



Department  
for Education

# **Regulating supported accommodation for looked after children and care leavers aged 16 and 17**

**Government consultation response**

**March 2023**

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## Ministerial foreword

Since I became Minister for Children, Families and Wellbeing last year, I have been focused on ensuring that every child in England has a loving and stable home which meets their needs and keeps them safe. Children's social care has the potential to transform lives for the better, supporting the brilliance of young people. I believe the state has a vital responsibility to build a solid foundation for those children and young people who are unable to stay with their families. I know that for looked after children and care leavers, the right place to live, with positive support, can provide this foundation and set them on their journey to becoming thriving adults.

We recently published 'Stable Homes, Built on Love' which set out a vision for a once in a generation reform of children's social care. This strategy focuses on what really matters for children and young people: loving relationships and safe, stable homes. These system-wide changes will set a new direction, putting relationships at the heart of the social care system and ensuring we support families to stay together as soon as difficulties emerge.

For the care system, I believe it is right that the system offers a range of care and support options that reflect the varying and diverse needs of children and can offer flexibility in how those needs are met. We need enough of the right homes for children and young people in the right places to help them flourish into adulthood. In most cases this will be living in a children's home or with a foster carer.

However, for some older looked after children and care leavers aged 16 and 17, a place to live with more independence and high-quality support might be the best option to meet their needs. Where this is the case, I am clear that this must be high-quality accommodation which keeps young people safe and provides excellent support as they transition into adulthood. We must now take steps to ensure that this type of provision delivers the very best for those young people who are ready for it.

That is why we are bringing in mandatory national standards and a system of Ofsted-led registration and inspection which will drive up the quality and consistency of supported accommodation. These reforms, backed by £142million in funding, will raise the bar for supported accommodation and will ensure that this provision meets the needs of the young people it serves. The Care Review highlighted the need to continue with the speedy introduction of these reforms as we embark on transformational change across children's social care.

I know that these reforms to supported accommodation represent major change for local authorities and providers. I am very grateful for all of their support and challenge to the government over recent years which has helped us to design these vital reforms. I am committed to ensuring that we implement them in a way that is ambitious for children, but also manageable for the sector, and I will pay careful attention to how successfully we do

this over the coming months and years. My Department has awarded the National Children's Bureau a £750k contract up to April 2024 to support the sector to prepare for the changes and I encourage as many of you as possible to engage with their support. Further, as part of the funding package announced at the Spending Review in 2021, this government is committing over £123million over the next three years to support local authorities to prepare for these changes.

I would like to extend my sincere thanks to the many people who took the time to respond to the consultation, including 64 care-experienced young people and 236 other individuals and organisations, in addition to the many hundreds who have engaged with the development of these reforms over recent years. This has been instrumental in ensuring we design a regime that delivers the best for children and works for local authorities and providers.

As the Minister for Children, Families and Wellbeing, I will continue to do everything in my power to ensure the very best is provided for children and young people.

Claire Coutinho MP

Parliamentary Under Secretary of State (Minister for Children, Families and Wellbeing)

## Background and introduction to the government's response to the consultation

This consultation followed on from two previous consultations (in 2020<sup>1</sup> and 2021<sup>2</sup>) to help us design and deliver these reforms. In 2020, the government consulted on proposals to address the concerns that unregulated provision is not always good enough and is not always used appropriately. We know that many young people want to live in a children's home or foster care and that this is right for them, but some older children aged 16 or 17 would prefer more independence: government supports this choice where it is right for the young person and can meet their needs and keep them safe. It is the responsibility of the local authority to ensure that the provision is the right option and will meet the needs of each young person.

The vast majority of respondents to our 2020 consultation were in support of the introduction of national standards. The responses also supported providers being registered and inspected by Ofsted and a ban on the placement of under 16 year olds in this provision. Feedback from children and young people who have experienced placements in independent and semi-independent settings demonstrated that, whilst there are positive experiences, issues with suitability and quality of placements are all too common. The responses also highlighted that, for those young people who are ready to live with the increased level of independence, these settings can be the right option. Our view that reform in this area is much needed was reaffirmed by this consultation.

Following the 2020 consultation, we published the government's response in February 2021. This set out that we would:

- Ban the placement of under-16s in unregulated provision – this ban came into effect in September 2021.
- Consult on introducing national standards and Ofsted-led registration and inspection for providers of unregulated provision.
- Legislate to give Ofsted additional powers to take action against illegal unregistered children's homes.

A further public consultation in May 2021 sought views on the development of national standards and options for an inspection regime. The consultation sought views on:

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<sup>1</sup> [Unregulated provision for children in care and care leavers - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/unregulated-provision-for-children-in-care-and-care-leavers)

<sup>2</sup> [Introducing national standards for unregulated provision - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/introducing-national-standards-for-unregulated-provision)

- The key indicators for determining whether a provider offers ‘care’ or ‘support’ to inform the development of guidance;
- How best to define this provision in future;
- What the best provision in this sector looks like;
- A proposed suite of standards (including their impact and associated costs); and
- How settings should be regulated by Ofsted.

In the government response to this consultation in December 2021, we confirmed that we would invest over £140million to introduce mandatory national standards and Ofsted registration and inspection of providers, confirming the delivery timetable for this. We set out that Ofsted would begin registering providers from April 2023 before registration becomes mandatory from Autumn 2023. As part of this, we set out that we would publish standards on a ‘for information’ basis in early 2022. We published these as a draft of the regulations alongside the guidance in December 2022, to enable further input in the context of the guidance document.

In July 2022, we laid the first set of regulations which extended powers to the Secretary of State for Education to make and consult on the more substantive regulations/requirements.

A final consultation opened on 5 December 2022<sup>3</sup>, in which the Department for Education sought views on:

- The Quality Standards;
- Guidance that will accompany the regulations;
- The requirements that providers will need to comply with in addition to the Quality Standards; and
- The Ofsted regime, including how Ofsted will register, inspect and take enforcement action against providers.

