

Corporate Patenting Board
18 July 2022

Title of paper:	Unregulated and Unregistered Placements – Children in Care	
Director(s)/ Corporate Director(s):	Catherine Underwood – Corporate Director, People’s Services and statutory Director of Children’s Services Ailsa Barr – Director of Children’s Integrated Services	Wards affected: All
Report author(s) and contact details:	Mary-Anne Cosgrove (Head of Service Children in Care, Care Leavers and Regulated Services)	
Other colleagues who have provided input:	None	
Date of consultation with Portfolio Holder(s) (if relevant)	27 June 2022	
Does this report contain any information that is exempt from publication?		
No		
Relevant Council Plan Key Outcome:		
Clean and Connected Communities	<input type="checkbox"/>	
Keeping Nottingham Working	<input type="checkbox"/>	
Carbon Neutral by 2028	<input type="checkbox"/>	
Safer Nottingham	<input checked="" type="checkbox"/>	
Child-Friendly Nottingham	<input checked="" type="checkbox"/>	
Healthy and Inclusive	<input checked="" type="checkbox"/>	
Keeping Nottingham Moving	<input type="checkbox"/>	
Improve the City Centre	<input type="checkbox"/>	
Better Housing	<input type="checkbox"/>	
Financial Stability	<input type="checkbox"/>	
Serving People Well	<input checked="" type="checkbox"/>	
Summary of issues (including benefits to citizens/service users):		
<p>At the March Corporate Parenting Board, a report was requested to outline the key issues in relation to unregulated and unregistered placements for Children in Care and our local processes to be shared.</p> <p>Sometimes nationally and locally workers are unsure what is meant by unregulated and unregistered placements and can confuse the two. If they are not clear it could lead to children not having the appropriate level of care and supervision.</p> <p>This report is to provide information to the board in respect of the use of unregistered and unregulated placements for children and young people in care. The report will provide explanation of the terminology and assurance in respect of the types of accommodation used.</p>		
Recommendation(s):		
1	<p>To note the different types of placement arrangements and the processes in place to ensure management oversight.</p> <p>It is proposed that:</p>	

- There is an in-service tracker which continues to be updated weekly to be capture details of all children and young people in emergency unregistered, unregistered/unregulated placements. This is provided to the Corporate Director and Director for Children’s Integrated Services each week – this process is established and in place
- Refresh of procedures and guidance for staff to ensure the issues are well understood and that the processes are consistently followed meaning that the correct safeguards/alerts are in place when unregistered arrangements are used – by end of July 2022
- Ensure our in-house and external provision will be compliant with the Ofsted standards when they are published
- Continue to develop the sufficiency strategy to ensure the development of varied options to provide flexible/emergency care when this is required

1. **Reasons for recommendations**

To ensure ongoing and effective oversight within Children’s Integrated services in relation to the important issue of provision of appropriate care and placement arrangements for children in our care.

2. **Other options considered in making recommendations**

N/A

3. **Consideration of Risk N/A**

N/A

4. **Background (including outcomes of consultation)**

National context

4.1 Children who are in care should live in suitably approved care arrangements, these are ‘regulated placements’ and include:

- Foster homes with a foster carer approved by an ofsted regulated fostering service or agency
- Living in a children’s home which is registered with ofsted
- Living with parent(s) where this arrangement is supported and approved by placement with parent regulations and approved by the designated manager within the local authority (in Nottingham that is the Director of Children’s Integrated Services)
- Placement made under section 38(6) of the Children Act where the arrangement is court ordered and therefore regulated by a direction of the court

4.2 If a home/placement within the above categories cannot be found and a child is placed in an alternative arrangement this is an unregistered placement arrangement. The exception to this is young people who are aged 16 or 17 who in some circumstances can be placed in placement which is not regulated by ofsted, these are known as unregulated placements.

