

## Questions posed by CMA for interim report

### Our analysis of market outcomes

#### 1. Do you agree with our analysis of market outcomes, as set out in [Section 3](#) of this interim report? Our emerging conclusions on the potential drivers of market outcomes

The analysis broadly reflects Surrey County Council's experience;

- Supply of appropriate places - this is a particular challenge in Surrey. Nationally we know there are supply challenges in the market for regulated provision, which contributes to local authorities placing some children in other areas. Surrey County Council is working closely with local providers to maximise the number of children who can be placed in Surrey-based provision, but lack of supply remains an ongoing challenge, particularly in residential provision.

In line with the findings of the CMA's interim report, we also acknowledge the challenge of appropriateness of supply to meet need. Particular pressures that we are working to address in Surrey include specialist CSE/CE children's homes or provision that is specifically tailored to meet the needs of children with ASD. In situations where placements are needed at short notice, this pressure becomes more acute.

- Quality of provision – Ofsted ratings do provide an evidence base on which to make judgements about quality, alongside Surrey County Council's own quality assurance visits and processes. However, we are also aware that the judgements can change significantly in a short timeframe (such as a rating of Inadequate being followed by a rating of Good or new provider application being revised from a proposal to refuse to an approved registration in short periods of time).

Due to the reasons cited in the interim report, in Surrey's experience responses to placement referrals for our most challenging to place children tend to come from providers with an Ofsted rating of 'Requires Improvement'. This obviously is a challenge for the LA as we would want to place children with the most complex needs with those providers who have evidenced they have best ability to meet needs.

- Prices and profits  
Surrey County Council welcome that there is to be further work looking at profit margins that some organisations make.

The average costs of external provision both by spot purchasing and through regional frameworks appear to be higher than the national averages set out in the interim findings.

- It would be helpful to better understand price differentials across geographic regions
  - It would be helpful to better understand profits of smaller independent providers who may not have the economies of scale that the largest 15 providers analysed to date have
- Resilience of the market – Surrey County Council agree with the analysis of resilience of the market. The risk and particular vulnerability to sudden market exits is concerning, and has occurred in an isolated case in county recently with a provider of Supported Accommodation closing due to financial difficulties, resulting in a number young people needing new placements within a short time frame. If this were to happen in the context of any of the larger national providers, this would have a significant impact on the ability of local authorities to place children in regulated provision.

There was also an example of a regulated provider closing with immediate effect in 2008/2009, with many children needing to be moved and alternative homes needing to be identified immediately. There is a risk that the market could respond in the same way now or in future.

There is also a significant impact on the resilience of the market when providers receive an inadequate Ofsted rating, as often children need to be moved and alternative homes need to be identified.

**2. Do you agree with our emerging conclusions on the potential drivers of the market outcomes, as set out in [Section 4](#) of the interim report?**

- Effective purchasing – as signatories to regional frameworks, a large proportion of placements (particularly in residential) still cannot be secured on contract with a lack placement availability when and where it is needed. Due to a national lack of supply in relation to children’s homes, there are limited incentives for providers to engage with even the larger regional frameworks. This creates difficulties for LAs in managing provider costs.

An analysis of the effectiveness of block booking arrangements by LAs individually and by frameworks would be helpful.

- Challenges to understanding needs and incentivising placements –

Implementing national datasets that enable local authorities (and in turn providers and other stakeholders) to understand in granular detail the specific types of care needs of children requiring placements, in their LA area, region and nationally would be helpful for joint working across LAs and with providers to develop required provision.

- Barriers to providers reacting to signalled needs - External providers considering developing provision in and around Surrey have also echoed the findings of the CME report, naming barriers including:

- challenges in recruiting Registered Managers, with recruitment agencies charging excessive fees for introducing RM candidates
- lengthy delays during the Ofsted registration process
- requirement to employ Registered Managers prior to the Ofsted application process, resulting in high costs prior to registration
- challenges in identifying suitable properties
- delays in securing the change of use with local boroughs

The cost of these delays in registering are passed to local authorities to recoup in the weekly cost of children's care once they are registered.

## **Our thinking on possible remedies**

### **1. Do you agree with our thinking about possible remedies as set out in Section 5 of the interim report?**

#### Supporting authorities to engage with the placements market more effectively Purchasing placements

*5.9 (a) – “Framework contracts are likely to be more attractive to providers when they encompass a larger number of potential placements, and where the opportunities for selling off-framework are reduced.”*

Regional frameworks do support the purchasing of placements, however this does not guarantee availability and a proportion of placements made with framework providers may still be 'spot purchased' for a variety of reasons. For example, a provider on a framework may accept a referral for a child with more complex needs but only at a weekly fee higher than that specified on the framework. For some frameworks, if the weekly fee being charged is above that arranged on the framework, the placement may then revert to a 'spot' purchase even if the provider and LA are on a framework. SCC would support moves for strengthened collaboration and consistency between different regional frameworks to improve the ability of LAs to influence, manage and shape the provider market – particularly in relation to children's homes.

*(b) – “Block purchasing may also be more feasible and effective at a larger scale than can be achieved by a single local authority, as the larger numbers of looked-after children would give greater confidence to purchasers that there will be a sufficient number of children for whom the block-purchased placements are a good fit to ensure the places are taken up.”*

It would be helpful to provide an analysis of how effective block booking arrangements have been to date with best practice examples.

