

# ICHA response to the CMA 'Children's market study': Interim report

This response is from the Independent Children's Homes Association. We are the largest representative body of independent, voluntary and local authority children's home providers in England and Wales.

## Initial reflections

Overall, we find the CMA interim report to be objective, evidence based and largely representative of the market as it is today, and how it may be if substantial changes are not enacted. As an organisation, we are acutely aware of failings and challenges in the sector and hope that this can help inform a universal solution to ensure high quality care at an appropriate cost.

However, the residential childcare sector is a small albeit significant part of children's social care that is poorly understood by wider society and their views on it are shaped by reports such as this. This forms opinions and those who shout loudest appear to cherry pick information from these reports that suit their narrative. It is therefore important that conclusions reached are qualified by an accurate representation of the sector as it is today and how it came to be that way.

Placing a child in a children's home is seen by many, including social workers, as 'a placement of last resort'. As a result, many children experience the repeated trauma of multiple foster care rejections (10 or more is not unusual) before a placement in a children's home is sought. The challenge of the residential task is compounded by each of these, and in many cases is insurmountable.

Whilst the report focusses on the 15 largest care providers, the majority of whom are equity backed, it does not adequately represent the smaller ones who currently make up around half of the sector. We accept and share concerns regarding leverage and look forward to your findings in the final report. However, small to medium providers are equally fragile but in a different way. Their acceptance on to frameworks and block contracts is less assured thereby increasing reliance on spot purchasing, and consequently decreasing their ability to consider lower risk children through this limitation of choices. As a result, their overall levels of risk are significantly higher, as they may wait longer to successfully match children to vacancies. That wait period is experienced as a loss in revenue on already slim profit margins. As a result, children may not have access to placements best suited to meet their needs.

It is vital that this reflection of the market is considered when reaching conclusions and suggesting solutions.

Failure to focus on small providers as a different entity has contributed in part to the current shape of the market. LAs often seek to drive down costs and smaller providers are more susceptible to that type of pressure as they need to keep placement levels high, in order to remain viable. The ICHA

State of the Sector<sup>1</sup> report demonstrates that smaller providers are not making substantial profits and that small changes such as the loss of one placement can rapidly lead to loss making. Their ability to lay aside reserves is similarly limited and in the long run, selling out and relieving that ongoing pressure may seem the only viable option!

Whilst we recognise the need for national leadership of the sector, we believe that this should be delivered locally. We have examples of innovative practice by local authorities working closely with providers to find solutions. Whilst these are extremely limited in number, three that exemplify this are the SESLIP project in the South East, the Greater Manchester project and the N2D2 (Notts City, Notts CC, Derby City and Derby CC).

Finally, the ICHA agrees with much of the CMA's analysis of the current market but believe that there are further drivers that have not been recognised or sufficiently explored that are of significance. We have addressed these, and what we think are unexplored solutions below.

### **Erosion of services**

The more recent erosion of front-line services that prevent children entering care, and the length of time that at risk children are left in sub-optimal conditions without appropriate support, have arguably significantly increased the needs of children who are looked after. Family centres and edge of care provision has been eroded nationally, limiting social services' ability to support struggling families and promote reunification. As a result, children entering care in their mid to late teens frequently have deep traumatic damage that will take many years to unpick and heal. Referrals to children's care at this stage are unlikely to result in optimal outcomes regardless of the skill set of the care team. Whilst we acknowledge the government's recent commitment to Family Centres, it appears to be lacking in the ambition and scope needed to turn this situation around.

### **Changing need**

We would argue that any child entering care today has complex needs, and the *degree* of complexity is now the major signifier. Whilst these needs have grown, so has our understanding of the lifelong effects of adverse childhood experiences and the lack of a homogenous 'type'. Old classifications of SEBD, PD, MH and LD have become blurred, and many children enter homes with needs spanning multiple categories. Each child requires individualised, bespoke care that should arguably include prioritised access to therapeutic and mental health services. Nonetheless, local authorities are seeking to secure these care packages as 'standard'.

Without a universal understanding and acceptance of the actual need of these children, the current situation will continue and arguments about cost and blame will remain overwhelming.

Studies on the true cost of care need to be undertaken to ascertain optimal interventions before we can truly speak about value for money.

