

REPORT TITLE:

Scrutiny meeting	Children and Families Overview and Scrutiny Committee – 14 th September, 2023
Chair	Cllr. Dr. Andrew Miller
Presenting Officer	Rob England, Acting Assistant Director Integrated Commissioning
Item Type	Information
Purpose of Report	This report offers a brief description of the complex national context of the children's homes market and outlines the Council's involvement with this. It then outlines how national and local policy and strategy are being enacted to support sufficiency of placements for our children in care.
Recommendations/ Action sought	N/A
Forthcoming Decisions	This report offers additional information in relation to Council decisions already taken and forthcoming in relation to the sufficiency of homes for our Children in Care and Care Leavers. This includes the Capital programme within Children's Services.
Background Documents	None other than those referenced within the report.
Appendices	None
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1. Purpose

This report offers a brief description of the complex national context of the children's homes market and outlines the Council's involvement with this. It then outlines how national and local policy and strategy are being enacted to support sufficiency of placements for our children in care.

2. National Context

At the time of writing, we have 860 children in our care. This is against a national context where the "...number of children looked after in England has increased significantly over the last three decades, rising from 47,590 in 1994 to 80,850 in 2021. ...The increase in the number of children looked after has not been matched by the capacity of foster or residential homes for children. As a result, councils have found it increasingly hard to place children, costs have increased and more children have been placed out of authority."¹

Whilst the number of children in care has increased by 24% since 2009/10, the number of places in children's homes increased by only 8% while the average price increased by 40% over the same period². More than 80% of all children's homes registered with Ofsted are for-profit³.

Against this backdrop the Competition and Markets Authority (CMA) concluded a market study in March 2022 in response to two major concerns. First that local authorities are "too often unable to access appropriate placements to meet the needs of children in their care" and second, that "the prices paid by local authorities were high and this, combined with growing numbers of looked-after children, was placing significant strain on local authority budgets, limiting their scope to fund other important activities in children's services and beyond."

This CMA report found that overall "there are significant problems in how the placements market is functioning"⁴:

- A lack of placements of the right kind, in the right places, means that children are not consistently getting access to care and accommodation that meets their needs.
- The largest private providers of placements are making materially higher profits, and charging materially higher prices, than would be expected if this market were functioning effectively. These providers have been earning significant profits over a sustained period. Providers in scope of the study saw steady operating profit margins averaging 22.6% from 2016 to 2020, with average prices increasing from £2,977 to £3,830 per week over this period, an average annual increase of 3.5%, after accounting for inflation.

If this market were functioning well, we would expect to see existing profitable providers investing and expanding in the market and new providers entering. This would drive down prices as local authorities would have more choice of placements, meaning that less efficient providers would have to become more efficient or exit the market, and the profits of the largest providers would be reduced. Eventually, profits and prices should remain at a lower level as providers would know that if they raised their prices they would be unable to attract placements in the face of competition. The high profits of the largest providers therefore shows that competition is not working as well as it should be.

¹ Home@theHeart, GCC Sufficiency Strategy 2022-2026 for Children and Young People.

² Research Andrew Rome and DFE and quoted in Case for Change, p 59

³ Ofsted, 2021. Children's Social Care Statistics - GOV.UK. <https://www.gov.uk/government/collections/childrens-social-care-statistics>.

⁴ [CMA Childrens Social Care Market Study, final report. 22nd March 2022.](#)

- Some of the largest private providers (particularly private equity-owned providers) are carrying very high levels of debt, creating a risk that disorderly failure of highly leveraged firms, or their disorderly exit from the market, could disrupt the placements of children in care.

[The current pressures on mortgage rates and cost-of-living are also worth bearing in mind for these providers, particularly those with large stock portfolios and inevitable mortgage renewals.]

The CMA report made the following 3 recommendations⁵ [further expanded on in the policy and strategy section below]:

- Improve commissioning, by having some functions performed via collaborative bodies, providing additional national support and supporting local authority initiatives to provide more in-house foster care.
- Reduce barriers to providers creating and maintaining provision, by reviewing regulatory and planning requirements, and supporting the recruitment and retention of care staff and foster carers.
- Reduce the risk of children experiencing negative effects from children's home providers exiting the market in a disorderly way, by creating an effective regime of market oversight and contingency planning.

