

Final stage impact assessment

Title: Financial Oversight Scheme: Children’s Social Care

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1. Summary of proposal

Policy context/background

1. In their market study launched on 12 March 2021¹, the Competition and Markets Authority (CMA) found that some providers in the children’s social care market, particularly those owned by private equity firms, are carrying very high levels of debt, which increases the risk of disorderly firm failure. In the scenario where placements close in a sudden and unplanned manner, local authorities (hereafter “LAs”, or “LA” where singular) may be faced with having to find placements for a significant number of children and young people at very short notice. Given the ongoing lack of appropriate supply in the sector, this would carry a real risk of children having to move to placements that were a poor fit for their needs, on top of the inevitable disruption and negative impact caused by the placement move itself.
2. The CMA recommended that government take forward action to actively increase the level of financial and corporate transparency, provider accountability and resilience in this market in order to reduce the risk of negative outcomes for children. Specifically, that we:
 - a. **Monitor and warn of risks of provider failure** by creating a statutory Financial Oversight Scheme that is capable of assessing the financial health of providers (particularly the largest) and warning local authorities in advance to mitigate the risk of disorderly firm failure and market exit. This could operate in a similar way to the Care Quality Commission’s (CQC) current market oversight role² (a system set up in the adult social care sector in response to the collapse of the large provider Southern Cross in 2011).
 - b. **Require the most difficult to replace providers to have a contingency plan against financial instability** which includes assurances that providers have the necessary time and financial resources to enable an orderly transition where the provision can be operated on a sustainable basis, either by its existing owners or any alternative owners, or to facilitate an orderly wind-down of operations.
3. In response to the CMA recommendations, which were also supported by the Care Review³, we committed to introducing a new Financial Oversight Scheme – applicable to a select number of ‘difficult to replace’ private, voluntary and charity providers who fall into the below categories of provision:
 - a) **children’s homes, including dual registered residential special schools;**
 - b) **supported accommodation; and**

¹ [Children’s social care market study - CMA Final report - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/94421/childrens-social-care-market-study-cma-final-report-2021.pdf)

² [NEW REVISED Market Oversight Guidance May 2022 update \(cqc.org.uk\)](https://www.cqc.org.uk/publications/2022/may-2022-market-oversight-guidance)

³ [Independent review of children’s social care - final report \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/104444/independent-review-of-childrens-social-care-final-report-2022.pdf)

c) independent fostering agencies (IFAs).

4. We have developed proposals to introduce a new Financial Oversight Scheme, which aims to:
 - a. **increase financial and corporate transparency** among the most 'difficult to replace' providers (registered providers, parent undertakings of registered providers and any subsidiary undertakings ("provider groups")) to actively monitor risk of financial failure and cessation of service that could impact stability of placements.
 - b. **provide advance warning of financial failure** to local authorities and Ofsted where a provider's services are likely to be impacted. This will support an organised process of market exit that reduces the risk of negative impacts on children.
 - c. **increase contingency planning requirements** to ensure providers and their parent undertaking play an active role in managing their exit from the market, ensuring orderly wind-down and/or facilitating a smooth transition to new owners to minimise negative impacts on children.

5. The Financial Oversight Scheme, which will be mandated through primary legislation, supplemented with secondary legislation and guidance, will:
 - a. give the Secretary of State for Education (hereafter "SoS" or "Secretary of State") the powers through primary legislation to be able to set the conditions in regulations to quantify the criteria that defines the most 'difficult to replace' providers which will determine which providers are entered onto the scheme. The scheme will apply to 'difficult to replace' providers only (under the categories of children's homes, independent fostering agencies and supported accommodation providers).
 - b. give SoS the powers through primary legislation to require information from and engage with providers, up to the parent undertaking level, at regular intervals to carry out ongoing assessments of the financial viability of the totality of the organisation.
 - c. give SoS the power to require a 'difficult to replace' provider to submit a contingency plan in the form of a 'Recovery and Resolution Plan' (RRP) so that providers can prepare for the worst-case scenario of financial failure.
 - d. allow SoS to appoint a qualified person to undertake an Independent Business Review (IBR) for providers at risk of financial failure and require providers to recover costs incurred to the Department for Education (hereafter "DfE" or "the department") for instruction of an IBR.
 - e. set out a duty for SoS to notify all adversely affected local authorities (i.e. placing and hosting) via an advance warning notice if it is a real possibility that risk to financial sustainability could lead them to cease operations. SoS will also have a power to notify other local authorities and Ofsted of the fact that an advance warning notice has been issued.
 - f. give SoS the power to request information from Ofsted and to notify Ofsted of concerns where they can play a role in assuring quality and supporting stability through periods of transition.

- g. give SoS the power to impose a civil monetary penalty on a person who is in breach of the Financial Oversight Scheme and set the maximum amount in regulations.

2. Strategic case for proposed regulation

What is the problem under consideration?

6. Local authorities have a statutory duty to ensure there is sufficient provision for children in care and arrange care/support and accommodation that best meets the needs of the child⁴. This includes commissioning places from the private/voluntary sector as required. Currently, local authorities have no way of knowing if a provider of placements for looked after children is at risk of failing financially. If a large or 'difficult to replace' provider did fail, it could lead to them closing their provision suddenly, making it very difficult for local authorities to meet their statutory duties, causing disruption to looked after children in this provision.
7. At 31 March 2024, more than 4 in 5 children's homes were owned by private companies (2,748 homes, 83%)⁵ and we estimate between 25% and 33% of private homes are owned by private equity (PE) firms.⁶ Moreover, the 10 largest private owners of children's homes own 26% of all private children's homes.⁷
8. We are seeing increasingly complex operating and financial business models of providers in children's social care which can make it harder to assess financial viability and be difficult to untangle quickly in distressed circumstances. For example, investors in children's social care are sometimes backed by private equity firms and/or have a wide-ranging portfolio of diverse business interests. We also know that some providers, especially those owned by private equity, can carry very high levels of debt, which are often structured in complex arrangements. Some of these debts may need to be refinanced over the next few years and given the current circumstances in the wider economy, this will be challenging. Where there are a number of different branches or subsidiaries to a company, there is a risk that problems in a different part of the business could affect the viability of their children's social care provision.
9. As detailed in the LGA's study into '*Profit making and Risk in Independent Children's Social Care Placement Providers*' (September 2023), the market is dynamic, complex and lacks transparency: "acquisitions and mergers activity at the provider level returned to pre-Covid levels in 2021/22 after a pause when Covid first appeared⁸. Notable amongst transactions are the Outcomes First Group announcing a split of the organisation, with some substantial closures and repositioning of homes as part of that reorganisation; CareTech delisting from the London Stock Market and returning to

⁴ [Children Act 1989 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

⁵ [Largest national providers of private and voluntary social care \(March 2024\) - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

⁶ Our best estimate based on market intel.

⁷ [Largest national providers of private and voluntary social care \(March 2024\) - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

⁸ [Alt Profit Making and Risk in Independent Children's Social Care Placement Providers final 2023 \(revolution-consulting.org\)](https://www.revolution-consulting.org)

private ownership; Aspris being formed to merge Priory and Sandcastle; Keys merging with Accomplish, and the Witherslack Group being brought under the ultimate control of the Government of the Emirate of Abu Dhabi. One consequence of this activity is a disruption in the visibility of information that helps us to assess the financial performance of the sector”.

10. Because of these reasons, the current system leaves open the risk of provider financial difficulty and business failure going undetected.

What evidence is there to support the problem statement?

11. As detailed above, a range of reviews supported the introduction of a Financial Oversight Scheme –the CMA’s study into the children’s social care market (March 2022) and the Care Review (May 2022).

12. Furthermore, the sudden collapse of a large provider in Adult Social Care – Southern Cross, in 2011 - demonstrated firsthand how difficult it is for LAs to manage sudden market exit as a consequence of provider financial failure, especially where providers have a critical market position. At its peak, Southern Cross owned or operated over 700 care homes across the whole of the UK. If we saw a similar large-scale failure in children’s social care, it could leave local authorities having to find appropriate placements for a significant number of children at very short notice, making it challenging to meet their statutory duties.

13. The children’s social care market comprises of many large providers, who hold a strategically significant market position because of the proportion of children’s homes they own and operate. Often these providers can be backed by private equity and are carrying very high levels of debt⁹. While this is not uncommon in PE finance, it could increase the risk of disorderly provider failure, with children’s homes shutting their doors abruptly. In the scenario where a large provider closed in a sudden manner and we were faced with a similar situation to that of Southern Cross, multiple LAs would need to find placements for a significant number of children and young people at very short notice. Without sufficient time to respond, LAs would struggle to manage exits of this scale, especially as we know that the market already lacks placements of the right kind in the right places.