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<sup>1</sup> ICHA State of the Sector report 2020

## All Children's Homes are not the same

Whilst the report briefly acknowledges that there are differences between private and public provision, it does not address the overwhelming nature of these differences. This is vital when understanding the staffing and costing of each part of the sector. ICHA identifies three such categories:

1. Local authorities provide a disproportionate amount of short stay services for children with learning and physical disabilities. Placements are almost all well planned and are characterised by high staffing levels for shorter periods. Children stay with the service for many years and co-operation between families, the home and support services are often very high.
2. Other services more recently provided by local authorities include high-cost assessment units, such as Yorkshire's 'No Wrong Door', that again require high staffing levels for a specified length of time and are characterised by shorter placements.
3. As acknowledged in the report, those local authorities that provide SEBD children's homes generally ensure that their facilities are considered first when securing a placement. This promotes high occupancy through 'cherry-picking' children they are most able to help, with the rest going to tender.

All three areas have lower degrees of risk due to high occupancy and lack of personal investment in the services.

The private sector is fundamentally different. Whilst a few secure block contracts and partnerships with local authorities, the vast majority rely on a referral lottery. In a clumsy attempt to shape the market, LAs have developed multiple iterations of frameworks through which approved providers get their first look at referrals. These frameworks have similar rigid characteristics that often tie providers to specific fees, with some requiring a regular decrease, whilst others refuse to consider uplifts irrespective of the current economic conditions. Unsurprisingly, these are unpopular with providers and increasingly placements are now being provided on an off-framework 'spot purchase' basis.

In order to address, the ICHA agrees with Léonie Cowen's submission to the CMA with regard to national terms and conditions. If they could be agreed upon by the local authorities and providers, they would clearly be beneficial, but this has not been achieved so far despite years of effort on both sides. Léonie's suggestion of small pilots is one we would therefore actively support, as we are doing in SESLIP, GM and N2D2.

Financial risk is a factor for the whole private sector. Private homes are funded through personal investments which often include high levels of debt and in the case of small providers, everything they own may be tied up in the provision. Subsequently, closure of a placement in a small provision can be the difference between breaking even and running at a loss. Unsurprisingly, smaller private provisions can be more risk averse. Poor placement decisions can have the knock-on effect of disrupting current placements and result in lower Ofsted ratings. As the numbers of children being referred to homes in individual areas can be low, some providers may go for significant periods without filling a placement.

Larger providers arguably have greater flexibility and reserves, but generally carry their financial risk in areas of leverage and responsibilities to shareholders.

## **Solutions**

### **1/ Effective commissioning**

Whilst we understand the recommendation for local authorities or regions coming together to support or drive procurement activity, attempts over the years have not always been successful due to individual authorities having different outlooks and needs. Furthermore, any procurement attempt must be sufficiently adaptable to appeal to and engage all sizes of provision. There appears to have been some failure to learn from past clumsy attempts at market shaping, and we remain concerned that this will prevent meaningful reform.

Providers ask that risk is shared and this starts with relational commissioning. When placements are sought by commissioners who have relationships with providers and understand the homes, their capabilities and their restrictions, trust is greater. As a result, referrals are more targeted and conversations more positive regarding how to work together to support a child.

A current example of commissioning re-think is in Greater Manchester where Directors and Assistant Directors of Children's Services are driving the project and have involved private providers from residential and foster care from the early stages.

Another project, funded by the DfE has been running in the South-East (SESLIP). It is jointly sponsored by the DCS of the lead Local Authority and the CEO of ICHA. A key objective is the procuring of local provision via small blocks and the model has been developed through active co-production across sectors. Providers are responding positively and there is a clear potential for it to be rolled out into other local authority areas.

Sufficiency planning cannot be taken out of this equation and effective planning should lead to a healthier, more responsive market. We believe that this could be strengthened by introducing a universal method of assessing need and measuring impact, to help with predicting need early on and driving the development of targeted services, with an evidence based knowledge of when to intervene and exactly what that intervention should be.

Sufficiency could also be addressed in part through refocussing the use of services.

### **2/ Alternate use of existing services**

Placements in children's homes are still seen by too many as a last resort. Therefore, they are too often sought with little lead in time to help the child and the home prepare, and unsurprisingly, with this type of introduction, breakdown is all too common.