The CMA report also importantly highlights that no mention of children's home provision can be separated from the significant increase in the use by local authorities of 'unregulated' placements where children may be given accommodation and support, but not care. "While local authorities sometimes use these placements by choice, to prepare older children to move towards independence, we understand that they have increasingly been used as a last resort to house children who the local authority wishes to place in a regulated placement but cannot find one."⁶ This sector is now subject to regulation⁷ which will be enforced from October 2023.

It is also worth noting that the CMA report found that "...turning to price, our evidence suggests that the cost to local authorities of providing their own children's home placements is no lower than the cost of procuring placements from private providers, despite their profit levels"⁸. Other benefits from internally run children's homes therefore have to be manifest to justify their development.

Simultaneous to the CMA report, Oxford University published a report on the quality of provision within the national care home provider market⁹. Whilst the CMA report indicated no notable difference in the quality of out-sourced as opposed to in-house provision, the Oxford report with its breadth of data analysis offers an altogether different view. That is:

"Our analysis shows that for-profit providers are statistically significantly more likely to be rated of lower quality than both public and third sector services. For-profit children's homes also violate a greater number of requirements and receive more recommendations

⁵ CMA Childrens Social Care Market Study, final report. 22nd March 2022.

⁶ CMA Childrens Social Care Market Study, final report. 22nd March 2022.

⁷ [Ofsted Guide to the supported accommodation regulations, March 2023](#)

⁸ CMA Childrens Social Care Market Study, final report. 22nd March 2022.

⁹ Bach-Mortensen, A.M.; Goodair, B.; & Barlow, J. (2022). [Outsourcing and children's social care: A longitudinal analysis of inspection outcomes among English children's homes and local authorities](#). Department of Social Policy and Intervention, University of Oxford.

compared to other ownership types. ... At LA level, we find provisional evidence that LA Ofsted ratings are negatively correlated with the percentage of for-profit outsourcing, suggesting that LAs which outsource a greater amount of their children in care placements perform less well than those which do not.... However, caution is needed in terms of regulating the sector going forward, as the role of for-profit provision cannot be replaced without substantial coordination and long-term planning.”

The Oxford report identifies a key risk where profit motivation undermines care quality. “Specifically, this can materialise through ‘parking’ and ‘cream-skimming’ behaviour, in which private providers cherry-pick easily served clients and ‘park’ complex (i.e., costly) service-users with public or third sector services.” The report identifies how this behaviour has manifested in other sectors (health, education, employment services) leading to distorted outcomes reporting where such providers appear more effective due to the “systematic selection of the ‘ideal’ clientele”¹⁰. This assertion by the authors of this report strikes a chord in the Council where this behaviour has been observed with some providers.

Alternatively, we see certain providers applying exceedingly high prices to work with the more complex and at-risk children and young people, immaterial of existing framework prices. This manifests through heightened base costs and/or additional support costs (e.g., support hours, therapeutic inputs, stated staff specialisms). An extension of this occurs where providers present their assessment of the child’s needs and thereafter seek to instruct care planning decisions that require the use of their additional services, sometimes as a condition of sustaining the placement with that provider.

In relation to quality of provision, the latest published Ofsted management information for children’s homes (August 2022) indicates that nationally, 3% were rated as Outstanding, 49% as Good, 21% as Requires Improvement, 16% as Inadequate, and 14% had no rating applied yet. However, in an area dominated by for-profit provision, that only slightly more than 50% are rated as Good or Outstanding reinforces the findings of the Oxford University and CMA reports that we are yet to enjoy the quality benefits that should accord with high costs and competition.

3. Local Context

In Gloucestershire, we are ambitious corporate parents, wanting the majority of our children to grow up in the county with their family or someone who knows them best. When this is not possible, we need foster families and children's homes locally with skilled carers, able to offer cost-effective, high quality care. In this way children and young people will be able to retain important links with family, friends and local community and services. Our sufficiency strategy, Home@theHeart sets out how we intend to move closer to this position. This report, as stated, focuses on those children for whom family or foster family care has not yet been achieved or is not indicated and for whom, institutional care or support has been commissioned. These types of care and support are largely children's homes with/without education, residential special schools and supported living.