14. Providing LAs with advance warning of provider financial failure and cessation of service provides LAs with more time to manage change and find alternative placements more efficiently and at a lower cost as opposed to urgently purchasing emergency spot placements. Emergency placements can cost LAs over £10,000 per week with 74% of LAs claiming they were ‘instrumental in driving high weekly costs’ in a recent LGA study¹⁰. Avoiding this disruption also avoids uncertainty for the looked after children in affected placements, which, research has shown, negatively impacts their well-being and attainment. Additionally, large-scale provider failures could pose significant

⁹ [Largest national providers of private and voluntary social care \(March 2022\) - GOV.UK \(www.gov.uk\)](#)

¹⁰ [High-cost children’s social care placements survey | Local Government Association](#)

sufficiency risks to the market, potentially requiring significant multi-agency intervention if of a scale too large for LAs to mitigate – advance warning would allow LAs additional time to coordinate a sustainable response that promotes stability for the children and value for money.

Why is government action or intervention necessary?

15. Currently, local authorities have no way of knowing if a provider of placements for children is at risk of failing financially. And if a large or ‘difficult to replace’ provider did fail, it could lead to them closing their provision suddenly, causing huge disruption to children who could lose their home. The current system leaves open the risk of provider financial difficulty and business failure going undetected.
16. The Children’s Homes (England) Regulations 2015¹¹ and the Supported Accommodation (England) Regulations 2023¹² state that the registered provider must carry on services in such a manner as is likely to ensure the financial viability of the placement in relation to the aims and objectives set out in its statement of purpose. An equivalent duty is set out under the Fostering Services Regulations 2011¹³.
17. The Care Standards Act 2000 (Registration) (England) Regulations 2010 require providers to submit their latest annual accounts of the establishment or agency and the last two annual reports of the holding company and of any other subsidiary of that holding company prior to registration. This includes, but is not limited to, a statement from the applicant to evidence their ability to ensure the financial viability of their establishment, whether the responsible person has been adjudged bankrupt, and information relating to cash flow. Furthermore, the Care Standards Registration Regulations 2010 also state that the registered person (registered provider) must inform Ofsted where it is likely they will cease to be financially viable within the next six months.
18. Although Ofsted can request financial information at the time of inspection from children’s homes and fostering agencies, registered providers are not required to submit ongoing, regular financial information or undergo rigorous financial checks.
19. Currently, local authorities and central government do not have the powers to request detailed information from parent undertakings of the registered providers and relevant subsidiaries that give a fuller, live picture of the financial health of the organisation. There are also few requirements on providers to plan what they would do in the event of financial distress to responsibly manage market exit and minimise disruption to children in their care.
20. Whilst we recognise that with increased financial scrutiny of providers means potential risks to the attractiveness of the CSC placement market, we do not think it is acceptable to allow placements to cease abruptly as a result of providers experiencing financial failure, where the impact and disruption will be most felt by looked after children. To

¹¹ [The Children’s Homes \(England\) Regulations 2015 \(legislation.gov.uk\)](#)

¹² [The Supported Accommodation \(England\) Regulations 2023 \(legislation.gov.uk\)](#)

¹³ [The Fostering Services \(England\) Regulations 2011 \(legislation.gov.uk\)](#)

participate in this market, we think providers must be more accountable for how their business impacts the lives of the vulnerable children who live in their provision. We therefore see a role for central government to have national oversight of this crucial market to inform an ongoing assessment of market risk and health to ensure the best possible outcomes for looked after children. The Scheme will also increase market visibility and understanding and will inform any assessment of the need for future policy in this area.

What gaps or harms would occur if government doesn't intervene?

21. Every child in care deserves to live in a home that meets their needs and keeps them safe. While local authorities are responsible for ensuring there is sufficient provision for children in care and arranging care/support and accommodation that best meets the needs of the child, we want to ensure we can best support LAs to meet this duty. We would expect government to come under considerable scrutiny for not intervening to guard against sudden market exit of a children's social care provider and for continuing to allow a lack of transparency in the market, which risks instability for children in care.
22. Without greater oversight and accountability, disorderly market exit could have a detrimental impact to the care and stability of where children and young people live. Research highlights that a lack of stability in a child's life can have significant negative effects on their wellbeing and outcomes. For example, one study found that the major distinction between children making good progress at school and those with poorer progress, was the presence of stability and continuity in their lives¹⁴. As reported in the Children's Commissioner report, 'Children's Voices: Children's experiences of instability in the care system', children repeatedly highlighted the severity and range of mental health and wellbeing implications that moving placement had upon them; for example, having to change schools because of placement disruption caused high levels of anxiety and depression amongst some children¹⁵. Moreover, when a placement move made it hard to visit or maintain contact with family members, it can have lasting consequences for those relationships and make it difficult for children and young people to maintain friendships. The Financial Oversight Scheme seeks to prevent such disruption and instability caused by sudden market exit due to provider business failure.

If applicable, has a post-implementation review of the existing regulation been undertaken. If so, what were its findings and how does the information the rationale? If not, why not? Has there been evaluation of any previous regulation in this area?

23. This is not applicable as the Financial Oversight Scheme is a new policy, to be introduced for the first time in children's social care. There is no existing legislation that gives powers to the Secretary of State for Education to require financial and business context information from children's social care providers.

¹⁴ [Final-Report-Nuffield.pdf \(ox.ac.uk\)](#)

¹⁵ [cco-childrens-voices-childrens-experiences-of-instability-in-the-care-system-july-2019.pdf \(childrenscommissioner.gov.uk\)](#)

24. The Care Act 2014 introduced a Market Oversight function within CQC to assess the financial stability of 'difficult to replace' adult social care providers. We have worked closely with the Market Oversight team within CQC to learn from their experience and inform the development of a tailored scheme that responds to the children's social care market and legislation. As CQC's scheme has been running for a substantial period of time, we have made use of their insight to ensure our scheme will fulfil its intended aims and considers the protection and wellbeing of looked after children as the principal concern in market exit situations.

3. SMART objectives for intervention

Overarching objectives of the scheme

25. The overarching policy objective of the Financial Oversight Scheme is to guard against sudden or disorderly market exit of 'difficult to replace' providers due to financial failure. Advance warning of this scenario will support local authorities to meet their statutory duty to ensure there is sufficient provision in their area to meet the needs of children in their care and arrange care/support and accommodation that best meets the needs of the child.

26. The scheme does not directly seek to prevent business failure. Its objective is instead to increase monitoring and risk mitigation, which serves to enable sector actors to better manage the impacts of the challenging scenario of market exit. To do this, it is imperative that providers are more accountable for how their business impacts the lives of the vulnerable children who live in their provision and that central government, Ofsted and local authorities are on the front foot to be able to act where there are concerns a provider is operating with a high degree of financial risk such that there is a real possibility they could exit the market due to financial failure.

Intended outcomes

27. The intended outcomes of the Financial Oversight Scheme are that, in the event of financial failure and market exit of a 'difficult to replace' provider:

- a. local authorities are better equipped to meet their statutory duties as set out in Section 22G of the Children Act 1989¹⁶ to ensure there is sufficient provision in their area to meet the needs of children in their care and arrange care/support and accommodation that best meets the needs of the child.
- b. market exit is managed well with sufficient time to coordinate a collaborative response with key sector actors.
- c. the risk of associated negative impacts that an abrupt placement move could have on a child's wellbeing and future outcomes is significantly reduced.

¹⁶ [Children Act 1989 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/1989/27/section/22g)

How do these objectives align with HMG objectives?