Alongside the main public consultation, we were keen to hear directly from care-experienced children and young people to ensure the views of those who the system seeks to benefit most were collected. We therefore issued a version of the consultation aimed directly at care-experienced children and young people.

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<sup>3</sup> [Regulating supported accommodation for looked after children and care leavers aged 16 and 17 \(education.gov.uk\)](https://www.gov.uk/government/consultations/regulating-supported-accommodation-for-looked-after-children-and-care-leavers-aged-16-and-17).

This document sets out a high-level summary of the findings of the consultation, changes to proposals that have been made as a result, and next steps.

## **Timeline for legislative changes**

On 18 July 2022, the Government laid before parliament the first set of regulations for the reforms to supported accommodation for 16- and 17-year-old looked after children and care leavers. This was the first step in delivering reforms to ensure young people are accommodated in settings that meet their needs and keep them safe. This first set of regulations was limited to extending parts of the Care Standards Act 2000, which give the Secretary of State powers to develop and consult on the more substantive regulations.

We will lay the regulations in early April 2023 before Ofsted begin to register providers from 28 April 2023. From 28 October 2023, local authorities will not be permitted to place or arrange accommodation for looked after children and care leavers in supported accommodation that is not registered with Ofsted or has not submitted a complete application by 28 October 2023 as per the transitional arrangements. Providers operating without registration or without having submitted a complete application by 28 October 2023 will be committing an offence, for which Ofsted will be able to prosecute. Further information on the transitional arrangements is set out later in this document. Ofsted will begin to inspect registered providers from April 2024.

## **Legal context – what is supported accommodation?**

Local authorities have statutory duties to meet the needs of looked after children and care leavers and ensure that there is sufficient accommodation. The duties on local authorities to accommodate looked after children and care leavers are set out in different provisions. The Children Act 1989 sets out the ways in which looked after children and care leavers are to be accommodated and maintained by their local authority.

Local authorities place most of the children they look after in foster care or in a registered children's home. Local authorities can however place looked after children in placements in accordance with "other arrangements" under section 22C(6)(d) of the Children Act 1989 and when arranging accommodation for care leavers where the young person's welfare requires it, local authorities must arrange "suitable accommodation" (section 23B(8)(b) of the Children Act 1989).

In the first set of regulations laid before Parliament on 18 July 2022, we defined "supported accommodation" as accommodation in England in which a child is accommodated pursuant to section 22C(6)(d) or 23B(8)(b) of the Children Act 1989, subject to specified exceptions (which are already in some way regulated and would not be considered to be supported accommodation and therefore should not be regulated as such). As with all placements, where local authorities place looked after children and care

leavers in supported accommodation, they must ensure that this meets the needs of the young person and keeps them safe.

## Reference to ‘young person’

Throughout this government response we have used the term ‘young person’ or ‘young people’. We have done this to align with the purpose of this provision, having sought the views of care-experienced young people in consultation – ‘young people’ is the term that most resonates with those aged 16 and 17. Any references to the term ‘young person’ or ‘young people’ in this document means a looked after child or care leaver aged 16 or 17. As per the use of the terms ‘child’ and ‘children’ in the Regulations, it is clear that **these young people are still children** and must be considered and treated as such. The use of ‘young person’ throughout this document does not mean that those living in supported accommodation should not be considered children under the legal definition.



## Summary of responses received

The online consultations were held on GOV.UK from 5 December 2022 to 16 January 2023 seeking views on proposals for supported accommodation for looked after children and care leavers aged 16 and 17. A total of 300 responses were received: 236 from the main consultation and 64 from the version aimed at care-experienced young people. The main public consultation included responses from providers of independent and semi-independent provision, local authorities, charities and others.

An independent comprehensive analysis of all responses has been [published alongside this government response](#). This report of our latest consultation exercise and extensive engagement with sector representatives and care-experienced young people – through multiple public consultations and focus group discussions – have all informed the government response and next steps.

Evidence from both the main consultation and the version aimed at children and young people has been considered in parallel to inform the government's response and next steps.

- Approximately 90% of respondents either fully agreed or partly agreed with the content of each part of the Quality Standards and supporting guidance. Over two-thirds (67%) of respondents to the care-experienced young people's consultation thought that nothing had been missed from the proposed standards.
  - On the **Leadership and Management Standard**, with which 89% of respondents to the main consultation either agreed or partly agreed, comments included that the requirements were clear, comprehensive and centred around young people's needs. The most common issue where respondents sought further detail and clarification was on the qualifications and experience needed by staff, and the costs associated with training requirements. Respondents highlighted that they wanted clarification in relation to the registered service manager role, for example whether there is a maximum number of settings that can be under one registered service manager. Clarification was also sought on expectations around collaboration with local authorities and social workers. Several respondents were positive about the Statement of Purpose, and a few made suggestions on what else it might include.
  - On the **Protection Standard**, with which 90% of respondents to the main consultation either agreed or partly agreed, comments included that the requirements were clear and reflected current practice. Respondents expressed concern about the use of restraint and highlighted the lack of need for mandating staff training in restraint. This was not just for capacity or cost reasons, but because it would be unsafe practice for lone workers and not a frequent occurrence, so not necessary to make restraint training mandatory for

all. Respondents to this Standard also raised concern about greater reference to potential risk factors, including criminal and sexual exploitation.

Respondents also called for increased clarity around procedures in relation to missing from home episodes.