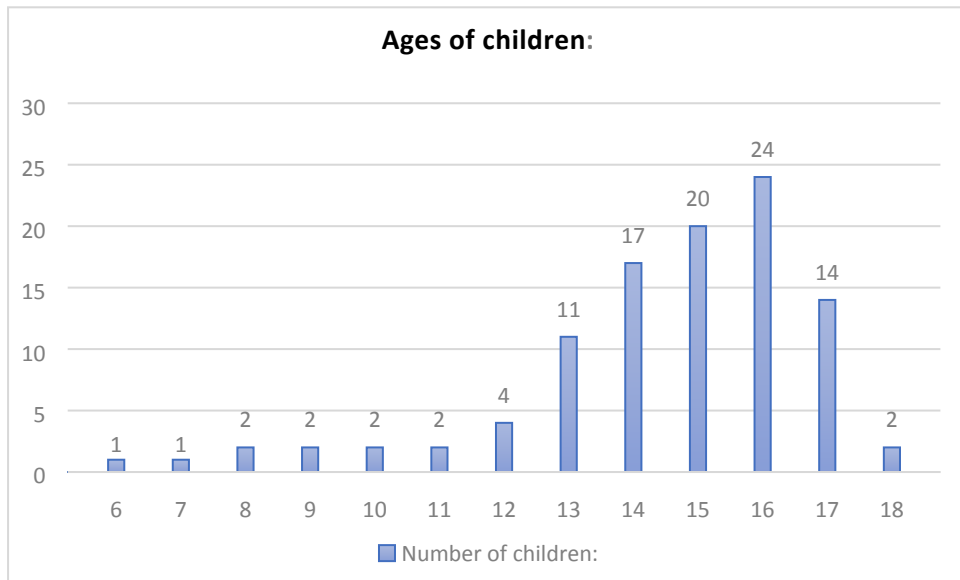
At the time of writing, we have **102 children** in commissioned residential children’s homes with **51 national providers** where some providers have multiple children’s homes in their portfolios. Thirteen of these children are in SEN residential schools/homes. The number placed in children’s

¹⁰ Bach-Mortensen, A.M.; Goodair, B.; & Barlow, J. (2022). Outsourcing and children’s social care: A longitudinal analysis of inspection outcomes among English children’s homes and local authorities.

homes has grown significantly in recent years: from 30 children in 2012, to 64 in 2017, 80 in September 2021, and 102 presently.

Of the present placements, 32 (31%) are in-county, and the remaining 70 (69%) are out of county; whereas, in September 2021, 82% were placed out of county. Whilst this is a positive development for the Council it reflects that too many children in residential settings remain out of county, and that this isn't simply a matter of best-interests in line with their risk/care planning needs.

The ages of the children range from 6 to 18 and are distributed as follows:

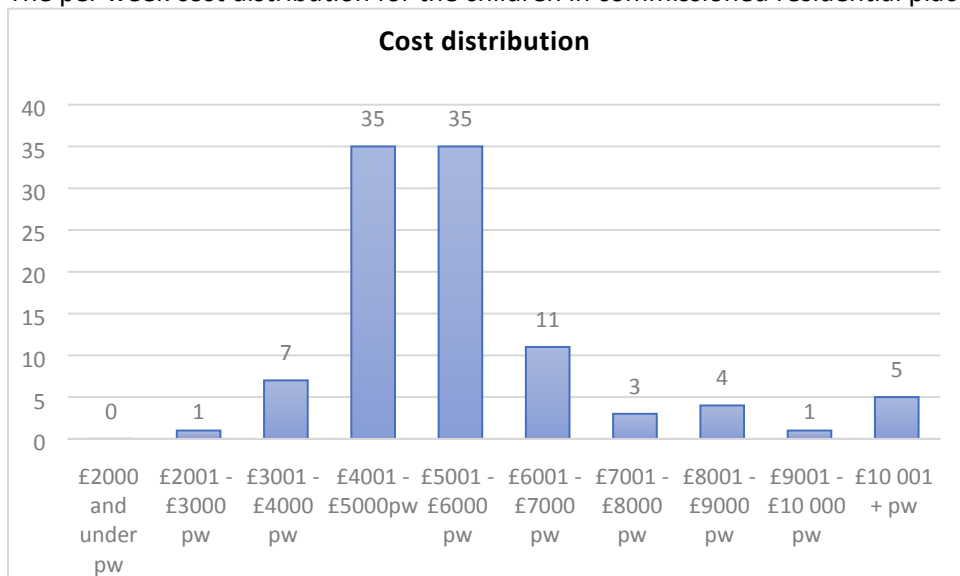


(Information for care leavers still utilising residential provision is withheld due to low numbers and the potential for person identifiability.)