28. When the current government came into power in July 2024, they set out ‘first steps for change’¹⁷. These included steps to deliver economic stability and breaking down barriers to opportunity, setting children up for life. Under the mission to break down barriers to opportunity, the Labour Party manifesto stated that *‘every child should have a loving, secure home. Labour will work with local government to support children in care, including through kinship, foster care, and adoption, as well as strengthening regulation of the children’s social care sector’*¹⁸.
29. Furthermore, the Labour Party has formed the current Government and has a focus on being a *‘mission driven’* government which will work *‘towards long-term national goals’*. This would involve *‘departments working together rather than in silos’* and *‘partnership between national and local government’*¹⁹.
30. The Financial Oversight Scheme delivers on these objectives and missions. At its core, the Financial Oversight Scheme aims to protect the placement stability of vulnerable looked after children and reduce the associated negative impacts that an abrupt placement move could have on their wellbeing and outcomes. Introducing greater oversight to promote greater market stability also supports a more resilient and competitive CSC placement market, benefitting a diversity of providers, local authorities and the tax payer. With advance warning, it would be expected that LAs are better equipped to manage replacement provision more efficiently and at a reduced cost than having to do so as a short-term emergency response. For example, emergency placements are a driver of increased CSC placements costs with it possible for them to cost LAs £10,000+ per week⁷. On average the top 10 private children homes providers provide 263 places each, with the average unit cost of residential care £5,000, this could result in extra weekly costs to LAs of £1.3m if all placements for one provider required emergency care due to disorderly exit.
31. Secondly, advance warning of market exit due to financial failure seeks to support LAs to meet their statutory duties to ensure there is sufficient provision in their area to meet the needs of children in their care and provide care/support and accommodation that best meets the needs of the child. This directly responds to HMG’s objective that every child should have a loving and secure home.
32. Further, this policy is one measure in a suite of reforms being implemented to fix the children’s social care market, addressing issues of demand and supply, increasing data quality and transparency, and taking the power to regulating to rein in profiteering. Alongside the Financial Oversight Scheme, part of this package of measures also includes bringing forward primary legislation to enable LAs to set up Regional Care Co-operatives (RCCs) to plan and commission children’s social care placements regionally. We expect RCCs to gain economies of scale and harness the collective buying power of

¹⁷ [Our first steps for change - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/our-first-steps-for-change)

¹⁸ [Break down barriers to opportunity – The Labour Party](#)

¹⁹ [Mission-driven government – The Labour Party](#)

individual local authorities, and ultimately – combined with our other measures – bring down local government spending on children’s services.

33. Finally, through greater oversight, we will use evidence and insight to work with local government to ensure better outcomes for children in care – providing advance warning to local authorities will support a coordinated response across the sector to manage market exit that promotes the stability and wellbeing of looked after children. In developing the policy, we have worked with the Local Government Association (LGA) and Association of Directors of Children’s Services (ADCS) to understand how the scheme can be best designed to support local authorities. Additionally, to ensure our policy development is strategic and evidence backed, we have worked closely with and engaged other government departments, particularly DHSC and CQC to learn from their Market Oversight Scheme.

4. Description of proposed intervention options and explanation of the logical change process whereby this achieves SMART objectives

What is the preferred option and how will it achieve the objectives

34. On the 17 July, through the King’s speech, the government committed to deliver a Children’s Wellbeing and Schools Bill. It was agreed the Bill would include measures to reform children’s social care. This includes strengthening the regulation of the children’s social care placements market, with a key measure being a new **Financial Oversight Scheme**, which will be overseen and led by DfE.

35. For reasons detailed above, we accepted and agreed to take forward the CMA’s recommendations to create a new, proportionate statutory centralised oversight function for the first time in the children’s social care market and to increase provider contingency planning. Therefore, in taking forward these recommendations, and similar to CQC’s scheme, our preferred approach is to implement a Financial Oversight Scheme that is not overly burdensome and targeted at a subset of children’s social care providers only, i.e. those who are ‘difficult to replace’. As such, the Scheme will guard against the impacts of sudden loss of critical market capacity, where LAs would find it most challenging to respond. We will therefore target providers based on:

- a) **the number of relevant establishments and agencies which are carried on by a registered person or a relevant parent undertaking’s group;**
- b) **the size of those establishments and agencies;**
- c) **the geographical concentration of those establishments and agencies;**
- d) **the relevant market share of a registered person or a relevant parent undertaking’s group.**

36. LAs routinely manage closures of smaller-scale services, therefore where providers are based within local communities and operate across small geographic areas, we think LAs are still best placed to manage this level of localised exit. Given this, and our recognition of the burdens this would place on smaller providers, we don't believe introducing oversight for smaller providers, or indeed, all providers, would be proportionate or good value for money.
37. With this in mind and to ensure that the Scheme is proportionate and doesn't create unnecessary burden for small and medium sized businesses, we are working with the assumption that we will initially enter **40 of the most 'difficult to replace'** children's social care providers onto the Financial Oversight Scheme. We believe this targeted approach is the most effective and fair option available, offering the best combination of greatest benefits to the children's social care sector (this will allow us to have oversight of c. 42% of the market) whilst ensuring we are keeping burdens to providers low. As a scalable model, and given the CSC market is dynamic, we will keep the number of providers in the Scheme under review in line with market changes to ensure the Scheme's aims are met.

Tailoring CQC's operating model for the children's social care market

38. Whilst we have worked closely with the CQC to develop a Financial Oversight Scheme along similar principles to the existing scheme in the adult social care sector, our preferred option (set out at section 5) acknowledges that the adult and children's social care markets are inherently different. The adult social care market does not have some of the same challenges we see in children's social care and as the corporate parent, local authorities are already obligated to arrange accommodation for looked after children, ensuring there are no gaps in care or support in any circumstance. We also know, for example, there are not enough of the right placements in the right areas for children in care to live in. These sufficiency issues mean that the children's social care is a far less localised market – there are high instances of out of area placements, meaning children in residential care can often be placed far from their home boundary, in a local authority (LA) that is different and at times quite far from their home LA²⁰. Smooth management of market exit of a strategically significant provider is thus likely to require collaboration between a number of hosting and placing LAs to ensure children remain in placements that best meet their needs, and that disruption remains to a minimum.
39. We are diverting from CQC's Market Oversight Scheme in the following key ways. We will:
- a) **Request information and require compliance directly from registered providers and their corporate owners:** CQC's Scheme sets requirements of the registered care provider only and does not allow for the request of information from and compliance at higher level of the organisation (e.g. parent undertaking). Instead,

²⁰ As at 31 March 2023, 56% of children were placed inside the local authority boundary and 43% were placed outside).

CQC require a registered care provider in England to obtain an 'information undertaking', which is a contract providers enter with their corporate owners to ensure CQC can obtain information on the parent undertaking where necessary. DfE will instead request information from and require compliance directly from all levels of a provider's ownership structure and enforce up to the highest level of ownership. Given decision-making authority and governance can often sit at the highest level of the organisation (often the overarching parent undertaking), and that financial distress at the highest level could have a significant impact on the continued viability of the settings where children live, we will compel engagement directly from the parent undertaking and its relevant subsidiaries in addition to the registered provider. This will allow us to assess risk and hold both providers and their owners to greater account where their business decisions may impact the lives and stability of looked after children.

- b) **Require all providers who meet the entry criteria to submit a Recovery and Resolution Plan (RRP) upon entry to the Scheme:** The RRP is a type of contingency plan that helps providers prepare for worst case scenarios. We will ask providers to provide assurances that they have the right financial and business strategies in place to mitigate against risk and avoid business failure. This should provide confidence that a provider can respond well should they find themselves in financial distress and would be able to shore themselves up and recover to keep the provision running at a high quality. We will also ask for assurances that a provider will allow the necessary time and has the cash reserves needed to facilitate a slow and orderly wind-down of operations over a number of months. We will expect to see that the provider has adequate financial resources to absorb losses and recapitalise, without leaving children without a home and requiring emergency placements. Providers will be required to inform the Secretary of State for Education if there are any material changes to their business (such as change in risk to financial sustainability), which may require the provider to submit an updated plan should this be requested. This is to ensure any potential impact on children living in their services is well-managed. This goes beyond CQC's Market Oversight Scheme, which may request providers to prepare a Risk Mitigation Plan only when a provider is found to be operating with heightened risk.
- c) **Introduce civil sanctions as enforcement measures for non-compliance with the requirements of the Financial Oversight Scheme:** CQC are not set up to impose fines through civil sanctions, as they rely on their existing criminal enforcement provisions as an inspectorate. A criminal offence for non-compliance of CQC's scheme is liable on summary conviction to a fine not exceeding level 4 on the standard scale (currently £2,500). We are deviating from CQC's enforcement measures by introducing the power for the Secretary of State for Education to issue civil monetary penalties against registered providers, their parent undertakings and subsidiaries who do not comply with the scheme's requirements. Introducing civil monetary penalties will allow us to respond and enforce more promptly and impactfully with fewer practical barriers (e.g. difficulty in proving responsibility for a

breach to the criminal standard of proof and given the department does not currently have prosecutorial functions).

Given our scheme will cover the largest and most profitable providers in the market, we think a substantial fine is critical to force highly profitable, often private equity-based, providers to comply with the scheme. This is why the Bill includes an unlimited civil monetary penalty (level 5) at an amount determined by the Secretary of State for Education, with a maximum amount to be defined in regulations. This does not mean that a provider will automatically be fined the maximum. For more minor offences, we will use discretion to determine an appropriate fine, considering the factors outlined on the face of the Bill. When deciding on a fine, we will not set it so high that it would destabilise the finances of a provider, as this would be against the aims of the scheme and the interests of looked after children.