- On the **Accommodation Standard**, with which 90% of respondents to the main consultation either agreed or partly agreed, it was thought that this Standard will support the safeguarding and wellbeing needs of young people and that it reflects the current practice. Respondents expressed concerns about the telephone and Wi-Fi requirements, they wanted clarity on requirements and potential associated costs. Consultation respondents also expressed concerns about distinctions between categories of accommodation in the guidance, for example the appropriateness of lockable bedroom doors in family-based settings, noting that this is not in keeping with the ethos of this category of setting. Some care-experienced young people who gave comments about missing information from the Quality Standards said that they would like mention of being able to personalise their own space. Some respondents to the main consultation also stressed the importance of a safe and 'home like' environment which can be personalised.
- On the **Support Standard**, with which 92% of respondents to the main consultation either agreed or partly agreed, respondents were most likely to comment that they felt the Standard centred on the needs, rights and voice of young people. Where concerns were raised, they most often highlighted the need for further clarification around medication handling. Respondents felt it was appropriate for providers to support young people with managing their medication themselves, but not to store, handle or administer medication on their behalf. Some respondents said that they thought the requirement to write a support review every 6 months was overly burdensome, whilst others requested further guidance on the expectations around this. Other suggestions included that the guidance could place greater emphasis on tailoring support to meet the needs of young people.
- When asked if the approach set out to regulating mobile and non-permanent settings was the right one, half (50%) of the respondents to the main consultation said yes, just over 30% of respondents were not sure and just under 20% said no. Respondents who agreed did so on the basis that such settings were used in exceptional circumstances only and would be safe and regulated to the same standard as permanent settings. Those who disagreed with the use of mobile and non-permanent settings did so on the grounds of them not offering stability or security and being unlikely to meet the Quality Standards, some respondents thought such settings were unsafe and high risk. Respondents also mentioned potential isolation from living in such settings meaning reduced access to support.

- In the section about administrative requirements, respondents were asked if they agreed that the proposed approach to staff recruitment, checks, induction, fitness requirements, training and supervision was the right one and 91% of respondents either agreed or partly agreed that it was. Those who agreed commented that the approach would help improve accountability, ensure safety and improve the quality of provision; some respondents said that the proposed approach reflects current practice. Concerns were most commonly raised about potential increased costs and recruitment issues. Respondents who sought clarification asked for further details and advice around staff skills, training and qualifications, and how different types of training apply to different types of staff (such as permanent, agency and volunteer staff). Some respondents wanted safer recruitment practices to be recommended, whilst others wanted recruitment to reflect the diversity of those living in supported accommodation. Concerns were also raised about who should register as the provider when accommodation and support are provided by two separate organisations.
- Respondents to the main consultation were asked about the extent to which they agreed that the proposed approach to protection policies was the right one. Most respondents (92%) either agreed or partly agreed. Some of those who agreed stressed the importance of protection policies for safeguarding young people's welfare, others said that the approach reflected current practice. Some of those who offered suggestions mentioned additional requirements on Safeguarding and Missing from Home policies, for example some thought that there was a blurring of boundaries between supported accommodation and children's homes.
- Respondents to the main consultation were asked whether the proposed approach to restraint was the right one. Just under two-fifths (36%) of respondents fully agreed and just under a quarter (23%) partly agreed, whilst just under a third (31%) said they did not agree. The most frequent concern was that people thought that restraint should not be used in supported accommodation, and that it was not used at all often currently. Respondents said that current practice is that staff are trained in de-escalation techniques rather than restraint. There was concern about young people and/or staff being harmed during the use of restraint and the inappropriateness of its use by lone workers and those providing supported lodgings. There was a preference for training in the use of restraint not to become the norm in supported accommodation, cost issues and the lack of available training were among issues cited.
- There was a question about proposed practices around producing, storing and maintaining records being proportionate and ensuring young people are kept safe and have their needs met: 84% of respondents either fully or partly agreed, and 9% selected 'do not agree'. Some of those who agreed highlighted the importance of accurate record keeping for safeguarding, accountability and a high-quality service. Some respondents mentioned the need for secure storage of information, some said the proposed storage times were too long, others said they should be longer. There

was also a mention of the language used in record keeping being young person friendly and avoiding negative or generalising language.

- Respondents to the main consultation were asked about the proposed practices around complaints and representations being proportionate and ensuring that young people are kept safe and their needs are met. Just over four-fifths (81%) of respondents selected 'yes', they agreed, 10% selected 'no' and 9% said 'not sure'. Some of those who agreed said that the requirements and guidance described good practice, and reflected current practice. Some respondents felt that it was important for young people to be supported during the complaints process, and to be made aware of their right to advocacy. Some respondents said that complaints should be reported to Ofsted as a matter of course, rather than only when requested, others expressed concern about the increased administrative burden for providers in the requirements on complaint reporting.
- The main consultation asked about proposed practices around notifications being proportionate and ensuring that young people are kept safe and their needs are met. Just over two-thirds (68%) of respondents said 'yes' they agreed, and a fifth (20%) were unsure, whilst 11% said 'no'. Some respondents who expressed agreement said that the proposed practices would help to keep young people safe and ensure that their needs are met, as well as improve accountability and the quality of provision. Most respondents expressing concern about proposed notification practices mentioned the increased administrative burden and cost implications. Where respondents wanted further clarification, it was most often about what would be considered a serious incident, and there was a call for a mention of criminal exploitation to be listed as one of the examples of a serious incident.
- Respondents were asked about business continuity requirements being proportionate and ensuring young people are kept safe and their needs are met. Over four-fifths (83%) of respondents opted for 'yes' in agreement with the proposals and 12% selected 'not sure', whilst 4% selected 'no'. Positive responses mentioned greater stability and security for young people, that requirements were clear and necessary, whilst some said that such policies were already in place. There were some concerns, for example with respect to differing funding for supported accommodation compared with children's homes which limits responses, or uncertainty around the responsibility for re-location in the event of flood or fire.
- The consultation included a section on Ofsted registration, inspection, enforcement and provider accountability. Respondents were asked about the extent to which they agreed with the proposed roles and responsibilities of the registered provider and registered service manager. Most (80%) of respondents either fully agreed or partly agreed, and 11% selected 'do not agree'. Respondents said that the proposed arrangements covered what has been missing from this sector, and that they improved accountability and were proportionate. The most commonly mentioned issue was the role and qualifications of the registered service manager: more detail

on this was requested. Some respondents mentioned the Ofsted approach to inspection, and whether this should be planned or unannounced: opinions varied on which approach was preferable. The issue of increased costs was also raised, as was the skills shortage in the labour market for staff.

