

Report of Director of Children's Services

Report to Scrutiny Board (Children and Families)

Date: 23rd of August 2012

Subject: Scrutiny Inquiry into Private Care Homes (Children and Young People)

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

1 Purpose of this report

- 1.1 This report provides written evidence to the Scrutiny Board (Children and Families) enquiry in relation to this Inquiry into Private and Independent Care Homes for children.

2 Background information

- 2.1 A private or independent care home can be defined as one that is not owned or managed by a local authority.
- 2.2 There is no legal requirement for a person planning to open a small private or independent home to inform the local authority of their plans or to consult with local residents or elected members. This has led some authorities experiencing large numbers of small private or independent homes being opened in their area, with a significant impact on the local community and resources.
- 2.3 Following a number of recent cases, most notably in Rochdale, the Government has expressed concern about both the number of private or independent homes in some local authorities and children living in private or independent homes some distance from their home authority. In a press release on Tuesday 3rd July 'Urgent Reforms to protect Children in residential care homes from Sexual exploitation and to overhaul the wider system', the government expressed their intention to instruct Ofsted to share information with the police and other relevant parties on the location of Children's homes. It is expected that further regulation and guidance will follow.

3 Main issues

- 3.1 All Children's homes, whether local authority, private or independent must register with Ofsted. Registration criteria are included as Appendix 1. Ofsted are responsible for ensuring that a children's home meet all regulatory requirements under The Children Act 1989 Guidance and Regulations Volume 5: Children's homes and the national minimum standards for children's homes.
- 3.2 Ofsted also undertake a full (Key) inspection of a Children's Home and a progress inspection every year. There is an inspection framework for children's homes with quality of care and outcomes for children at the centre. The outcome of every inspection is published on the Ofsted website.
- 3.3 Should an individual or agency have concerns about the management of a children's home they should contact Ofsted.
- 3.4 Planning regulations in relation to residential provision for both adults and children were simplified to make it easier for small group homes to be opened as part of the move away from large residential institutions. In practice this means that where an existing residential dwelling that accommodates less than 6 residents (staff and children) is used for a children's home planning permission is not required.
- 3.5 As planning permission is not required for most homes, community consultation is also not required. However, good practice would be to inform and consult with local residents and the community to ensure that the location is suitable and ensure local support.
- 3.6 Similarly, as planning permission is not required anyone opening a small children's home does not have to inform the host local authority of their plans and the local authority has no right to refuse a children's home in their area (other than the rare occurrences where planning permission is required).
- 3.7 The relaxation of planning regulations has led to some local authorities experiencing large numbers of children's homes being opened in their area. This has caused concern to elected members in these local authorities and the issue was the subject of a parliamentary debate on the 1st of February 2010 [<http://www.publications.parliament.uk/pa/cm200910/cmhansrd/cm100201/debtext/100201-0024.htm>]. This debate suggested that it may be possible to interpret planning regulations differently, so that planning permission was required. Children's Services are discussing these possibilities with colleagues in Planning. However, it is important that any potential reinterpretation is considered very carefully as it will have implications beyond children's homes.
- 3.8 Where a local authority decides to place a child in a private or independent children's home they remain responsible for safeguarding and promoting the child's welfare and for ensuring that the placement continues to meet the child's needs. All looked after children must receive regular statutory visits from their social worker, during which the child should be seen and spoken to alone and their accommodation inspected. In addition the care plans for every looked after child is subject to external scrutiny by an Independent Reviewing Officer at least

every six months to ensure that it is appropriate to their needs. This will include whether the placement is appropriate and is offering a satisfactory standard of care.