- d) Threshold for when an advance warning notice is triggered:** In legislating for the Financial Oversight Scheme, the Secretary of State for Education will issue an advance warning notice to adversely affected local authorities if she believes there is a “real possibility” that risk to financial sustainability could lead a provider to cease operations. The threshold of a “real possibility” has been set out in primary legislation. This differs from CQC’s Scheme in adult social care, where CQC issue an advance warning notice to affected local authorities if business failure and cessation of service is “likely” (i.e. more likely than not). The term “business failure” is defined in regulations (under The Care and Support (Business Failure) Regulations 2015). We have chosen to deviate from CQC’s threshold to allow for greater flexibility for the Secretary of State for Education to judge when to issue the advance warning notice, ensuring local authorities have sufficient time to effectively respond to market exit, reducing negative impacts on vulnerable children.
- e) Wider market concerns (profiteering):** The Financial Oversight Scheme in Children’s Social Care is part of a wider suite of reforms to rebalance the market and improve overall market health. Given the dramatic drain on LA resources, and the fact that we know some providers are profiteering, we want to draw intelligence on overall market conditions based on the information we receive on all the providers in the scheme. This will help us make an assessment of overall ‘market health’ and future policy intervention needed, including if we will consult on introducing a profit cap. CQC’s scheme focuses on the financial sustainability of each provider largely in a silo and is not focused on assessing or managing overall market risk. CQC’s scheme covers 60 providers, which is approximately 30% of the market, whereas our 40-provider option will cover c. 42% of the market.

When will the arrangements come into effect?

40. The Financial Oversight Scheme will form part of the Children’s Wellbeing and Schools Bill, introduced to Parliament in December 2024 and Royal Assent expected in summer 2025. Once legislation for the Scheme is laid, we have planned to undertake a period of stakeholder engagement to ready the sector and prepare providers prior to the Scheme

coming into force. This aims to ensure that providers who meet the entry criteria are informed and well equipped to meet the requirements of the Scheme once the legislation comes into force. We will stipulate in primary legislation that the Scheme's provisions are to be commenced on a date designated in regulations.

41. Alongside regulations, we will publish guidance with more detail on how the Scheme will operate in practice, including additional explanation of the types of information we may request both on entry to the scheme and subsequently.

Is this an extension of an existing regulation, or otherwise applies tried-and-test methods?

42. As detailed above, the current regulations and Ofsted powers are insufficient to provide an ongoing full, live picture of the financial health of an organisation and allow for action where there are concerns of financial instability.

43. The Financial Oversight Scheme is a new policy being introduced for the first time in the children's social care market and as such will require primary legislation to mandate, supplemented through secondary legislation and guidance.

44. There is an existing Market Oversight Scheme in the adult social care sector, overseen by the CQC. This is a system set up in the wake of Southern Cross to ensure a similar situation could not occur again and continues to protect care users and their families from disruption caused by market exits. We have been working closely with CQC to learn from their experience and inform the development of a tailored scheme that responds to the children's social care market and legislation (note key differences between adult and children's social care above).

5. Description of shortlisted policy options carried forward

Summary of shortlisting appraisal

- 45. Using CQC's Market Oversight Scheme (adult social care) as a foundation.** In their study into the children's social care market, the CMA recommended that government create a scheme that could operate in a similar way to CQC's current Market Oversight role. This is a system in the adult social care (ASC) sector which was set up in the wake of the collapse of Southern Cross (a large ASC care provider) to ensure a similar situation could not occur again.
- 46.** We have worked closely with CQC to learn from their oversight model and inform the development of a tailored scheme that responds to the children's social care market and legislation (see above how we are diverting from CQC's Scheme in a number of key ways). The options set out in the table and detailed below derive from the principles that underpin CQC's Scheme as a starting point.

Short-list appraised options considered:

	1. Business as usual (baseline) [Red]	2. Do Minimum Option [Red]	3. Less ambitious way forward [Amber]	4. More ambitious way forward [Amber]	5. Most ambitious way forward [Amber]	6. Preferred option [Green]
Description of option	Do nothing	Scope covers 20 largest children’s homes providers only. Does not request an RRP.	Covers 50-60 providers. No RRP on entry but requested upon heightened risk.	Financial Oversight Scheme covers 50-60 providers. RRP on entry for all providers.	Financial Oversight Scheme covers 70-80 providers of all provision types (i.e., not just those who are ‘difficult to replace’). RRP on entry for all providers.	Financial Oversight Scheme covers 40 providers. RRP on entry.

(RAG: Green = Meets CSFs, Preferred way forward. Amber = Meets CSFs but is less attractive, could carry forward, Red = Fails to meet CSFs, drop).

47. Option 1: Business as Usual – Do nothing. This option would not be adequate to meet the policy objectives. Whilst a ‘Do Nothing’ option would mean no costs incurred to the department, the current system leaves open the risk of financial failure going undetected.

48. Option 2: Do Minimum – Scheme covers 20 children’s homes providers only. Recovery and Resolution Plan (RRP) not required on entry, only by request. This option would mean the Scheme’s effectiveness would be significantly reduced and would not allow for a full picture of overall market health nor would it provide sufficient market coverage to accurately assess the risk landscape of the sector. Furthermore, requiring all providers on the Scheme to provide an RRP upon entry reflects the CMA’s recognition that children’s social care providers must be more accountable for how their business operations could impact the lives of vulnerable children living in their provision.

49. Option 3: Less ambitious way forward – Scheme covers 50-60 providers. RRP not required on entry, only by request. This option does not meet policy intent to ensure that the Financial Oversight Scheme and its associated contingency planning requirements will proactively encourage provider accountability and work to successfully identify any early issues from the outset to provide a strengthened level of assurance. As like Option 2, it is crucial that all providers submit a RRP on entry rather than this only being a requirement placed upon heightened risk providers. Additionally, entering 50-60 providers could result in an unnecessary burden being placed on some providers who may not hold a strategically significant position and as such, are of less concern.

- 50. Option 4: More ambitious way forward – Scheme covers 50-60 providers (of all provision types). RRP required on entry.** This option would be preferable by way of requiring providers to submit an RRP on entry, allowing for earlier, proactive contingency planning to better manage the consequences of critical market exit. As per the rationale set out at Option 3, entering 50-60 providers could be disproportionate and overly burdensome.
- 51. Option 5: Most ambitious way forward – Scheme covers 70-80 providers (of all provision types). RRP required on entry.** For the same reasons set out under options 3 & 4, option 5 was equally felt to be overly burdensome as our starting point. We believe this approach could result in capturing providers who do not hold a strategically significant position in the market. As above, the increased burden that would come with placing 70-80 providers on the Scheme could be disproportionate and overly burdensome.
- 52. Option 6: Short-listed preferred option – Scheme covers 40 providers (of all provision types). RRP required on entry.** In our appraisal of the above options, we determined that a DfE-led statutory scheme, targeting 40 'difficult to replace' providers represented the most proportionate and value for money option. This preferred option partially offsets the extra upfront cost which would have been incurred under Options 4 and 5 by covering fewer providers (40 providers on the Scheme as opposed to 50-60 or 70-80). This allows coverage of an estimated 42% of places compared with an estimated 47% under the option covering 50-60 providers or 51% under the option covering 70-80 providers, which reflects a modest increment to assurance compared with the proportionate increase in providers covered and associated costs. Selection of this preferred option was motivated by this upfront cost saving, as well as reducing provider burden by largely focusing the Scheme on the biggest providers in the market. This option also allows us to scale up the Scheme in the future if further intervention was necessary.
53. Additionally, the CMA recommended that government take forward action to actively increase the level of resilience in this market to reduce the risk of negative outcomes for children, namely that we require the most 'difficult to replace' providers to have a contingency plan against financial instability. This preferred option directly addresses this recommendation by requiring all providers who are subject to the Scheme to submit a RRP immediately upon entry. Having an RRP on entry ensures providers are held accountable from the outset which, in turn, means market exit can be better managed.
54. Proceeding with this balanced short-listed option and increasing contingency planning requirements upholds one of the Scheme's principal aims to protect placement stability for looked after children and significantly reduce the risk of associated negative impacts that an abrupt placement move could have on a child's wellbeing and future outcomes.

Small and micro businesses

55. As recommended by the CMA, the Scheme will be proportionate in targeting 'difficult to replace' providers only. As such, the Scheme will largely comprise of the biggest providers or those with the greatest market share. Our expectation is that small and micro businesses will not be included. Local authorities routinely manage the placements of individual children in the event of closures of smaller-scale services, ensuring sufficient care is provided for children elsewhere; therefore, we do not think central government intervention is necessary in these scenarios and want to ensure we do not overreach our involvement.
56. Meeting the requirements of the Scheme means that providers will face an increased time and resource burden, as the Scheme will require regular cooperation with the DfE, as well as submission of a Recovery and Resolution Plan on entry to the Scheme, which includes assurance of cash reserves. Smaller providers may not be set up to provide financial and business context information as a matter of routine, likely due to staffing constraints and may not have sufficient finances in place to assure sufficient cash reserves. We therefore do not think the requirements of the Scheme are proportionate for smaller providers and for these reasons smaller providers are not included in the scope of the Scheme.
57. There is a small possibility that a very small number of smaller businesses are captured by the Scheme through the geographical concentration criteria, however we anticipate next to no impact.