- Respondents were asked whether they agreed with the proposal to limit the number of registered service managers in each supported accommodation undertaking to one. Just over two-fifths (41%) of all respondents selected 'yes' they agreed, and just under a third (30%) selected 'no', they did not agree, whilst 29% said that they were 'not sure'. Some respondents agreed that having one registered service manager clarifies who has ultimate responsibility and clarifies lines of communication. Some respondents were unclear how the registered service manager role would work in practice. For example, some respondents suggested that more than one registered service manager should be allowed in the role, others said that the number of registered service managers required should be linked to the size of the organisation and the number of residents by accommodation and location. Clarity was requested on whether there should be one registered service manager covering all of a provider's services, or one registered service manager for all each discrete service.
- The consultation asked respondents if they agreed with the proposals around fitness and capacity of the registered provider and/or registered service manager. Just under three-quarters (71%) of respondents selected 'yes' in agreement with the proposals and just under a fifth (19%) selected 'not sure', whilst 10% selected 'no' they did not agree. Respondents mostly agreed that they thought the focus of the proposals was proportionate and in line with current practice. Suggestions made included having good continuous professional development for registered service managers and making it clearer what being financially fit looks like.
- Four categories of accommodation were described in the draft guidance and respondents were asked whether they agreed that they were the right ones. Just over two-thirds (69%) of respondents selected 'yes', they agreed with the categories, and just under a fifth (17%) selected 'not sure', whilst 13% selected 'no', they disagreed. Many respondents agreed with the appropriateness of the categories, but some also provided commentary alongside their broad agreement. Some respondents identified additional categories of accommodation that they thought should be added, such as for 16 and 17 year olds who are themselves parents. Other respondents raised category-specific points, such as one bathroom per bedroom not being possible for all providers of supported lodgings, and that lockable bedroom doors were not practical for this category of provision.
- There was a proposal for providers to have to notify Ofsted of new settings and to restrict the use of new settings without Ofsted first having been informed. Just over three-quarters (76%) of respondents selected 'yes' they agreed with the proposal and 14% selected 'not sure', whilst 10% selected 'no', they disagreed. Many people responded to say that the proposed approach was appropriate, and reasons given

included that it would be greater safety and continuity for young people. Many respondents agreed with the proposal for providers to notify Ofsted of new settings within 72 hours of a young person being accommodated, others felt that less than 72 hours would be preferable. Some respondents also mentioned concerns around the sequencing of registration approval and this not leaving young people waiting for accommodation, others mentioned the increased costs affecting small providers in particular.

- Respondents were asked if they agreed with the proposed Ofsted enforcement powers, offence provisions and tribunal appeal provisions being proportionate and appropriate for supported accommodation. Just under four-fifths (78%) of respondents agreed (selecting 'yes'), 16% selected 'not sure' and 6% selected 'no'. The most common comment amongst those that agreed was that the proposals were expected and welcomed. Of those few respondents who mentioned that further clarification was needed, a few wanted more detail on the inspection process and what would lead to being judged 'inadequate'. A few mentioned that flexibility would be required to take into account different service models.
- Just over three-fifths (61%) of respondents agreed that the proposed approach to ensuring provider adherence to the Quality Standards and the regulations across the service was the right one. Just over a fifth (22%) of respondents were 'not sure' and 17% selected 'no' they did not agree. Those that provided clarification of their view were most likely to mention their preference for a more regular Ofsted inspection cycle than every 3 years, some wanted annual reviews. Some respondents called for greater clarity around the inspection framework and grading system. A few respondents mentioned concerns that the inspection and enforcement regime would reduce the availability of providers and increase burdens on local authorities.
- Respondents to the young people's consultation mentioned that they would like the true lived experiences of young people to be part of Ofsted visits. They welcomed being given the opportunity to answer open questions and discuss the support and accommodation provided. Some respondents also said that annual inspection visits would be preferable to inspection every 3 years, however others said that visits could be disruptive and distressing so opinion was divided on this.
- Respondents were asked the extent to which they agreed with the proposed new registration, variation and annual fees for providers of supported accommodation. Just under a third (32%) selected 'partly agree' and 'do not agree' (32%), whilst just under a fifth (18%) selected 'fully agree'. The consultation did not include a qualitative section for respondents to explain their answers to this question.
- Respondents were also asked how the new fees would affect providers. Just under two-fifths (36%) of respondents said that the new fees would have a 'moderate effect', just over a fifth (21%) said the effect would be neutral, whilst 17% selected 'major effect' and equal numbers of respondents (12%) selected either 'minor effects' or 'no effect'. The most common concern was that the high costs would deter providers from

registering and cause a supply issue for placements. A few respondents said they thought that the fees were too high for small providers in particular. Some respondents suggested that increased provider costs would be passed on to local authorities through the fees charged per young person. Others said that they anticipated reduced diversity in the sector as smaller more specialist providers may close or choose not to offer supported accommodation. Some respondents wanted clarification on the breakdown of fees and the circumstances that would lead to additional fees. Others suggested a 5 to 10 setting fee bracket, or a higher one to make fees more proportionate. There were also suggestions for charities and not-for-profit organisations to have reduced fees.

