focusing on outcomes; and, evolution of integration mechanisms – simplifying joint planning and delivery.

Through action in these three areas, the White Paper seeks to manage the care and support market based on a clear national framework where services are organised regionally and delivered locally. In doing so the aim is to rebalance social care so that there is neither an over reliance on the private sector, nor a monopoly in the other direction. This White Paper defines 'rebalancing' broadly as a set of descriptions of the system change Welsh Government want to see. A national commissioning board for Wales has been developed. Here, the direction of travel seems to be towards a national / regional framework of commissioning, which would include residential children services.

I hope this is helpful. If you have any queries do not hesitate to get in touch.