Medium businesses

58. Whilst the Scheme will predominantly include the largest providers in the market, there may be some medium-sized businesses captured by the geographical concentration criteria. Such providers may have a smaller organisational structure than larger providers and fewer staff with financial expertise, and therefore may not have as established a financial function to provide the required financial and business context information as a matter of routine. We know the Scheme heavily relies on establishing and maintaining good relationships with providers and we would therefore ensure that there is sufficient guidance and opportunity for engagement to support medium-sized businesses to understand and meet the requirements of the Scheme should they be entered.
59. It is possible that medium-sized providers who are not yet in scope to be entered onto the Scheme may choose not to expand provision to avoid eventually meeting the threshold of 'difficult to replace' and facing increased financial scrutiny and regulatory requirements. This could influence if medium-sized providers choose to grow their business or limit the number of placements they offer.

Number of providers on the Financial Oversight Scheme

60. As above, we are proposing to enter **40 of the most ‘difficult to replace’ children’s social care providers (around 42% of the CSC market)** into the Financial Oversight Scheme.

A. 40 providers

**Note – the sum of providers below will be more than this due to some cross over with providers operating across provision type*

No. of Providers	CHs 11,990 placements	IFAs 35,353 placements	SA 25,851 placements	Total 73,194 placements
Top 16 CH, Top 14 IFA/SA	Estimated to be 31% of the CH market	Estimated to be 62% of the IFA market	Estimated to be 21% of the SA market	Estimated to be 42% of the total LAC placement market

61. We have allowed for the possibility to extend the Scheme in two further options: to enter **50-60 providers** or up to **70-80 providers**. Whilst this means the DfE will have an even higher level of oversight, we recognise this would mean an increased burden on a greater number of providers, where a very small number of small to medium-sized providers could be also captured. We still however believe the impact on these providers would be low.

B. 60 providers

**Note – the sum of providers below will be more than this due to some cross over with providers operating across provision type*

No. of Providers	CHs 11,990 placements	IFAs 35,353 placements	SA 25,851 placements	Total 73,194 placements
Top 22 CH, 21 IFA/SA	Estimated to be 35% of the CH market	Estimated to be 68% of the IFA market	Estimated to be 54% of the SA market	Estimated to be 47% of the total LAC placement market

C. 80 providers

**Note – the sum of providers below will be more than this due to some cross over with providers operating across provision type*

No. of Providers	CHs 11,990 placements	IFAs 35,353 placements	SA 25,851 placements	Total 73,194 placements
Top 30 CH, 28 IFA/SA	Estimated to be 39% of the CH market	Estimated to be 72% of the IFA market	Estimated to be 28% of the SA market	Estimated to be 51% of the total LAC placement market

7. Regulatory scorecard for preferred option

Part A: Overall and stakeholder impacts

(1) Overall impacts on total welfare		Directional rating
<p>(i) Description of overall expected impact</p>	<p>Looked after children</p> <p>We expect the policy to have an overall positive impact on looked after children. Without greater oversight and accountability, disorderly market exit could have a detrimental impact to the care and stability of where children and young people live. Research highlights that a lack of stability in a child's life can have significant negative effects on their wellbeing and outcomes. This is what a Financial Oversight Scheme aims to protect and guard against.</p> <p>Local authorities</p> <p>We expect the policy to have an overall positive impact on LAs. Local authorities have a statutory duty to ensure there is sufficient provision in their area for children in care and to make placements that best meet the needs of the child²¹. The advanced warning system will alert local authorities if financial failure and cessation of service of a 'difficult to replace' provider is a real possibility, which will effectively buy LAs more time to ensure that they meet their statutory duties.</p>	<p>Positive</p> <p>Based on all impacts (incl. non-monetised)</p>

²¹ [Children Act 1989 \(legislation.gov.uk\)](http://legislation.gov.uk)

(1) Overall impacts on total welfare	Directional rating
<p>In a market where capacity is constrained, the requirement to do this efficiently whilst maintaining the best outcome for the LAC can put significant burdens on the LA. This would be significantly challenging with a provider who has large market capacity. Without sufficient warning and time to plan, the likelihood of providing a LAC with a like-for-like placement becomes more challenging.</p> <p>Immediate and readily available placements are usually high cost residential which both provide worst outcomes for LAC and place high financial burden on the LA, i.e. a residential placement costs on average £226,000 per annum more compared to a fostering placement²². Furthermore, this may increase the process of spot purchasing of alternative placements. The result of this can put increased costs on an LA both through the processing costs to find and manage an alternative placement.</p> <p>Disorderly exit of a 'difficult to replace' provider and the need to find alternative placements is likely to increase the quantity of how many are out-of-area (OOA) placements. In 2023, 17% of placements were out of area (out of LA boundary and more than 20 miles away)²³. OOA placements result in higher financial costs for the LA as they are faced with higher costs such as social work travel. In 2023, a report by the charity Become found the average costs of an OOA placement was £44,396 in 21/22, almost double the in-area cost of £22,488²⁴.</p>	
<p>(ii) Monetised impacts</p> <p>See Non-monetised impacts below.</p> <p>The Financial Oversight Scheme's realised benefits will largely be evidenced through the absence or evasion of a sector crisis due to sudden or disorderly market exit.</p>	<p>Positive</p> <p>Based on likely £NPSV</p>

²² Unit cost sources, both uplifted to 24/25 prices using GDP deflator: Fostering - [Foster Care in England: Review \(publishing.service.gov.uk\)](https://www.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/114444/foster-care-in-england-review-2022.pdf), Residential - [services.pdf \(pssru.ac.uk\)](https://www.pssru.ac.uk/publications/residential-services/)

²³ [Children looked after in England including adoptions, Reporting year 2023](https://www.become.org.uk/wp-content/uploads/2023/04/Children-looked-after-in-England-including-adoptions-reporting-year-2023.pdf)

²⁴ [Gone Too Far-Become-policy-briefing-April-2023.pdf \(becomecharity.org.uk\)](https://www.become.org.uk/wp-content/uploads/2023/04/Gone-Too-Far-Become-policy-briefing-April-2023.pdf)

(1) Overall impacts on total welfare	Directional rating	
<p>(iii) Non-monetised impacts</p>	<p>The policy’s realised benefits will largely be evidenced through the absence or evasion of a sector crisis due to sudden or disorderly market exit. By ensuring that providers are financially stable and accountable, the risk of sudden placement disruptions is reduced. The disorderly exit from the market which this seeks to avoid has adverse impacts for the wellbeing and outcomes of children affected. Research shows that children who experience fewer placement changes are less likely to suffer from negative outcomes such as aggression, delinquency and depression²⁵. Having more changes of placement was also linked to instability in schooling and therefore was a significant predictor of poorer KS4 scores²⁶. A review from 2020²⁷, highlighted that children in the residential settings which will be covered under the Financial Oversight Scheme are already likely to have low wellbeing - "significant social, emotional and mental health difficulties were reported for practically all Children in Care" - and lower educational attainment²⁸. They also fare worse when they leave care with 39% of 19-21 year-old care leavers not in education, employment or training (NEET), compared to an estimated 13% of all young people aged 19 to 21 years old.²⁹ The review emphasises the importance of stability in placement settings and recommends that “efforts to improve stability in care placements and with social workers should continue”. The types of avoidable placement breakdowns which the Financial Oversight Scheme seeks to prevent undermine stability and exacerbate attainment challenges. Another review concluded that “key is to minimise the number of changes children experience”³⁰</p>	<p>Positive</p>
<p>(iv) Any significant or adverse distributional impacts?</p>	<p>No</p>	<p>Neutral</p>

²⁵ [Adverse Childhood Experiences Associated with Children’s Patterns of Out of Home Placement Over Time and Subsequent Negative Outcomes During Adolescence | Child & Youth Care Forum](#)

²⁶ [Linking-Care-and-Educational-Data-Overview-Report-Nov-2015.pdf](#)

²⁷ <https://www.education.ox.ac.uk/wp-content/uploads/2020/06/Final-Report-Nuffield.pdf>

²⁸ (Gypen et al., (2017) and Sebba et al., (2015) cited in the review).