- Nearly three-quarters (74%) of respondents selected 'yes' when asked if they agreed that the proposed approach was right for ensuring that providers can register before it becomes an offence to operate supported accommodation undertaking without being registered, and that inspections can be carried out in the first year. Only 5% of respondents opted for 'no', and 21% said that they were unsure. Many respondents that agreed commented that the proposed approach was fair and welcomed the inclusion of a transition period as it allows providers more time to prepare. Some respondents suggested that Ofsted provide feedback to providers to help them reach the required standards in time, others mentioned the need for guides and helplines. There was also a suggestion of a longer registration period, for example extending the registration period by a year.
- Respondents were asked about potential unintended consequences of the reform. The most common response was that reforms may lead to service disruption due to reduced supply of supported accommodation, as providers might be put off by costs and the short time frame for registration. Some suggested that the smallest providers may be the hardest hit by the reforms. Monetary implications were also noted by some respondents, who mentioned that a lot of money would need to be spent in order to prepare to meet the new standards. The potential impact for young people of short-notice moves being necessary as a result of reforms was also mentioned, for example due to their accommodation failing to meet the required standards, or if providers choose not to register.

## **The government will proceed with the Quality Standards and guidance mostly as consulted on, with some limited changes**

We are clear that the best way for us to raise the quality and consistency of supported accommodation is through mandatory Quality Standards that all providers must follow, with a robust but proportionate regulatory regime overseen by Ofsted. The Quality Standards were set out in the draft 'Guide to supported accommodation regulations including Quality Standards' document which we published for consultation and should be referred to alongside this government response. The draft regulations and this guidance document will be updated to reflect the changes we are making in response to the consultation and published before Ofsted begin to register providers from 28 April 2023.

The Government has already consulted extensively to get to this point. The input received from the sector and care-experienced children and young people through this final consultation shows strong support for the proposed Quality Standards and supporting guidance. For each Quality Standard, over 89% of respondents to the main consultation either fully or partly agreed – this included strong support from the 74 providers and 63 local authority respondents. We also asked care-experienced young people if they thought the standards covered anything that should not be included, with 73% answering 'no', as well as whether they thought that the standards missed anything that they would expect to cover, with 67% answering 'no'.

However, respondents did coalesce around a series of important issues which we intend to respond to via changes to the draft regulations and/or guidance before these are finalised. These are set out below.

### **Qualifications and experience of managers and staff**

Many consultation respondents either disagreed with our proposed approach to qualification requirements and recommendations for managers and staff in supported accommodation, or asked for further clarity on what would be expected. The Department does not believe that setting mandatory qualifications for registered service managers or staff working in supported accommodation (including supported lodgings hosts) would be the right approach, given the very diverse nature of providers meaning that any single qualification is unlikely to be applicable to a majority of providers. For example, we know that some providers have been operating hundreds of settings across England for a number of years, so their management, training and staffing approaches are mature and well developed. Thus, the qualification that is likely to be appropriate for an individual managing this service would be vastly different to that which would be appropriate for a very small service operating between one and five settings – which we think accounts for the largest portion of the provider sector.



For these reasons, we proposed a recommendation only in the draft guidance (that would not be mandatory) that registered service managers have a Level 5 management qualification, or to achieve this within a reasonable timeframe. However, we do not believe, given what respondents have said through the consultation and through discussions with the sector, that this would be a sensible approach either. We think that this could lead to providers focussing too much on this qualification and relying less on ensuring that managers and staff are suitably trained and qualified in areas most relevant to their provision. We will therefore be removing this recommendation in favour of stronger general requirements on the experience we expect registered service managers to have.

We want to remove potential barriers to entry into the sector to people who have shown their capability and expertise in running services similar to supported accommodation, but who may not necessarily have the underpinning qualifications. Many respondents to the consultation expressed that relevant experience was more important than qualification requirements, which we know are often perceived as arbitrary.

Instead of recommending specific qualifications for registered service managers, we will be including a requirement in the regulations that registered service managers have appropriate experience which must include two years' experience in a position relevant to residential support of children or adults, within the previous five years. This does not mean that qualifications are not important in considering the overall fitness of a person to register and be responsible for supported accommodation, and relevant qualifications will remain part of the fuller assessment of this at registration.

For the same reasons set out above, we will also not be setting mandatory qualification requirements for staff working in supported accommodation. However, we still expect relevant qualifications to be taken into account when providers and managers are considering the fitness of prospective staff and their training under their workforce plans. We will strengthen the guidance to provide further clarity to providers on what is expected in terms of qualifications.

## **Restraint**

We heard clear concerns from respondents about the proposed requirements relevant to the use of restraint, including the recording and report of its use – with almost a third (31%) of respondents disagreeing with our proposals. Mostly, there was concern that restraint should never happen in supported accommodation, and that setting out requirements on this brings legitimacy to this practice. We agree that restraint should never be used other than on the very rare and highly exceptional occasions where it is necessary for the young person's safety or the safety of those around them. We must ensure that young people and staff are afforded protection through requirements focussed on providers having strong approaches in place which cover: de-escalation

techniques to avoid the need for restraint; recording of incidents including speaking to the child to give their views on the accuracy of this; and reporting incidents.

What was clear from the consultation is that respondents think that mandatory training on the use of restraint would be disproportionate, given young people in these settings are supposed to be living semi-independently and their needs should be such that the risk of needing to use restraint is substantially lower than in other settings; and we have heard concerns that mandatory training could even lead to increased use. Taking all this feedback into consideration, we have removed the requirement for staff to be trained in the use of restraint techniques.

We will also be strengthening the guidance to make it clearer that restraint should be very rare and used only in the most exceptional of circumstances to protect young people and staff from immediate danger. We will also make the use of restraint a serious incident which is a notifiable event under the regulations, meaning that providers are under a duty to inform Ofsted, and other relevant persons, including the placing/accommodating local authority, following incidents of its use.

## **Security of young people's personal space**

Young people in supported accommodation should have a private space they can call their own, which is why we will require that each young person in supported accommodation has their own private bedroom. While we have received very little disagreement with this, respondents to the consultation did express concerns about the appropriateness of requiring all children to have bedrooms specifically with lockable doors. This concern was raised particularly in relation to supported lodgings, which are family-based settings, and respondents did not think that lockable doors would be in keeping with the ethos of this category of setting. We agree that there are many scenarios in which a lockable door is likely to be disproportionate to protect the privacy and safety of a young person, particularly where they are living with a host family in a supported lodgings placement. We will therefore remove the requirement for bedroom doors to be lockable, but the guidance will make it clear that settings must be physically secure and facilitate reasonable privacy for young people.

