

**Nationwide Association of Fostering Providers
Competition & Markets Authority
Children's Social Care Market Study
Interim Report
Response
12 November 2021**

The Nationwide Association of Fostering Providers (NAFP) welcomes the Competition & Markets Authority (CMA) Children's Social Care Market Study Interim Report. The CMA have developed an understanding of the sector that we believe would benefit from further insight with a deeper dive into independent fostering services. This would offer an important opportunity to dispel myths around independent fostering agencies (IFA). It could also help identify the issues we all need to tackle to make the most positive impact for children in foster care.

1. Meeting the needs of children in care

Overwhelmingly, local authorities and IFAs try their utmost to find well matched foster homes for children which meet their needs. IFAs try to find the most appropriate placement for each child (as per legislation). 93% of IFAs in England have good or outstanding Ofsted judgements - this confirms that matching of children and foster carers is robust. IFAs consider the distance from the carer's home to the child's school and when they spend time with their family. But the most appropriate carer for a child is often more about a carer having the particular skills and experience to meet that child's needs. Too often, IFAs are sent referral information that misses vital information, contains old information or is completed by someone who does not know the child. There are thousands of referrals flying around a bureaucratic system which every local authority operates differently. The key to change is making child-centred, informed and consistent decisions on matching. Collective knowledge management solutions are possible but culture within children's social care seems to make successful IT implementation almost impossible.

2. The fostering task and external factors

There is a need to address the fostering task and external factors that mean there may not be enough foster carers. For example, the financial impact of Covid, people needing to work full time, and adult children not being able to move out of the family home. But also, the increasingly complex needs of children in care and the lack of publicly-funded mental health provision for children in care. Demand for fostering changes as both children's needs and social/environmental safeguarding issues change; they also vary from region to region. Risks within an inner city are different to rural settings, for instance. That is why IFAs recruit carers who can undertake the fostering task and then help them to develop through training and support to meet the needs of the child.

3. Sufficiency

Sufficiency is an area on which the CMA focuses, and we agree that capacity in the sector is limited. IFAs are consistently recruiting foster carers and, though this is challenging, they are making progress. IFA foster carers help meet the needs that local authorities cannot, especially for more complex and/or older young people. However, successfully addressing sufficiency alone is not enough. What is the right number of foster carers? Where is the need geographically? What category of carers

are needed? How do we define sufficiency? What are the time pressures? Do we need an oversupply in order to offer choice? How practical/effective/efficient is this? Given that there are always a number of fostering households with vacancies, could this be about more effective use of existing placement options, as much as it is about recruiting new carers to achieve an oversupply?

4. Differences between fostering and residential care

There are clear differences between fostering and residential care. The report tries to cover both in one narrative which does not give an accurate or clear picture of each sector's different roles or challenges. Additionally, the IFA sector itself is diverse and it is a mistake to attribute all IFAs with the same services or characteristics. The review of information of the 15 largest providers will not be representative of the whole sector. There is a risk that this continues to feed the notion that all IFAs are 'profit driven' and 'bad'. The report makes little mention of medium/small IFAs or non-profit making/charitable agencies. We await the CMA's second part of the analysis for this broader sample to be reflected in commentary and to separate commentary/observations for the two distinct children's services.

5. Local authority position in the market as weak

The CMA describes the local authority position in the *market* as weak and implies that the majority of placements are made on a spot purchase basis. This may be true for children's homes, but it is not the case for foster care. In fostering, the majority of placements are made within pre-tendered contractually defined relationships, albeit with no commitment to make any placements with a particular provider. Within these contracts, local authorities and IFAs work daily to ensure best value for money.

Local authorities are unwilling or unable to pay to retain vacancies with IFA foster carers. This leaves little alternative for the carer (for whom this is their main source of income) and their agency to accept the next referral of a child for whom that carer can meet needs. This may leave the carer caring for a child outside their own local authority. Additionally, the tight timescale with which IFAs receive referrals gives little time for planning and sometimes means local authorities compete with each other for IFA vacancies. Bulk contracts can work against good matching, something that is best for children and is the best use of funds. Commissioning should reflect that every child is an individual with differing needs.