²⁹ (Source: Labour force survey data, percentage of young people aged 19 to 21 in England who are Not in Education, Employment or Training (NEET) during the year ending 31 March 2024).

³⁰ “Placement Stability: A Review of the Literature”, Munro, Emily R., and Ainsley Hardy. 2019. figshare. <https://hdl.handle.net/2134/2919>

(2) Expected impacts on businesses

(i) Description of overall business impact

The Financial Oversight Scheme has both potential negative and positive impacts on CSC providers. A new requirement on providers to submit regular financial and business information to DfE may work improve or build upon a provider's internal accounting and forecasting practices and therefore improve or help to maintain stable business prospects. For example, the RRP may help a provider to continue operating their business during a resolution and/or reduce the likelihood of a receiver being appointed, which could remove a further cost to the provider.

There are potential positive impacts on competition for providers in the event that the introduction of the Scheme means there is increased market diversity. For example, the Scheme may offer a positive impact to small providers. If medium/larger providers choose not to expand provision as to avoid meeting the 'difficult to replace' threshold, smaller companies could pick up slack which could make for a more healthy and competitive market. On the other hand, there are potential risks to the attractiveness of the CSC placement market as 'difficult to replace' providers will face increased financial scrutiny through the Scheme.

Whilst the Scheme aims to reduce the risk of disorderly exit due to provider failure by promoting positive financial practices which could be seen positively, it could equally be the case that disorderly exit creates opportunity for other businesses in the sector to increase their market share / purchase assets at potential fire-sale prices.

Upon entry to the Scheme and thereafter, all providers will be required to submit their financial information as requested by the DfE and to submit a RRP.

Meeting the requirements of the Scheme means that providers will face an increased time and resource burden, as the Scheme will require cooperation from individuals at all levels of the provider's corporate structure. We will work with providers to support them to understand the new requirements in the run up to the launch and reduce unnecessary administrative burdens where possible.

We suspect the larger the provider, the easier it will be to respond to the Scheme's requirements. This is because for most large providers, they are likely to

Negative

(2) Expected impacts on businesses

already have well-established financial functions. As such, we expect the administrative/resource burden placed upon them to be relatively low. In real terms, learning from the CQC experience in adult social care, we think the first financial submission a provider makes will take the longest to complete and thus administrative burden may be slightly higher (1-2 days of working hours to fill out the initial financial submission) – this is also dependent on whether a provider has an existing high functioning, sophisticated finance function that already prepares regular consolidated financial information. Thereafter, we expect the time taken to complete the financial submission will significantly reduce (a couple of hours at a frequency determined by risk level - from monthly to annually).

Additionally, to further reduce the burden, where possible, we will ask providers for information they already report on, and will then ask for supplementary information as needed, to avoid excess burden.

We know that some 'difficult to replace' providers may operate across both adult and children's social care and they may already be subject to the requirements of the CQC's Market Oversight Scheme and so will be familiar with the principles of an oversight scheme.

Because of this, we expect these providers will already have existing expertise and systems to provide such information as a matter of routine. So any additional burden from being on both schemes will be minimal. However, to reduce provider burden and ensure join-up where appropriate, the DfE and the CQC may consider holding joint meetings with providers covered by both schemes, particularly where there are concerns a provider is operating at heightened risk. We will keep under continuous review the reasonableness of the information required and the frequency of engagement with both schemes to understand where any burdens are most felt. Providers on either scheme who have been assessed as having low financial risk will have fewer and less frequent requirements placed upon them. This will ensure provider burden is reduced where possible.

(2) Expected impacts on businesses

	<p>We recognise that for smaller providers who do not have existing and mature systems in place or have outgrown their finance functions, we may see increased burdens where additional time and resource will need to be dedicated to familiarising themselves with and completing their financial submission. The Financial Oversight delivery team will provide additional support to smaller providers as necessary.</p> <p>Furthermore, providers deemed of higher risk may be subject to the instruction of an independent qualified person to carry out an IBR. We would expect to instruct around 12 IBRs over a 10-year period.</p>	
<p>(ii) Monetised impacts</p>	<p>Business NPV -£5.1m for option covering 40 providers made up as follows:</p> <p>Transitional Produce Recovery and Resolution Plan s –2.6</p> <p>Annual Data/Meetings -0.7 Independent Business Reviews –0.7 New provider Recovery and Resolution Plan s –1.1 Estimates are based on comparable activities in CQC's Market Oversight IA FINAL .pdf differences in coverage of proposal and include estimates of familiarisation costs.</p> <p>Approx net financial cost to business: as above</p> <p>EANDCB -£0.6m of which admin costs -£0.6m</p> <p>This is based on recurring costs of Data/meetings, Independent Business Reviews, and new provider Recovery and Resolution Plans. Further details are provided at the end of this document.</p> <p>Please indicate if pass through to households has been deducted from these figures No</p> <p>Please indicate any pass through costs from households to business (if available) N/a</p>	<p>Negative</p> <p>Based on likely business £NPV</p>

(2) Expected impacts on businesses

(iii) Non-monetised impacts	<p>The Scheme aims to safeguard a sector with activity costing around £3bn pa. Its cost is around 0.02% of expenditure on placements.</p> <p>The cost is also equivalent to the annual costs of 2-3 residential home placements or under 20 foster care placements in a sector where around 30,000 children are placed. It is difficult to model impacts of not intervening robustly, but very small or localised increments in knowledge of provider issues have the potential to generate benefits commensurate with the costs.</p> <p>The Scheme will generate intelligence which can be used to reduce financial risk and support good business practices.</p>	Positive
(iv) Any significant or adverse distributional impacts?	No.	Neutral

(3) Expected impacts on households

(i) Description of overall household impact	We do not expect there to be any monetary impacts on households.	Neutral
(ii) Monetised impacts	N/A	Neutral Based on likely household £NPV

(3) Expected impacts on households

(iii) Non-monetised impacts	Providing affected local authorities with advance warning where there is a real possibility that risk to financial sustainability could lead a provider to cease operations provides LAs with more time to manage change and find alternative placements more efficiently and at a lower cost as opposed to urgently purchasing emergency spot placements. Arguably, if LAs are not overspending on emergency spot placements, they will have more flexibility in their budgets, which may be felt by households in terms of overall LA spending and services.	Positive
(iv) Any significant or adverse distributional impacts?	No	Neutral

Part B: Impacts on wider government priorities

Category	Description of impact	Directional rating
<p>Business environment:</p> <p>Does the measure impact on the ease of doing business in the UK?</p>	<p>We have designed the Financial Oversight Scheme to take a balanced, proportionate approach and the policy does not intend to limit competition. The Scheme encourages providers to take greater accountability for the impact of their business on the children they care for and to proactively and openly manage and report risk.</p> <p>There are potential risks to the attractiveness of the CSC placement market as 'difficult to replace' providers will face increased financial scrutiny through the Scheme. This means that companies will be required to share commercially sensitive information with the department, periodically meet with and submit information to the department and provide assurances, including having adequate cash reserves, in the form of a RRP. The collection of commercially sensitive information will be stored under strict access control and will only be available to Financial Oversight staff on a 'need to know' basis. Information will be kept confidential and private, unless it's necessary for the performance of the task carried out in the public interest, in accordance with s.8 Data Protection Act 1998.</p> <p>The Scheme does not seek to regulate or restrict provider business innovation. However, there may be unintended impacts on business innovation. Innovation within a sector can be linked to the level of investment and if the additional financial scrutiny for this Scheme makes investment in the sector less attractive, this could impact the introduction of new technologies, products or business models. However, the continuing sufficiency issues within the CSC market has meant that investment is aimed at profiting from the market as opposed to innovation. Therefore, the introduction of a Financial Oversight Scheme, with a focus on promoting the financial health of the market could help to increase the fairness of competition with the market and incentivise innovation.</p>	<p>May work against</p>

Category	Description of impact	Directional rating
International Considerations: Does the measure support international trade and investment?	Not applicable. We do not expect there to be any impact on international trade as a result of bringing in a Financial Oversight Scheme for the CSC market. The Scheme will neither directly or indirectly reduce or impose barriers to exports or imports. Equally, whilst we will seek to bring greater financial and corporate transparency and require compliance from all levels of a provider’s organisational structure (parent undertakings of registered providers and any subsidiary undertakings), we do not expect the Financial Oversight Scheme to impact on international investment.	Neutral
Natural capital and Decarbonisation: Does the measure support commitments to improve the environment and decarbonise?	Not Applicable.	Neutral

8. Monitoring and evaluation of preferred option

81. The Financial Oversight Scheme seeks to mitigate the risks of sudden or disorderly market exit of a 'difficult to replace' children's social care provider. The Scheme insures against a hypothetical situation with its aim to better manage the consequences of critical market exit rather than regulating to prevent provider business failure. As such, insight into the policy’s realised benefits will largely be evidenced through the absence or evasion of a sector crisis due to sudden or disorderly market exit. This makes it challenging to implement a traditional, detailed evaluation plan that can measure tangible impacts or KPIs.