- 3.9 In addition where a local authority places a looked after child in a private or independent home (or with a foster or kinship carer) outside of their local authority they must inform the host local authority. We have recently strengthened our arrangements in Leeds so that we write to local authorities to check information we have received and to ensure that it is up to date and accurate. Where a child from Leeds is placed in another local authority in addition to informing the local authority on placement we also provide an annual update.
- 3.10 Where safeguarding concerns arise in relation to a child placed in a private or independent children's home it is the responsibility of the local authority in which the children's home is located to investigate these concerns.
- 3.11 Ofsted have recently provided local authorities with a list of all children's homes in their area. The information provided is limited but in practice Children's Services were aware of the homes. There are currently ten private or independent homes in Leeds and Children's Services works hard to established positive relationships with providers. As part of the Child Friendly City Initiative Children's Services are looking to develop a residential children's home charter that all homes in Leeds will be invited to sign up to.
- 3.12 Children's Services has used eight of the ten homes but before placing a child in addition to reviewing the inspection reports from Ofsted, Children's Services will visit the home to assess its suitability and has developed considerable knowledge of local resources.

4 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 Where we are aware of private or independent children's homes in Leeds, Children's Services makes every effort to consultant and engage with them. All looked after children from Leeds placed in a private or independent children's home are consulted with and involved in developing and reviewing the plan for their care.

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 The Equality Improvement Priorities 2011 to 2015 have been developed to ensure our legal duties are met under the Equality Act 2010. The priorities will help the council to achieve its ambition to be the best city in the UK and ensure that as a city work takes place to reduce disadvantage, discrimination and inequalities of opportunity.
- 4.2.2 Equality and diversity has been considered in completing this report and where an issue has been identified it has been highlighted in this evidence.

4.2.3 This inquiry will assist in achieving outcomes and priorities as defined in the Children and Young Peoples Plan 2011-15 and the Child Friendly City Priority Plan.

4.3 Resources and value for money

4.3.1 There are no resource or value for money implications relating to this report

4.4 Legal Implications, Access to Information and Call In

4.4.1 None

4.5 Risk Management

4.5.1 None

5 Conclusions

5.6 There is no legal requirement for a person planning to open a small private or independent home to inform the local authority of their plans or to consult with local residents or elected members.

5.7 Children's Services are in discussions with the planning department about the local interpretation of planning regulations.

5.8 Ofsted are responsible for the regulation and inspection of all children's homes.

5.9 There are robust arrangements in place in Leeds for children from Leeds who are placed in a private or independent home.

6 Recommendations

6.1 The Scrutiny Board (Children and Families) are invited to note the contents of this report.

7 Background documents¹

7.1 <http://www.publications.parliament.uk/pa/cm200910/cmhansrd/cm100201/debtext/100201-0024.htm>

¹ The background documents listed in this section are available for inspection on request for a period of four years following the date of the relevant meeting. Accordingly this list does not include documents containing exempt or confidential information, or any published works. Requests to inspect any background documents should be submitted to the report author.

Appendix 1

Registration with Ofsted

Children's home providers and managers must meet a range of legal requirements; this includes a requirement to register with Ofsted. Ofsted expects providers and managers to show how they have taken account of the national minimum standards for children's homes and The Children Act 1989 Guidance and Regulations Volume 5: Children's Homes.

What is a children's home?

1. The Care Standards Act 2000 says that 'an establishment is a children's home...if it provides care and accommodation wholly or mainly for children'.
2. The law also says that children are people who are aged under 18 years. A children's home must mainly care for children. This means that most or all of the people who live or stay there must be children. Young people who are aged 18 and over may live or stay there, but they must be in a minority.
3. Children's homes are diverse. Examples include:
 - n homes for children who are looked after by a local authority either as a short-term measure or more long term
 - n homes for disabled children and young people, including those with physical and learning disabilities
 - n homes for children and young people who have emotional and/or behavioural difficulties
 - n homes for children and young people who have a mental health condition
 - n homes that provide short breaks
 - n residential schools that provide accommodation for pupils for more than 295 days each year, including specialist and mainstream schools (a school must register as a children's home if, within any two-year period, one child or more who boards at the school, or in lodgings arranged by the school, stays for more than 295 days over any 12-month period within that two years; this also applies if the school intends to offer such an arrangement)
 - n establishments that provide holidays, leisure, sporting, cultural or educational activities wholly or mainly for disabled children, even where each individual child stays there for less than 28 days in any 12-month period.
4. Independent schools and residential special schools registered as children's homes have one registration with Ofsted as a children's home and one registration with the Department for Education as a school. When a new school intends to provide

accommodation for more than 295 days, inspectors try and carry out the two registration visits at the same time.