There is a flawed assumption that relatively low numbers of children in care in each local authority means they are unable to effectively purchase at scale to contain prices. This assumes these placements will all be similar enough to purchase in this way. We know from the diversity of demand, the need is for a range of highly variable provision in different shapes and sizes.

Local authorities have followed a sequential placement finding process for some years and seem largely unable to divert from this. Essentially, this is focused on having as few foster care vacancies as possible within their own services to make them as economically efficient as possible (hence, the 'in-house first' policy followed by all local authorities). In reality, services and children are different and this cannot be boiled down to a 'cheapest first' policy. We should be aiming to meet children's needs first, and by doing this, we will also make best use of public funds that might otherwise be spent on supporting the fallout for the child of unsatisfactory

arrangements.

Local authorities have a duty to ensure public spending is delivered responsibly, however an over-simplistic (and often poorly calculated) focus on weekly fees can become too significant a factor when making placements. Local authority fostering tenders where the scoring is based 20% on quality and 80% on price evidence this. Local authorities rarely tell the market what they need from it. What is needed is greater trust, communication and solid data - delivered via a relational approach to commissioning.

6. Placement prices/costs

Like-for-like costs between local authority directly-delivered fostering services ('in-house') and IFAs are broadly similar. Both the Narey/Owers review of foster care (2018) and NAFP's Judicial Review (2015) were clear that any differential is not sufficient to warrant taking this into account when choosing a placement. In fact, IFA carers care for children with complex needs and/or older children, who need more resources to offer good care. IFAs also invest more in their services, for instance, their social workers have lower case loads and they remunerate their carers at higher levels. Local authority pension contributions account for a significant proportion of their costs.

The CMA suggests that, for fostering placements, prices remained broadly the same over the period 2016-2020. Taking inflation into account, this suggests a real terms decrease in IFA prices of around 10%. This is consistent with NAFP's own research.

We would be keen to understand how the CMA have evidenced that there are no systematic differences in outcomes for children in care. IFAs receive referrals that are for children who could have been living in residential care. Thresholds for accessing support for children in foster care vary and are not sufficiently reflected in contracting, where a child's needs are often understated. Local authorities are too often unwilling or unable to pay for the service a child actually needs.

There is no credible, robust evidence within foster care that profit (in its purest sense) either makes services worse or more expensive. References are often emotive and unevidenced. IFA fees support quality foster care in the same way across different kinds of fostering agencies. The CMA recognises that IFAs are efficient and effective with a tighter, focused business model, not as a result of reducing service. We would welcome further explanation of the measures of profit chosen by the CMA.

The average fees quoted seem high to us and we would welcome further explanation of the source of this analysis. Average figures may be unhelpful here, as they can disguise the range of fees. For instance, does this include those 'legacy placements' that have received no uplift for 10 years or more? Or those with enhanced fees where families receive a comprehensive support package?

7. Financial viability of IFAs

It is misleading to suggest that local authorities may need to find new homes for children if an IFA folds. In reality this is only referencing residential children's homes. If a fostering agency goes 'bust', the carers may transfer to another agency, as

evidenced in previous mergers and acquisitions that the CMA have reviewed. Inspectorates have a brief to look at financial viability of agencies, but they may be currently under-skilled in carrying this out effectively. Inspectorates place what seem to be unreasonable burdens on new start-up IFAs, resulting in a long drawn out and costly development than is needed to ensure a new IFA will be fit for purpose.

8. Local/regional/national

The CMA stresses a need for a strategic overview but oversimplifies what this could mean. Mixed experiences of Scotland Excel and the Children's Commissioning Consortium Cymru (4Cs) do not suggest this approach would offer a solution. There is an overwhelming need to remove complexity in the care system, not add to it. That said, a placement approach based on local authority boundaries has not been proven to be effective over many years. Our view is that national governments may need to take a greater lead, though not necessarily a substantial role, than they have traditionally been willing to. For instance, development of consistent contracting terms or monitoring of impact would remove duplication and bureaucracy. Lessons may be learned from the development of a national care service in Scotland.

We should not forget that foster care works well for most children, most of the time. We believe that, on the ground, local authorities and IFAs largely work well together to achieve this. This close working is supported by an increasing number of senior local authority leaders. There could be significant benefits for both children and public spending if we are able to develop even closer collaboration as a result of the important work being undertaken by the CMA.