82. The Scheme will not have a trial or experimentation period; however, legislation will allow for periods of review and any necessary amendments to be made to the Scheme, e.g. so it can remain fit for purpose in line with any changes in the market. The children’s social care sector is dynamic and subject to investment and expansion of larger providers and consolidation through mergers and acquisitions. As such, to ensure we have the right providers on the scheme, the entry criteria for ‘difficult to replace’ and their thresholds will be reviewed at regular intervals and we will have the flexibility to allow for any required amendments to account for such activity.

83. We will establish reporting and governance processes to assess changes in the market. We will use market insights to assess ongoing market risk and inform future policy, ensuring ongoing regulation and new interventions are appropriate and promote market health.
84. **Provider behaviour.** Whilst the Scheme isn't trying to prevent business failure, it does introduce new requirements to encourage providers to make more responsible business decisions that consider the impact on children. To ensure successful implementation of the Scheme, we want to develop and maintain strong relationships with providers, whereby they also benefit from the Scheme, i.e. they are more confident in their finances and where there are risks, they are addressed promptly. Moreover, providers will have greater assurance that they've sufficiently considered the impact of their business decisions on the wellbeing of children and that, should they need to exit the CSC market (in part or full), orderly and considered exit would protect their business from reputational damage they might have otherwise experienced.
85. Part of assessing this will be achieved through monitoring shifts in provider behaviour. For example, the Recovery and Resolution Plan (RRP) requirement (which as standard will be updated annually, or more frequently if a provider's risk is heightened) helps to ensure providers have the right financial and business strategies in place to recover from distress and manage financial failure, giving due regard to children in their care. Whilst we cannot measure the outcome of an RRP unless financial distress events occur and the plan might be activated, we will evaluate the quality of a provider's RRP and the extent to which they have adequately prepared for such events, including preparing for an orderly transition to new owners or wind-down that limits disruption to children.
86. Lastly, the effectiveness of the Scheme relies on the compliance of providers to meet the requirements and share financial and business information with the DfE so we can make an accurate assessment of overall provider financial health. We will monitor instances of non-compliance and enforcement action to assess if:
- a. Providers understand what is required of them once they are entered onto the Scheme.
 - b. We have the right enforcement levers to compel compliance to fulfil the aims of the Scheme.
87. We will undertake a period of stakeholder engagement to support providers to be ready and equipped to respond to the new requirements once the Scheme comes into force. We expect this to be particularly useful to medium-sized providers.
88. We are also planning to publish guidance to accompany the regulations and will test this document with stakeholders prior to publication to ensure it is fit for purpose.
89. While for most providers, we expect administrative costs to be proportionate, we will closely monitor this and respond to live feedback on unexpected costs from providers.

We appreciate that the resource burden to meet the Scheme's requirements may be felt most by medium-sized providers who may not already be set up to respond as easily as larger providers with larger existing financial functions. We will continuously engage with these medium-sized providers to support them to meet the requirements in a way that reduces administrative burdens and work with them to ensure proportionality.

90. **Provider experience.** We want to build strong relationships with providers on the Financial Oversight Scheme and ensure that their experience is positive. We believe it is crucial to the Scheme's success that we foster open and honest lines of communication and work with providers to swiftly address any concerns or potential barriers with the Scheme, including administrative costs and burdens.
91. For this reason, we will explore undertaking voluntary provider surveys at intervals to be determined once the Scheme comes into force (likely every couple of years). We will use the provider survey to gather actionable insights, identify specific areas of improvement and resolve any issues before they escalate. The survey will place a focus on the reasonableness of the information required of providers on the Scheme, the nature and quality of engagement with the DfE, and what additional support providers may benefit from. We hope seeking regular provider feedback will ensure provider satisfaction is maintained, and any burdens are reasonable and appropriate, whilst driving long-term success for the Scheme.
92. **IT system.** To enable us to collect, analyse and store financial and business information from providers and their parent undertakings, we will need to build and implement a new IT system. Any digital solution we develop will comply with the Government Digital Service (GDS) standard³¹, at the heart of which is User Centred Design. User Centred Design consists of User Research (which in this case will be providers on the Financial Oversight Scheme), Interaction Design and Content Design, and allows us to create a service that best meets user needs. User Research (via providers on the Scheme) will be undertaken continually through the development of the digital solution to learn about our users (providers) and provide objective and evidence-based designs that result in services that meet the need of all, effectively and efficiently, minimising burden.
93. **Local authority confidence.** A key tenet of the Scheme is to support local authorities to meet their statutory duties. Ensuring commercial confidentiality of providers, it will be important for us to maintain open conversations with LAs to understand how things have changed and are felt on the front line, including if:
- a. LAs feel there is improved transparency of and communication with providers to enable better cooperation around supporting the stability and wellbeing of children in care.
 - b. LAs are aware of which providers are on the Scheme and what % of the market (nationally and locally) the Scheme covers, which helps inform their local sufficiency and contingency planning.

³¹ [Service Manual - GOV.UK \(www.gov.uk\)](https://www.gov.uk/service-manual)

- c. LAs are confident that if an advance warning notice was issued, they would be ready to make use of this additional time to coordinate a multi-system response and work with providers to minimise negative impacts on children.

94. **Internal audits.** Following the Financial Oversight Scheme coming into force, we will seek to undertake a period of review through a series of internal audits. An internal audit will aim to evaluate the Scheme's progress, identify where processes could be improved and enhance overall efficiency, focusing on particular areas of the Scheme such as governance, risk management, financial accuracy and compliance. An audit is intended to provide specific recommendations to help improve the Scheme's processes, mitigate any risks and add value where possible. We may also review our guidance to ensure it remains fit for purpose. Frequency of internal audits will be determined once the Scheme is up and running.

95. Moreover, we will conduct a thorough evaluation in instances where we have issued an advance warning notice. This may include engagement with LAs, providers, Ofsted and other sector experts (such as those with financial expertise) to review the methodology used and to assess whether, in practice, the advance warning notice was effective in providing LAs with additional time. This will ensure we can apply any lessons learned and identify where improvements could be made when next facing this scenario.

96. **Benchmarking and trending information.** We will use the information collected from providers to conduct benchmarking and trending information reports. These reports may include patterns of provider performance, analysing and comparing provider data such as occupancy levels, profitability, agency costs, etc. Comparing KPIs will allow us to identify particular trends and develop a comprehensive overview of provider market activity. Sharing these reports as part of our governance practices will help us evaluate evidenced-backed intelligence to better predict future outcomes and prepare for potential changes in the market.

97. Ensuring provider data is treated with confidentiality, we will also share an anonymised version of these reports with providers, who we think will find this benchmarking market intelligence useful.

9. Minimising administrative and compliance costs for preferred option

98. Meeting the requirements of the Scheme means that providers will face an increased time and resource burden, as the Scheme will require cooperation from individuals at all levels of the provider's corporate structure. This should include cooperation from the highest level of seniority, such as the Chief Financial Officer of the parent undertaking. However, as the Scheme will be proportionate in targeting 'difficult to replace' providers only, we expect that most of these large providers will be already set up to provide such information as a matter of routine. Therefore, we expect resource burden to be minimal

and expect most providers to have the capacity, expertise and systems to provide such information before the Scheme comes into effect.

99. While this won't be the majority, we do expect that some medium sized providers could be captured under the Scheme (because of the geographical concentration of those establishments and agencies). Medium sized providers could be at a disadvantage as they may not be set up in the same way as large providers who have existing established processes for financial reporting. To support medium providers who may be entered onto the Scheme, we will provide clear and comprehensive guidance setting out the process and expectations of engaging with and sharing information to the department. The Financial Oversight delivery team will seek to build strong working relationships with providers on the Scheme, ensuring medium providers feel well supported and are clear on and equipped to meet the Scheme's requirements. Furthermore, frequency of engagement will be determined by a provider's risk level – those providers with low risk will have fewer and less frequent requirements placed upon them to ensure provider burden is reduced where possible.
100. We will develop an IT system that is heavily based on existing systems already used in the department for external engagement. This will help to develop a smooth system with a user-friendly interface, making it easy for providers to respond to requests and requirements.
101. We are also asking that upon entry to the Scheme, all providers must provide a RRP. This is a thorough and detailed contingency plan, and as such, could place an administrative burden on providers given the significant time needed to complete it. As standard, a provider will be expected to review and update their RRP annually, however should a provider be of heightened risk, the RRP will need to be reactively updated. This could place increased administrative burden on higher-risk providers on the Scheme given the time and resource needed to update it.
102. As previously stated, a provider may be subject to an Independent Business Review (IBR) if they are assessed to be at risk of financial failure. This would place both an administrative and cost burden on providers, given that they will be required to respond in a reactive manner with the appointed qualified person in order to comply with the IBR and bear the cost of the IBR.
103. Our overall assessment is that the administrative and compliance costs for the preferred option are proportionate and appropriate given the implications for vulnerable children of disorderly market exit as well as the high levels of profit we are seeing by some private providers operating in the market. Moreover, we believe these requirements to be reasonable and far preferable to a situation where local authorities are overwhelmed by a crisis of major, sudden market exit and struggle to find the right homes for a high number of children who have had their placements disrupted.

