Children's Services Development Group

Response to the CMA's 'Children's Social Care Market Study' Interim Report, November 2021

INTRODUCTION

The Children's Services Development Group (CSDG) is pleased to provide this submission to the Competition and Markets Authority (CMA) in response to the publication of the Children's Social Care Market Study' Interim Report in October.

Under the independent chairmanship of Andrew Isaac, we are a coalition of leading independent providers of residential care, fostering and special schools for children and young people with complex needs, collectively working with all of England's local authorities. Our members are Aspris Children's Services, Aurora Group, Compass Community, Outcomes First Group, Polaris Community, SENAD Group, and Witherslack Group.

CSDG's members have worked and campaigned together since 2006, championing child-centred, outcomes-focused care for looked after children and young people and those with special educational needs that ensures their stable and successful transition into adulthood. As a group, 100% of our fostering provision, 94% of our special schools and 87% of our children's homes are rated Good or Outstanding[1].

As a membership organisation, we have not previously commented on the market study or responded to the CMA's calls for evidence. Some of our members have submitted individual responses to the CMA's request for information, although not all members were in the scope of the CMA's study due to the nature of their provision.

However, following the CMA's publication of its interim report, there are several specific areas we would like to comment on from a sector-level perspective. These areas are fostering; regionalisation; and private equity investment in children's services.

We hope this information is useful, and we look forward to further engaging with the CMA on any other sector specific areas we believe we can offer a unique contribution as you undertake further analysis ahead of the publication of your final report in March.

FOSTERING

Overview

Independent fostering agencies (IFAs) provide a large number of placements for vulnerable children and young people. As the CMA's interim report shows, more than a third of fostering placements in England in 2019/20 were provided by IFAs. Over the last four years, IFAs have proven to be more successful in the recruitment of new foster carers.

In each of the years between 2016-17 and 2019-20, IFAs have delivered a net increase in the number of foster households registered with them. Conversely, in the same period, local authority fostering departments have seen a net reduction in the number of foster households, reducing the amount of available provision. The CMA's interim report specifically notes that local authorities are struggling to meet their sufficiency duties for fostering placements.

[1] This data is correct as at 31 August 2021.

The latest DfE statistics show that the general trend is a slow increase in numbers of places. It is estimated that total places in England may have increased by 11% since 31 March 2015. Of these, local authority places are estimated to have increased by 10% overall, while IFA places are estimated to have increased by 12%.[2]

The figures also show that. over this period, the number of newly approved households for non-permanent foster care was similar among LAs and IFAs. However, in contrast, IFAs approved almost three times more households for permanent foster care, 875 new households in IFAs compared to 300 in local authorities.[3] Significantly, as at 31 March 2021, the proportion of independent fostering agencies (IFAs) nationally rated Good or Outstanding by Ofsted was 100%.[4]

Fostering placements

CSDG strongly believes that the specific needs of each individual child or young person should be the determining factor for the provision they receive and should be at the heart of any placement decision. Therefore, placement cost will rightly vary according to the level of specific need of each child or young person.

However, there is a widespread, legacy misconception that in-house services delivered by local authorities are provided at a much lower cost than those services provided by the independent sector. CSDG is concerned by the CMA's claim that the existence of a profit-margin in the independent sector contributes to higher costs compared to local authority provision.

In reality, the cost of independent placements as compared to local authority placements is very similar, particularly when taking into account the complexity of the needs of the young people cared for by the independent sector.

As recognised by Sir Martin Narey's review of foster care in England, the independent sector offers a significant number of placements for children and young people with the most complex needs, providing staff with the in-depth training and specialist support necessary to meet children's requirements and offer them a stable placement.[5]

These more complex placements require the independent sector to provide additional staff training and specialist support during the placement process. As Narey's review found, some 53% of children in local authority foster care provision were aged ten and over, compared to 72% in IFAs. The review also found that children in IFA provision had, on average, higher scores on the strengths and difficulties questionnaire (SDQ).[6]

The mechanism for placement matching also varies between local authorities and IFAs, which also contributes to improved recruitment and retention of foster carers, as well as better outcomes for vulnerable children and young people.

Typically local authorities foster carers may find it difficult to refuse individual children or young people placed with them, whereas foster carers registered in the independent sector have the opportunity to refuse a referral if they feel uncomfortable with it. This approach facilitates a much better matching of foster carer and looked after child, leading to more stable placements and better outcomes for young people.

[2] DfE, Fostering in England 2019 to 2020: main findings, November 2020
[3] Ibid.
[4] Ofsted, Inspection profiles of the largest private and voluntary providers of children's homes and independent fostering agencies March 2020, July 2020
[5] DfE, Foster Care in England: A review for the Department for Education by Sir Martin Narey and Mark Owers, February 2018
[6] Idid.

As the CMA develops its final report and recommendations, the level of the investment by IFAs to support children and young people with complex needs, as well as the important role played by matching, must be considered in assessing cost levels in the sector.

REGIONALISATION

CSDG has long campaigned for steps to remove regional disparities in children's social care, with individual needs placed at the heart of the commissioning process, and a consistent approach to Ofsted's regulatory inspections.

In this light, CSDG fully recognises the motivation behind the CMA's suggestion of a move to larger-scale national or regional bodies with a remit to help ensure that children are able to access the right placements.