5. The law sets out some types of accommodation that are not children's homes and do not have to register with Ofsted. These include:
 - n a place where children live with their parents, relatives or foster carers
 - n bail or probation hostels
 - n hospitals or clinics
 - n schools, unless children live there for more than 295 days a year
 - n young offender institutions and secure training centres
 - n places where children live while on holiday or taking part in leisure, sporting, cultural or educational activities where each individual child stays there for less than 28 days in any 12-month period²
 - n places where young people of 16 or 17 live while undergoing training or apprenticeships, while on holiday or taking part in leisure, sporting, cultural or educational activities.³

Registration

6. Any establishment that can be defined as a children's home must register with Ofsted before it can open. It is an offence to run a children's home without registration. This helps to prevent unsuitable people from owning, operating, managing or working within children's homes.
 7. A person, partnership or organisation that wishes to open a children's home must demonstrate how they meet a number of legal requirements and minimum standards for children's homes. They must also take account of *The Children Act 1989 Guidance and Regulations Volume 5: Children's Homes* issued by the Department of Education.
 8. In summary, a children's home must have:
 - n a registered provider and, where the provider is a partnership or an organisation such as a company or local authority, a person known as a 'responsible individual' who represents the partnership or organisation to Ofsted
 - n a registered manager
 - n a statement of purpose that sets out the overall aims of the children's home and the objectives for children who live there – the law sets out the information that the statement must contain in regulations.
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- n a children's guide, which is a summary of the statement of purpose, the complaints procedure and contains the address and telephone number of Ofsted in a form that is appropriate to the age, understanding and communication needs of the children.
 - n a number of policies and procedures – these are set out The Children's Homes Regulations 2001 and 2010 amendments.
9. Each children's home must hold a separate registration. Occasionally a children's home may have a 'satellite' home. This is normally where buildings occupy the same site or are next to one another

Inspection

10. Ofsted inspects every children's home once within the first seven months of it being registered. Every financial year Ofsted carries out a minimum of one full inspection and one interim inspection of every children's home. This frequency of inspections is set in regulation.
11. At inspection, inspectors will evaluate the outcomes for children. The evaluation schedule and the judgements made on inspection are underpinned by the regulations and the national minimum standards and are intended to test compliance and support improvement.

Complaints and concerns about providers

12. If individuals or organisations have concerns about the operation of a children's home they may complain to Ofsted. When considering complaints, Ofsted does not act as a complaint adjudicator. The organisation does not decide if complaints are upheld, partially upheld or are unsubstantiated. Instead Ofsted investigate concerns to make sure that the provider continues to meet regulations and to take account of the associated national minimum standards, and remains suitable for registration. Where providers and/or managers do not, Ofsted may take enforcement action as described in the 'Compliance and enforcement' section below.

Compliance and enforcement

13. Children's home providers and managers must comply with the requirements of the regulations and take account of the national minimum standards for children's homes and statutory guidance for children's homes.
14. Ofsted investigates all instances that suggest a children's home does not meet its legal obligations. Where they find non-compliance they take action to ensure children's safety and compliance with the law. The action taken is based on an 'escalating tariff'. Put simply this means that we begin with the minimum possible measures to bring about compliance. In most cases we achieve this by simply telling providers and/or managers in writing what they need to do to put things right: these requirements are called 'statutory requirements'. Where providers and or managers cannot or will not improve, a range of powers are used including restricting admissions to a home, issuing a compliance notice, cancelling a provider's registration or prosecuting an offence.