However, there are many types of supported accommodation where we would expect young people to have a lockable door. For example, where they are living in shared housing with other young people. We will make this clear in the guidance and Ofsted will consider how they approach this on inspection.

## **The use of non-permanent settings**

It is imperative that all supported accommodation is safe and meets the requirements in the Quality Standards, including meeting the individual needs of young people. We are

clear that non-permanent or mobile settings including caravans, barges and boats are almost always highly unlikely to meet the needs of young people. We have not taken the approach of banning such settings outright, as in very rare and exceptional circumstances such settings might be appropriate to meet the needs of a young person. In such rare and exceptional cases, the accommodation and support must still meet the Quality Standards and other requirements. However, through the consultation we have listened to the concerns shared on this approach.

While we are committed to the general approach on which we consulted, as set out above, we plan to further strengthen the guidance to make it clearer that we do not expect to see widespread use of this category of provision. Any use of this category of provision must meet the Quality Standard requirements, meet the needs of the young people, as well as demonstrate that they are appropriately secure and not isolated from important local services.

## **Supported lodgings**

Supported lodgings are a category of provision in this sector that we want to see expand and occupy a greater portion of the market. We believe that the introduction of regulation of providers will encourage more supported lodgings hosts to come forward. However, we expect the way that Ofsted will regulate supported lodgings in practice will differ when compared with other types of provision, and we have designed the requirements and guidance to allow for this flexibility. We know that supported lodgings generally involve young people living with host families – which differs greatly from other types of provision where support is largely provided by staff who do not permanently live in the home.

We do not plan to make further changes to the regulations than those set out above, to reflect these differences, as we believe that supported lodgings can meet all of them. However, we will make changes to the guidance, tailored to supported lodgings, to demonstrate that we understand the differences, for example, in relation to training/qualification expectations, use of restraint, health and safety requirements, categorisation as ‘staff’, and record keeping.

## **Other changes we plan to make in response to the consultation**

We received a large number of further recommendations for changes and additions to the guidance, much of which we plan to reflect in the final version. The additional areas where we have strengthened, clarified or added to the guidance following feedback include but are not limited to:

- Protection standard: We heard from young people that they would like to be able to personalise their own space. We will amend the guidance to include the recommendation that young people should be able to do so if they wish.
- Support standard: Respondents highlighted the need for further clarification around medication handling. We will clarify in the guidance that providers should work with young people to ensure that they are aware of their own responsibilities regarding managing their own health needs; the guidance is already clear that there is no expectation on a provider to store, handle or administer medication.
- Accommodation standard: Young people need to be supported to use technology to connect with online learning and access resources around career planning. We heard concerns about the ability to apply proposed requirements on connectivity. We will amend the guidance to make this requirement clearer, to help providers know what the minimum requirements are and so that young people know what they can reasonably expect.
- Protection policies: We recognise the need to provide clarity in relation to requirements of the missing and safeguarding policies. We will provide further detail on these policies in the guidance on the standards, but we will expect providers to tailor their policies depending on the varying needs of the young people they accommodate.
- Records: We recognise that, typically, a large portion of young people in supported accommodation are unaccompanied asylum seeking children. These young people should be supported by appropriate people with regard to advice on immigration and citizenship. As a result of the responses to the consultation, we will be adding a specific mention of immigration matters in relation to the young person's records being held, where applicable.
- Serious incidents: We know that young people aged 16 and 17 can face similar risks to those faced by younger children, particularly of extra familial harm, sexual exploitation, criminal exploitation or involvement with gangs. Consultation respondents wanted further clarification on what would be considered a serious incident, and there was a call for a mention of criminal exploitation to be listed as one of the examples of a serious incident. We will therefore clarify the guidance as to what is meant by a serious incident, and also added a reference to criminal exploitation in the updated guidance.

## The government will make limited changes to the guidance concerning the administrative requirements on providers

In addition to the Quality Standards, we will lay regulations that set out requirements around the management, administration and service delivery of supported accommodation providers to ensure that they deliver a high-quality service that offers support that meets the needs of young people and keeps them safe. These requirements are explained further in the draft guidance which was published with the consultation; they set out what will be expected of providers in order to meet the various requirements, and signpost additional relevant statutory and non-statutory guidance.

Through the consultation, we sought views on the proposed administrative requirements with which providers will need to comply. These were set out in the [consultation document](#) which should be read alongside this response. These requirements will be set out in the regulations and will therefore be mandatory for all providers to follow.

We received strong support in respect of our proposed approach to the fitness, supervision, training, and disciplinary requirements for providers, staff and managers, as well as the requirements for child protection policies, and the storing and keeping of records, with over 80% of respondents partly/fully agreeing with each requirement. We also asked care-experienced young people if they thought the rules and policies set out would help to make sure young people are protected, and 84% agreed.

We also asked respondents if they agreed with our proposed requirements around complaints procedures (81% agreed), requirements to notify Ofsted and other persons of certain events/incidents (68% agreed) as well as requirements to have business continuity plans focussed on preventing disruption to young people in the event of service disruption (83% agreed).

Across these proposals, we have made some changes to the guidance based on recommendations from respondents including, but not limited to:

- Clarifying recommendations/expectations on training/qualifications for staff, as explained above;
- Further guidance for prospective providers on who should register in respect of different scenarios, for example, where the accommodation and support are provided by different parties. We know that there is a very diverse set of scenarios for providers and local authorities in relation to the package of accommodation and support provided to young people. We will be working with Ofsted to provide stronger guidance on who would be expected to register in respect of some of these scenarios;

- Further clarity on who should have access to records, including the rights of young people to access their own records;
- Greater clarity on ensuring that young people are aware of complaints procedures;
- More detailed guidance on what constitutes a serious incident.