Declaration

Department:

Department for Education

Contact details for enquiries:

Legislation.division@education.gov.uk

Minister responsible:

Minister Daby

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.



Signed:

Date

18/03/2025

NPSV Calculation

Set out below, is the approach to the NPSV calculation, which is based on the analysis originally carried out as part of the CQC Impact Assessment, adjusted to bring it in line with current prices and to align it with the specifics outlined above. This includes estimated familiarisation costs for a manager to understand the needs of the regulation (not included in CQC's assessment), costs to each firm in scope drawing together the data and meeting with the regulator to discuss these metrics, costs of drawing together a Recovery and Resolution Plan (RRP) on entry, and an Independent Business Review (IBR) conducted by independent qualified persons (external advisors).

Steps taken to reach the NPSV

The Best Estimate EANDCB for the preferred option was obtained as below. *The estimates below are prior to insertion of relevant values into the EANDCB calculator and the automated calculation generating the NPSV so do not correspond exactly with the estimates of Monetised Impacts to Businesses provided below. They are provided in this format to show how they have been derived from the CQC assessment.* In addition, a difference compared with CQC's assessment is that we assume 5% turnover of providers in-scope and that new providers need to familiarise with the regulations and produce a RRP. The estimates in the EANDCB Calculator also include these turnover costs.

Components of NPSV Calculation for Preferred Option

Cost element	Cost per provider (25/26)	Source of cost estimate	Number of providers incurring these costs	NPSV
Familiarisation	0.5 day of £100k pa manager plus on-costs: $100000 * 0.5 * (1/200) *$ 1.18	Inference. On-costs follow DfE central economics team guidance	40	<-0.1m
Data and meetings	$£1590 * 1.31$	As CQC paragraph 76 adjusted for inflation	40	-0.7
Recovery and Resolution Plan	$£149,500 * 1.31 * 2 * 10 * (1/60)$	As CQC paragraph 84 adjusted for inflation and adjusted from half over 10 years to all in current year	40	-3.7
Independent Business Review	$£105,722 *$ $1.31 * (1/60)$	As CQC paragraph 86 total cost, adjusted for relative numbers and inflation	8 over 10 years	-0.7

CQC: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/197940/Market_Oversight_IA_FINAL_.pdf

Inflation adjustment: We used 2024/25 as the price and base year. All figures were adjusted using GDP deflators and the calculations were carried out using the RPC impact assessment calculator.

Summary: Analysis and evidence

For Final Stage Impact Assessment, please finalise these sections including the full evidence base.

Price base year:

PV base year:

While the costs to providers are slightly higher in our preferred way forward and ambitious options as a result of requesting RRP's on entry to the scheme, there are valid reasons for introducing this requirement from the outset as opposed to reactively. Since we have not been able to monetise the benefits, the NPSV reported in the below table only captures the costs and therefore generally show options with a higher number of providers as having lower NPSVs. However, in our overall appraisal we have also considered the additional market oversight available as a result of including additional providers in the scheme. Holistically, these preferred options offer the most proportionate and appropriate balance between ensuring risk is effectively monitored and mitigated to minimise negative impacts on children in care, while also being cognisant of the administrative burdens on providers and the level of accountability we'd expect of those who offer provision to our most vulnerable children. (See table from next page).

	1. Business as usual (baseline)	2. Do-minimum Option	3. Less ambitious way forward	4. More ambitious way forward	5. Most ambitious way forward	6. Preferred option
Description of option	Do nothing	Scope covers only 20 largest children's homes providers. Does not cover IFAs or supported accommodation providers. No RRP on entry but requested upon heightened risk.	Covers 50-60 providers. No RRP on entry but requested upon heightened risk	Financial Oversight Scheme covers 50-60 providers. RRP on entry for all providers.	Financial Oversight Scheme covers 70-80 providers of all provision types (i.e., not just those who are 'difficult to replace'). RRP on entry for all providers.	Financial Oversight Scheme covers 40 providers. RRP on entry.
Net present social value (with brief description, including ranges, of individual costs and benefits)	N/A	...-£1.3m, of which: Familiarisation <-0.1m Data and meetings -0.4 Recovery and Resolution Plan - 0.6 Independent Business Review -0.4	...-£3.7m, of which: Familiarisation <-0.1m Data and meetings -1.0 Recovery and Resolution Plan - 1.5 Independent Business Review -1.2	...-£7.1m, of which: Familiarisation <-0.1m Data and meetings -1.0 Recovery and Resolution Plan - 5.0 Independent Business Review -1.2	...-£9.4m, of which: Familiarisation <-0.1m Data and meetings -1.3 Recovery and Resolution Plan -6.7 Independent Business Review -1.4	-£5.1m, of which: Familiarisation <-0.1m Data and meetings -0.7 Recovery and Resolution Plan - 3.7 Independent Business Review -0.7

	1. Business as usual (baseline)	2. Do-minimum Option	3. Less ambitious way forward	4. More ambitious way forward	5. Most ambitious way forward	6. Preferred option
<p>Public sector financial costs (with brief description, including ranges)</p> <p>*All costs are indicative estimates</p> <p><i>Please note: DfE means Department for Education.</i></p>	N/A	<p>Costs to DfE in running the scheme in form of programme costs (including staff costs, set up costs, enforcement costs); capital costs (including IT systems); admin costs. There will be a higher cost in the first year for scheme set up:</p> <p>2025-2026: £2.2m</p> <p>2026-2030: £918k p/a...</p> <p>*based on 20 providers on the scheme</p>	<p>Costs to DfE in delivering the scheme in the form of programme costs (including staff costs, set up and preparation costs, enforcement costs); capital costs (including IT systems); admin costs. There will be a higher cost in the first year for scheme set up:</p> <p>2025-2026: £3.6m</p> <p>2026-2030: £1.9m p/a</p> <p>* based on 54 providers on scheme</p>	<p>Costs to DfE in delivering the scheme in the form of programme costs (including staff costs, set up and preparation costs, enforcement costs); capital costs (including IT systems); admin costs. There will be a higher cost in the first year for scheme set up:</p> <p>2025-2026: £3.6m</p> <p>2026-2030: £1.9m p/a</p> <p>* based on 54 providers on scheme</p>	<p>Costs to DfE in running the scheme in form of programme costs (including staff costs, set up and preparation costs, enforcement costs); capital costs (including IT systems); admin costs. There will be a higher cost in the first year for scheme set up:</p> <p>2025-2026: £4.4m</p> <p>2026-2030: £2.2m</p> <p>* based on 72 providers</p>	<p>Costs to DfE in running the scheme in form of programme costs (including staff costs, set up costs, enforcement costs); capital costs (including IT systems); admin costs. There will be a higher cost in the first year for scheme set up:</p> <p>2025-2026: £2.7m</p> <p>2026-2030- £1.4m p/a</p> <p>* based on 34 providers on scheme</p>

	1. Business as usual (baseline)	2. Do-minimum Option	3. Less ambitious way forward	4. More ambitious way forward	5. Most ambitious way forward	6. Preferred option
Significant un-quantified benefits and costs (description, with scale where possible)	benefits unquantified	benefits unquantified	benefits unquantified	benefits unquantified	benefits unquantified	benefits unquantified
Key risks (and risk costs, and optimism bias, where relevant)	No oversight over the market and risk of provider financial or business failure going undetected	Lack of oversight over the market and risk of provider financial or business failure going undetected. Additional risk as no proactive contingency planning.	May be overly burdensome. Additional risk as no proactive contingency planning.	May be overly burdensome	May be overly burdensome	Most proportionate option but does not provide oversight over the market in its entirety
Results of sensitivity analysis	N/A	costs increase proportionately if more providers are in-scope	costs increase proportionately if more providers are in-scope	costs increase proportionately if more providers are in-scope	costs increase proportionately if more providers are in-scope	costs increase proportionately if more providers are in-scope