*(c) – “Making higher numbers of placements overall may mean that it is more likely that a larger number of placements will be made at a similar point in time, potentially increasing the ability of purchasers to request bulk discounts”*

At the moment, it is not the experience of SCC that a large number of placements would be made with a particular provider at a particular point in time, and we make a relatively high level of placements compared to many LAs.

*(d) Finally, by widening the scope of the procurement exercise, prioritisation between children in need of the same scarce placement is more likely to be able to be managed in a coordinated way, rather than through competition between different authorities in the market.*

It would be helpful to better understand who would be coordinating or prioritising the urgency for placing children from different LAs, and how this could influence provider's matching processes. SCC would support efforts between LAs to collaborate in making best use of the capacity that is available in the market.

*5.11 "providing more centralised or regional support, could address some of the challenges to more accurate and comprehensive forecasting"*

This would be very much welcomed. Implementing national datasets enabling local authorities (and in turn providers and other stakeholders) to understand in granular detail the specific types of care needs of children requiring placements, to better understand future demand and create the provision that will be required

*5.14 "In order to achieve this more appropriate scale, we are exploring recommendations that would involve the creation of regional or national level bodies with a clear mandate to help local authorities secure the most appropriate placements for their looked-after children. These functions could encompass procurement, forecasting and market shaping"*

A coordinated approach to procurement, forecasting and market shaping would be welcomed by Surrey County Council.

#### Making it easier for providers to create appropriate capacity

*"Ensuring that policy and regulatory responses do not unwittingly create barriers to the market responding effectively to future needs"*

SCC would welcome a review of the timeframe for registering new provision and an analysis of the apparent national shortage of Registered Manager candidates. Reviewing the planning process for 'change of use' from domestic to children's home would also address a barrier that has been consistently raised by providers.

#### Supporting a resilient placement market

*5.29 One such approach would be a financial oversight regime for providers. A statutory oversight regime is already in place for adult social care in England, administered by the Care Quality Commission. This regime is designed to assess the financial sustainability of providers that local authorities could find difficult to replace should they fail and become unable to carry on delivering a service because of their size, geographical coverage, or specialism. As well as providing*

*an early-warning system, such a regime could involve setting clear limits on leverage and other forms of financial risk-taking.*

Surrey County Council would welcome greater financial oversight of providers. Local authorities can only access financial information and cost breakdowns that providers choose to share. It would be helpful if a regime of oversight could both assess financial sustainability of providers, and also introduce an element of accountability for the fees that are charged. There are vast variations in the levels of expenditure reported by providers, for example for elements of non-staffing costs. Accessible benchmarking and agreed parameters around the costs of care would be helpful for local authorities to draw on and ensure a level of consistency in assessing value for money.

### Other potential remedies proposed by stakeholders

#### *Limiting for-profit provision*

The exploration of a cap or agreed upper range of profit margins may be helpful, potentially exploring options such as implementing a requirement to re-invest profits above a certain level back into children's social care provision. However, there would undoubtedly be risks to stopping profits at all levels, due to the impact this would have on sufficiency of provision.

Greater financial oversight of providers nationally may also address high levels of profit by some providers.

2. Can you provide any best practice examples of initiatives to improve outcomes, including collaborative initiatives, that we should consider?

Joint market engagement events with several local authorities in a region to signal needs to a selected group of providers.

3. Do you have any examples of collaborative (or other) initiatives to improve outcomes that have been less successful – please explain why you think this was the case.

N/A

4. Do you see potential for unintended consequences with any of the potential measures set out in [Section 5](#)?

Supporting authorities to engage with the placements market more effectively  
*5.9 (b) – “Block purchasing may also be more feasible and effective at a larger scale than can be achieved by a single local authority, as the larger numbers of looked-after children would give greater confidence to purchasers that there will be a sufficient number of children for whom the block-purchased placements are a good fit to ensure the places are taken up.”*

If a large number of local authorities are part of a block booking arrangement, could this result in a similar arrangement to framework contracts, but with the additional cost of paying for voids. Would there be any substantial improvement in the proportion of available placements for each individual LA when compared to existing framework contracts?

5. Are there any other measures we should be thinking about? If so, please explain how they would work and what would their impact be.
  - Incentives for residential providers and foster carers to create provision in the highest-cost regions of the country with particularly low sufficiency
  - A review of training and strategies for retaining residential care staff and foster carers
  - Incentives to increase the pool of registered managers nationally
  - Coordinated support for consortiums/frameworks to expand and work jointly across regions

### **Financial analysis**

1. We welcome comments from stakeholders on:

- the approach we are taking to the financial analysis of the sector

It will be key to understand if the initial findings are mirrored across smaller providers in the sector that may not have the economies of scale that the 15 largest providers have.

- the initial findings from our financial analysis and our interpretation of those finding

A clear take-away of profit margins for each type of provision would be helpful, as well as understanding patterns for different specialism within those placement types (e.g. solo provision / provision for children with disabilities / residential parenting assessment unites etc) and variations between geographic regions.

- the specific questions to further our analysis as set out at the end of the financial analysis appendix (Appendix A).

Very broadly, it will be helpful to understand the financial sustainability and levels of debt and profit for a broader range of providers.