Beyond these points, we think the views given through the consultation provide us with strong support for bringing these requirements in alongside the Quality Standards.

## The government will be proceeding with the plans set out for Ofsted registration, inspection and enforcement

Currently, supported accommodation is not registered and inspected by Ofsted. In December 2021, we announced that we would introduce national standards for supported accommodation and that Ofsted would register and inspect providers against the national standards. The regulation of this provision will mean that, for the first time, all provision offering care and support to looked after children and care leavers aged 16 and 17 will be registered and inspected by Ofsted. For young people, this will ensure greater quality and consistency in provision, ending the post-code lottery of provision and levelling up outcomes for children across England.

We will not tolerate poor provision that fails to meet the needs of children. In order to improve quality, we will be implementing mandatory Quality Standards that all providers will have to follow. Ofsted will inspect against these standards, ensuring providers are delivering good outcomes for the young people accommodated. We have already confirmed that Ofsted will register supported accommodation at provider level. We believe that this approach is proportionate for this provision, and will allow for flexibility and provider innovation to meet the diverse needs of the young people they accommodate, while ensuring Ofsted have robust powers to take action against providers where provision is poor. Through the consultation we sought views on:

- The roles and responsibilities of the ‘registered provider’ and ‘registered service manager’;
- The fitness requirements of the registered provider and registered service manager;
- Notifications of new settings under an existing provider registration;
- Ofsted enforcement powers, offences, and tribunals;
- Ofsted inspections and fees; and
- The transitional arrangements in the first year of registration – from April 2023.

We received strong support for the majority of our proposals, and we therefore plan to implement the Ofsted regime and requirements set out. However, we have listened to what respondents have told us through the consultation, and we plan to provide further guidance and information on a series of issues.

### Registered persons

We received strong support for our general approach to registering providers and registered service managers (80% fully or partly agreed), but the response was mixed on our proposed limitation in the regulations of one registered service manager per

registered provider (41% agreed, 30% disagreed, 29% not sure). We think that some of the disagreement is based on misunderstanding as many put forward suggestions that registered service managers should be able to operate wider management structures, for example, appointing numerous deputies to oversee elements of the service – this will be perfectly possible and is what we expect particularly of larger providers, but we do not want these individuals to hold registration. We think it is critical that, if we are to pursue a provider/service-level registration and inspection regime, there is a single person who takes responsibility for the service as a whole. This will ensure that lines of accountability are clear, and will reduce the burdens on providers, local authorities and Ofsted. Ofsted will inspect providers and hold registered service managers to account for the administrative arrangements, systems and processes they put in place to ensure that the settings they operate under the service comply with the Quality Standards and other requirements. We believe this approach will be robust, but proportionate.

## **Fitness requirements**

We received strong support on our proposed fitness requirements for registered persons (71% agreed, which was even stronger for providers (79%) and local authorities (80%)). However, many raised issues that further clarification and guidance was needed on how people would be expected to meet the requirements and demonstrate them. As they do for all forms of provision they regulate and register, Ofsted will shortly publish their registration guidance ahead of the registration window opening on 28 April 2023. This will cover what information they expect to see at registration, as well as guidance on how to accurately categorise provision – on which our proposals received support from 69% of respondents.

## **Inspection**

While we also received strong support for our proposed approach to three-year inspection cycles – 61% agreed – with sampling of the settings that providers operate, many asked for further detail on how this would work in practice. Ofsted will be piloting inspections later this year to develop their approach and guidance ahead of inspections beginning from April 2024. This will include the approach to how settings are sampled, how different categories of accommodation, for example supported lodgings provision, will be inspected and the grading of inspections.

## **Fees**

We received a mixed response to our proposed fee structure, where Ofsted will charge fees to providers at registration, annually and for registration variations. We have developed the proposed fee structure based on Ofsted's experience and knowledge of the costs of delivering their regulatory functions in respect of other types of children's



social care providers, for example, children's homes. We plan to charge fees at the rates set out in the consultation – with 83% of respondents to the consultation reporting that they think these fees would have a 'moderate effect' to 'no effect'.

## Next steps

The government will amend the draft regulations and guidance as set out in this consultation response before laying the regulations in early April 2023 – the guidance will be published in advance of this. Alongside this, Ofsted will publish their registration guidance for providers.

Ofsted will begin registering providers from 28 April 2023, and will begin piloting inspections later in the year. From 28 October 2023, any provider accommodating a looked after child or care leaver aged 16 or 17 must be registered with Ofsted or they will be committing an offence. There will, however, be a transitional period whereby if providers submit a full registration application to Ofsted in advance of 28 October 2023, they can continue to legally operate beyond October until their application has been determined by Ofsted. From the same date, local authorities will be prohibited from placing 16- and 17-year-olds with providers that are not registered with Ofsted (with similar transitional arrangements applying: i.e. local authorities may place a 16- or 17-year old with a provider that has submitted a full registration application to Ofsted and is awaiting determination). Ofsted will begin inspecting providers from April 2024.

The government recognises that this reform programme represents major change to local authorities and supported accommodation providers. We know that we must balance the need to ensure that children and young people are protected and have high quality accommodation and support as soon as possible, against the need to responsibly introduce these reforms, avoiding the unintended consequence of widespread provider market exit. We are committed to working closely with Ofsted, local authorities, providers, and care-experienced young people as we introduce these reforms. We have listened to the concerns raised by local authorities and providers regarding the perceived increases in costs associated with these reforms and the need to bring the provider market with us as the reforms come into effect.

Considering this, we have awarded a 14-month contract to the National Children's Bureau (NCB) to lead work to support the sector and providers to prepare for and implement the changes. The NCB will work closely with commissioners and the provider market to raise awareness of the reforms, develop practical tools to support providers to implement and support them to prepare for registration and inspection. We encourage all local authorities and providers to engage with the NCB during the implementation period.