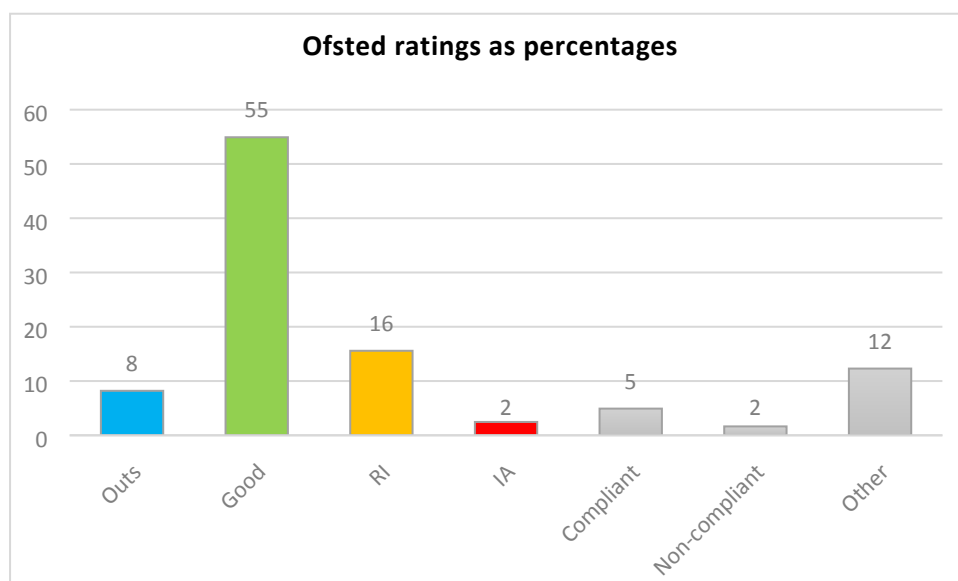
Of these children, 62 (61%) identify as male and 40 (39%) as female.

There are presently 4 children in registered children's homes who have had 3 or more moves in the last 6 months. (This only includes those children currently in residential placements rather than those that have since moved from a residential placement.)

The per week cost distribution for the children in commissioned residential placements is as follows:



Of these providers, the Quality ratings as percentages are:



(In the above graph, 'compliant' indicates registered and in compliance with registration requirements but not yet inspected; conversely 'non-compliant' indicates those that have yet to conform to requirements.)

As noted in section 2 above, only slightly more than half of all providers registered with Ofsted are rated as Good or Outstanding. The above quality markers indicate that 63% of providers that the Council uses are rated as Good or Outstanding which is above the national profile, and so is partly positive when having to utilise a children's home.

To assure ourselves of the quality of provision prior to accepting it for a child we will undertake due diligence checks of that provider against Ofsted findings, local intelligence and previous QA findings, assessing the provider's proposed plan and capability to discharge this, and matching against other children in the home. Whenever a home is judged by Ofsted to be Inadequate, we work closely with the social care team, the IRO and advocacy services to understand the impact on the child of the noted concerns and whether the child can remain in that setting (if in their interests) with mitigation. Should it be deemed best for the child to remain in that home, they will be visited with greater frequency and ongoing checks are undertaken with the provider to understand their remedial plan and progress against this.

4. Policy and Strategy responses

In relation to this paper, the Independent Review of Children's Social Care highlighted two priority areas:

- New universal care standards (which includes Ofsted's regulation of the supported living market).
- That the commissioning and running of children's homes and the recruitment and training of foster carers is to be moved into new Regional Care Cooperatives (RCCs). The scale and expertise of these local authority owned regional bodies should mean a wider choice of homes for children closer to where they live.

These RCCs are intended to address:

- Weak oversight of providers
- High cost and profiteering in the market
- Poor sufficiency planning by LAs
- Lack of coordinated commissioning (“Providers can refuse to engage with pan-local and regional processes, knowing that heightened demand means a local authority will need the home”¹¹.)

Taking each in turn, the Council’s commissioning team has been helping supported living providers to prepare for the incoming Ofsted regulations through both provider events and direct contact with individual providers. It is illustrative that in our most recent round of consultative support to 27 providers, we have been notified that:

- 5 have submitted their registration,
- 4 have chosen to not submit and are at risk of exiting the market,
- 2 are unsure about registration and,
- 3 are not registering as supported living providers but are successfully registering as children’s homes.
- Despite ongoing attempts to make contact, 13 providers are yet to respond.