There is a need to refocus and innovate in the use of residential services. The shorter, early use of residential childcare can properly prepare more traumatised younger children for fostering and result in more stable long-term placements (The Caldecott Foundation<sup>2</sup>, Childhood First<sup>3</sup> and the

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<sup>2</sup> [Helping Children Build A Future - The Caldecott Foundation](#)

<sup>3</sup> [We are Childhood First - Childhood First](#)

Mulberry Bush<sup>4</sup> are good examples). The ongoing support of the foster carer by home staff helps prolong placements and this inevitably reduces overall cost for the lifetime of the child's placement(s).

The provision of planned respite services for children with emotional complex needs can promote greater stability in foster placements. Support for this type of registration, preferably on a block basis, could enable entry into the market of lower risk enterprises with arguably better outcomes for children.

Ofsted is also working to create more opportunities. Multiple building registration<sup>5</sup> was recently introduced to encourage the provision of a cluster of smaller homes for more complex needs under one manager. This may provide stabilising solo provision that supports the child to move into more long-term care on the same site, and for some, prior to a long-term family placement.

### **3/ Regulation**

Changes to the grading of homes brought in with the Children's Home Regulations, resulted in a section of providers being excluded from some frameworks and local authority placement consideration through a grade of 'requires improvement to be good' which has generally been shortened to 'requires improvement'. Under previous regulations, this would have been a grade of 'Adequate' and was accepted as indicating that standards were met. If this anomaly was addressed and clearer gradings reintroduced, more beds would potentially be available in homes that are meeting standards.

Any review should look at the portability of manager's registrations and the establishment of a registering body for staff working in the sector separate from Ofsted. This would promote professionalisation of the sector, and free up Ofsted to manage registration of homes and inspection more efficiently. A valid question raised by the interim report is who should provide market oversight and is this something that should be added to Ofsted's responsibilities? If so, greater capacity should enable them to do this.

### **4/ Market Capacity**

Overall capacity has not decreased across the sector but the ability to accept the type of children referred, has. Homes are smaller through a combination of regulation and general opinion on the benefits of smaller households. However, this makes matching more difficult, and a significant number of providers choose to leave beds empty rather than risk destabilising other placements or attracting a lower grade, and whilst Ofsted insist that they do not influence placement choices, many providers have reported different experiences. There is no easy solution to this but sharing risk when placements are rocky, and LA support for providers challenging Ofsted decisions may be a step in the right direction.

Some commissioners have recently reported that providers have refused referrals due to a lack of staff. Staff shortages is a national, not just a sector issue. However, the profile of our sector is low

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<sup>4</sup> [Home - The Mulberry Bush](#)

<sup>5</sup> [Registering a multi-building children's home - GOV.UK \(www.gov.uk\)](#)

and media attention is invariably poor. Pathways into the sector are almost non-existent and it is rarely viewed as a positive career choice. The sector requires positive government support similar to that previously given to teachers and currently being extended to adult social care to encourage interest in this career.

The ICHA is working with the DFE, Ofsted, LGA, Council of Colleges, Universities and DCSs to increase our profile and create pathways. However, this will be more impactful with overt Ministerial backing, and this is being sought.

## **5/ Placement Cost**

We welcome the CMA investigation into pricing and are not surprised that current findings suggest that the current differentials are small. Whilst there is clearly profit being made by some providers the cost of placements across the sector does not vary widely. For some children the cost is undoubtably high, but this can normally be related to their needs and the actual cost of provision. Solo occupancy of a three-place home commissioned through a need for intensive staffing and no other children, will clearly be moving the cost towards treble the norm. For many if the earlier interventions and investment in appropriate care referred to above had taken place this might have been avoided!

We accept the current disquiet about levels of debt and believe that this does need to be monitored. The ICHA agree that market oversight would be helpful and believe this could be added to Ofsted's remit as it was to CQC's for adult services.

## **Conclusion**

We believe this interim report is helpful in beginning to identify where further work is required. The ICHA hopes the final report will provide an opportunity to recommend ways that all those with responsibility for meeting the needs of one of the most disadvantaged groups in our society, should be best met through relationships built on collaboration and partnerships, and dispel the mistrust so frequently seen.