However, we do not believe this approach would realistically be effective in practice. For example, previous efforts to regionalise placements through the use of Regional Adoption Agencies were ineffective and failed to improve outcomes for vulnerable children and young people.

In addition, we are concerned that efforts to regionalise placements could conflict with the role of local authorities as corporate parents. Under the current system, local authorities have clear statutory responsibilities, creating a well-defined chain of accountability. Changing this could undermine this accountability and lead to worse outcomes for vulnerable children and young people, as well as introducing an increased level of bureaucracy to the system.

A possible alternative solution would be to reintroduce the commissioning support programme. This would equip commissioners with the skills and tools to analyse population data, build relationships with providers, and make decisions that will improve outcomes.

PRIVATE EQUITY INVESTMENT

The role of private equity-backed providers in meeting the capacity crisis
Private equity investors have worked extensively with the children's services sector for the last two decades. While there has been notable recent investment, this has been a long-term trend rather than a recent development.

Our experience is that private equity investors fully recognise the highly regulated nature of the sector and the statutory duty on local authorities to provide suitable settings for all looked after children. This provides a degree of assurance to support investments that is less clear in other public service sectors.

There has been a substantial increase in need for provision over the last 15 years, which to date, local authorities have been unable to fully meet. Without private equity investment, sufficient capacity in many areas of the UK would be lacking with vulnerable young people not receiving the care and support to which they have a right.

Between March 2011 and March 2019, local authority self-provision remained largely static, while the number of looked after children hugely increased. [7] During this same period, there was a 42% increase

[7] DfE, Statistics: looked-after children, updated March 2021

in capacity availability in the private sector, who account for around 70% of places in children's homes and over a third of foster care placements.[8]

Additionally, the independent sector uses its business and management skills to ensure service deliveries not only have an effective outcome in terms of support for their difficult and challenging placements, but offer management and operational efficiencies through investment in people, infrastructure and therapeutic availability. For example, the CMA's interim report noted that between 2016 and 2020, local authorities' operating costs for children's homes were approximately 26% higher than the equivalent for large private providers.

Without the provision of placements and investment in children's services from the independent sector, there would be a capacity crisis and thousands of looked after children would not receive the appropriate care and support that they so desperately need.

CSDG therefore hopes that the CMA will consider the context and success of other public markets ahead of its final report in 2022 to reassure local authorities that a mixed and well managed market economy in children's services can help meet their statutory and regulatory responsibilities and focus on the individual needs of those for whom they are the legal corporate parent.

Investment in children's services

Independent providers make a substantial investment in ongoing foster carer recruitment, helping to grow the overall availability of foster carer families and using sector expertise to ensure every carer receives the specialist support required to meet the needs of the children in their care. This enables provision of a range of assistance, including 24-hour telephone support and specialist training. This, as well as wider investment in the quality of provision, is undertaken without any guarantee that placements will be commissioned by local authorities. However, it is seen as essential by the sector to ensuring the best possible care is available for vulnerable young people.

This type of up-front investment is also essential in the expansion of children's homes' capacity. Typically organisations will work with local authorities to establish what type of accommodation is needed to meet local demand and its preferred location.

For example, there are significant differences between the types of qualified staffing provision and levels required where children have challenging mental health needs as compared to simpler residential home care requirements. Homes also need to be appropriately established and with a fully approved registration and staff complement before children are placed there, which requires considerable up-front investment.

Addressing misconceptions about private equity-backed providers

Against this backdrop, we are concerned that a number of recent reports include some divisive commentary that has led to misconceptions about the independent sector that are unfounded.

These misconceptions often lead to inaccurate comparisons with financial failures in other sectors, such as Southern Cross. It is not appropriate to compare the financial risk profile of children's services providers with those of elderly care providers like Southern Cross. This is because Southern Cross was an elderly care provider that struggled in part because of the lack of state funding for adult social care and the low fees paid to providers as a result. By contrast, local authorities have a statutory duty to provide or secure placements for all looked after children, which significantly reduces the risk that children's services providers will fail from a lack of funding.

[8] Ibid.

In the highly unlikely event of a provider failure (local authority or independent sector), in fostering there would be virtually no impact on the placement as the foster carers would simply transfer their fostering registration to another provider (independent or local authority). It is also important to note that each individual foster carer has the right to hold their registration with the agency or local authority of their choice. The sale of an entity as a business is not the sale of a foster carer, but of the business and the services it provides.

CSDG would support giving Ofsted greater powers to monitor the financial health of children's services providers, both in the independent and voluntary sector, as the Care Quality Commission currently does for the adult social care sector. Whilst careful consideration would need to be given to the specific metrics reported and how the data is used by Ofsted, CSDG's would be willing to work with the regulator to develop this idea in further detail if it could help to increase confidence in the market.

We would also support the CMAs proposed recommendation for a review into planning processes to enhance the number of children's homes and special schools. Our members regularly raise concerns about delays under the current planning system which prevent children and young people from accessing the placements they require.

CONCLUSION

Independent providers make a significant contribution to the children's social care sector and we will continue to invest in our provision to improve outcomes for vulnerable children and young people.

We strongly support a mixed market model with a range of well-resourced provider types as we believe this provides the best professional outcome options for children and young people to reach their potential and be as good as they can possibly be. If there is an aspiration for local authorities to invest more in developing their own in-house provision, to increase opportunities for them, then a mixed market model of providers will support and develop organically providing the basis is a truly level playing field.