Given the imminence of the enforcement of these regulations (October 2023) there are notable implications for the Council in having too few registered providers in this space. We will therefore continue to encourage providers towards registration, supporting this where possible. We are also beginning to review this pending impact on services to those individual young people in these placements. Given the already over-stretched market, we cannot simply move these young people into registered provision, so an alternative to this will be needed.

Through our involvement in the forums supporting the national implementation of this regulation we can see that Gloucestershire is not alone in this situation. Many are seeking guidance from central government as to the implications of there being too few registered providers come the October deadline, to which there has yet to be an authoritative national response.

Regarding RCCs, the DfE have backed the recommendation in the Care Review to transfer responsibility for the commissioning of care placements from individual councils to regional groupings of authorities under RCCs. Two national RCC pilots have been launched and whilst the Council is party to South West regional discussions on this front, this has yet to develop to the point where we are signed up to any of the pilot activities. The DfE has also accepted the CMA’s proposal to commission a national body to provide help for authorities in forecasting demand and procurement. Scotland and Wales are relatively well-developed in relation to legislation prohibiting for-profit activity in this sector, whilst England has little regulation on this front. We are therefore awaiting developments in this respect.

The current and previous presidents of the ADCS (Association of Directors of Childrens Services) have been broadly supportive of the aims of the Care Review but have challenged the DfE to be more assertive in tackling the elements of cost and profiteering in the market, and offering “...some constructive challenge to government and set out an alternative vision for the RCC concept”¹²

It is also significant that just as RCC’s are being piloted, the regional procurement framework for children’s residential care involving 7 North East local authorities has collapsed due to private providers ‘not engaging’ with the framework. Taken with what has been noted above about supported living provider engagement with the Ofsted registration process, and the CMA’s warnings

¹¹ DfE Independent Review of Childrens Social Care – final report.

¹² ADCS Presidents opening address, Children and Adults Services Conference. 6 July 2023.

about disorganised exits by providers from the market, there are clearly considerable risks remaining to coherent commissioning arrangements to support sufficiency.

The Council's sufficiency strategy Home@theHeart therefore includes the development of up to 12 capital projects in-county to deliver residential options for Gloucestershire's children. These include:

- Trevone House – multi-bed supported accommodation in Gloucester for children in care and care leavers aged 16+ (separately reported on to CFOSC).
- Southfields House – multi-bed supported accommodation for young people in Stroud.
- Townsend House – multi-bed parent and baby residential and community assessment provision in the Forest of Dean.
- London Road – children's home and staying close accommodation in Gloucester.
- Shipton Oliffe – a short-break home children's home, jointly funded with NHSE, for disabled children with complex needs based in Shipton Oliffe.
- A series of bespoke small homes for 1 – 3 children (e.g., Rowan Tree, Barnwood, Redwell, and Bisley)

Furthermore, the Council's Children's services have a financial recovery project that focuses on the considerable expenditure in this area. The foci of this project are to reduce spend on placements, increase local and cost-effective provision, reduce SEND spend, attend to staffing costs and other controllable expenditures, and reduce the numbers of children in care. Within these we are specifically attending to step-downs from residential children's homes to foster care or family with a cost reduction target of £5m over the year. This financial saving is on course to be delivered. Despite notable inflationary pressures we are also on course to deliver our unit cost reduction target and to reach our target of children in care (858).

Despite this progress, we have a number of children in particularly high-cost arrangements in both residential care settings, and supported living arrangements where care is indicated but residential homes or foster care are unable to meet this need. These costs can be highly variable with notable budgetary and legal implications.

5. Conclusion

Nationally, regionally and within the county there is a complex market situation in relation to registered homes for our children in care. This market is dominated (80%) by for-profit providers and the expected quality and cost benefits that should follow from an effectively operating competitive market are not evident. In contrast, there are greater risks of inflated and inflating costs and poor quality. This has significant implications for local authority budgets and the quality of care for children.

In response, the Council is developing internal resilience through its growth strategies for foster care and capital development. We are also exercising intensive financial controls, recovery activities and market engagement to prevent slippages and promote a healthier overall relationship with the market. We will remain closely involved in the regional response to the development of RCC's, and will look with interest to the national response to market oversight and regulation since some necessary levers of control lie well-beyond the local level.