The government is also investing over £123million over the next three years to support local authorities to respond to these changes, and offset the costs associated with the reforms. We will begin distributing this funding via grant payments from April 2023.

The department thanks the sector and the care-experienced young people for their contributions to the consultation, and their extended work with us over previous years in the development of these reforms. We will monitor the implementation of the reforms closely to ensure that they improve outcomes for young people as they prepare for adulthood.

## Annex A: List of organisations that responded to the consultation

- 1625 Independent People
- A National Voice (Coram Voice)
- A2Dominion Housing Group
- Abiding Limited t/as Abiding Care and Support
- Acacia consultants
- Acorn Independence
- Action for Children
- Adriel Supported Living Care Ltd
- Adullam Homes Housing Association
- Alabare Christian Care & Support
- Amour Destine
- Article 39
- Assist Care Team
- Athena Housing and Support Limited
- Barnardo's
- BASW
- Bath & North East Somerset
- Beaufort Nine Ltd
- Beaufort Support Services
- Become charity
- Bedford Borough Council
- Bedspace Resourced Ltd
- Berwick Youth Project
- Birmingham Children's Trust
- Blackpool Council
- Bracknell Forest Council
- Brighton and Hove City Council
- Bristol City Council
- Cambridgeshire County Council and Peterborough City Council
- CBMDC
- Central Bedfordshire Council
- Centrepoint
- Changing Lives
- Chartered Institute of Housing
- Children's Commissioner's Office
- Children's Society
- Churches Housing Association of Dudley and District (CHADD)
- City of Wolverhampton
- Clearsprings Ready Homes
- Community Campus 87
- Connection Support
- Connexus
- Coram Voice
- CoramBAAF
- Cranmead
- Croydon Council
- Crystal Care Solutions
- CSM Independence
- cumbria county council
- Darlington Borough Council
- Depaul UK
- Derby City Council
- Dialogue Ltd
- Dorset Council
- East Sussex County Council
- Essex County Council
- Found8tions Youth Support Services Ltd
- Futures:hfd
- Fylde Coast YMCA
- Gateway Independent Living Limited
- GIPSIL
- Gloucestershire County Council
- Great Oakley Medical Centre
- GreenSquareAccord
- Hammersmith and Fulham
- Haringey Council
- Hertfordshire County Council
- Hightown Housing Association
- Home for Good
- Home Group Ltd
- Homeless Link
- Horizon Care and Education Group
- Horton Housing
- Housing Plus
- Hull City Council
- Indie 16 Limited
- Inspire North / Foundation
- Islington
- JN healthcare group limited, HHM, NT care group, solace springs care,
- Just ONE Health & Social Care Ltd
- Kare Nest
- Kent County Council
- Key Transitions Ltd
- Keys Group
- Keystone Chesterfield Ltd trading as Keystone Chesterfield
- KPMSUK LTD

- Lancashire County Council
- Leicester City Council
- LGSCO
- Lincolnshire County Council
- LiveWest Homes
- Local Government Association
- London Borough of Barnet
- London Borough of Brent
- London Borough of Camden
- London Borough of Hackney
- London Borough of Lambeth
- London Borough of Newham
- London Borough of Waltham Forest
- London children's social care practice leaders group
- Look Ahead
- Love146
- Luton Borough Council
- M3 Project
- Milton Keynes City Council
- Moving On Care Management Ltd
- MovingUp Care Ltd.
- MSV Housing
- Nacro
- Nagalro
- National Centre for Excellence in Residential Child Care
- National Centre of Excellence in Residential Childcare
- National Housing Federation
- National Leaving Care Benchmarking Forum (part of Catch-22)
- New Reflexions
- Newark Emmaus Trust
- Newcastle City Council
- Next Step Care Management
- Next Step Independence
- Nisai Virtual Academy
- North Lincolnshire Council
- North Star
- North Tyneside Council
- North Yorkshire County Council
- Northampton Town of Sanctuary
- Northamptonshire Children's Trust
- Northstar
- Northumberland County Council
- Nottingham City Council
- NWADCS
- NYAS
- Peabody
- Phoenix Community Care
- Places for People Living Plus Ltd
- Plymouth City Council
- Positive Action in the Community
- Premier Care management
- Premier Care Management Ltd
- Refugee and Migrant Children's Consortium
- Roundabout Ltd
- Royal Borough of Greenwich
- Royal Borough of Kensington and Chelsea
- RUP
- Rush House Ltd
- Salvation Army- George Williams House
- Sanctuary Housing Association
- Sandwell Children's Trust
- Sapphire Independent Housing.
- Sefton MBC
- Shield Support Hub Ltd
- Silver Birch Care
- Single Homeless Project
- Slough Children First
- Solihull MBC
- Somerset County Council
- Specialist Education Services
- Sportfit Support Services Limited
- St Basils
- St Christopher's Fellowship
- Step by Step
- Stockton-On-Tees
- Suffolk County Council
- Summercare Housing
- Surrey County Council
- The Association of Directors of Children's Services
- The Care Leavers Association
- The Fostering Network
- The Foyer Federation
- The Holdings Bournville Village Trust
- The Independent Living Project
- The Riverside Group - Care and Support
- The Salvation Army
- Thurrock Council
- Together For Children, Sunderland
- Together Trust
- Transition Care Peterborough Ltd

- Transitional Plus Care
- Trident Reach
- Tri-Elite Support and Care Limited
- Turning lives Around
- Turning Lives Around
- Two Saints Limited
- Upwards Care Solutions
- Wakefield Council
- Walsall Metropolitan Borough Council
- Warwickshire County Council
- West Hatch High School
- West Northants Council
- West Sussex County Council
- Westward Housing
- Wiltshire Council
- WiSupport LTD
- XYP Childcare
- YMCA England & Wales
- YMCA Leicestershire
- YMCA Worcestershire
- Youth Justice Board for England and Wales
- Youth Reality Homes



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