- 4.3 Many people are unsure what it meant by unregulated and unregistered placements, and often confuse the two and the terms are sometimes used interchangeably. They are different things:
- 4.4 **Unregulated** provision is allowed in law. This is when children/young people (aged 16 and 17) need support to live independently rather than needing full-time care. Ofsted do not regulate this type of provision, but the placement is lawful.
- 4.5 It is often referred to semi-independent accommodation and should be used as a stepping-stone to independence, and only ever when it is in a young person's best interests. Some young people do not want to live with foster parents or live in a children's home, and so semi-independent accommodation is the right choice. This type of accommodation is only appropriate when there is an assessment of the young person's needs which confirms that they require support to live independently as opposed to them needing care.
- 4.6 **Unregistered** provision is when a child/young person who is being provided with some form of 'care' is living somewhere that is not registered with Ofsted, this is not a legal placement.
- 4.7 What does 'care' mean? It is not defined in law. It is not just about the age of the child, although that is a factor. It is about a child's vulnerability and the level of help that they need. If a child does need care, then the service they are getting is very likely to need registration as a children's home. Certainly, if children are under constant supervision then this is likely to be a 'care' arrangement.
- 4.8 It is therefore possible that the same provision can be providing both unregulated and unregistered placements for young people with different needs, for example:

Example 1

Paul is 16 years old; he has completed his GCSE studies and is now undertaking a mechanics apprenticeship. Paul manages his time well, going to work and college and returning home at sensible times. He can broadly budget for himself with some advice and he can make sensible decisions about what to eat and how to look after himself. Paul does always not need staff to be present. Paul does benefit from having time with staff to think through choices that he makes and needs some help to learn how to some household tasks better.

Paul lives in a 16+ semi-supported provision which is not a regulated children's home.

FOR PAUL THIS IS AN UNREGULATED PLACEMENT WHICH IS ALLOWED WITHIN THE CARE PLANNING REGULATIONS

Example 2

Martin is 17 years old; he is not engaged in any education or training. Martin cannot budget and needs close supervision when he is given money. Martin is vulnerable to exploitation and as such can be enticed to spend time away from his placement and when he does not return home at night he is often in risky situations. Martin seems to struggle to understand age appropriate independence skills and requires adults to do things for him to keep him clean and healthy. There are concerns about Martin being exploited so there are extra staff employed to be with him lots of the day and someone

is always there at night-time in case Martin goes missing.

Martin lives in the same 16+ semi-supported provision as Paul which is not a regulated children's home.

FOR MARTIN THIS IS AN UNREGISTERED PLACEMENT WHICH IS NOT ALLOWED WITHIN THE CARE PLANNING REGULATIONS

- 4.9 A further example of an unregistered placement arrangement is when a looked after child (under 16 years) or a 16/17-year-old where it is clear from their assessment of need that they require care as opposed to support and no regulated placement can be identified. In these circumstances the local authority makes emergency care arrangements which means the child is provided with a safe place to reside and suitable adults (typically agency staff from approved staffing agencies) to care for them in a property where the child/young person will have their own bedroom in addition to communal living space.
- 4.10 This is not a regulated placement and so is an emergency unregistered placement which is not allowed within the care planning regulations.
- 4.11 It is unlawful to place a child under the age of 16 years within an unregulated provision. This ban came into force in September 2021. Any unregistered care arrangements that are in place must be reported to Ofsted.
- 4.12 Ofsted are currently developing guidance regarding national minimum standards for the currently unregulated provision for 16-17-year olds and will begin implementation of an inspection regime in 2023.

Our services and response in Nottingham

- 4.13 Nottingham City Council have in-house supported accommodation provision, supporting 23 children in care and young care leavers. We also have a new Barnardo's Supported Lodgings scheme which will support up to 20 children (16- and 17-year olds) and young care leavers. We also have a new block contract with Framework providing support for 10 children in care. We also use trusted providers through regional commissioning arrangements under the D2N2 framework.
- 4.15 For our in-house supported accommodation provision, we already have an internal quality assurance process using our residential managers to carry out inspections. We are preparing for the new Ofsted regime by setting the highest standards but as yet there is no clear guidance.
- 4.16 The use of unregulated semi-independent provision has positively been a matter of public debate over the past 2 plus year. In Nottingham we have used this national focus to re-focus our work with children and young people who might be impacted by unregistered/unregulated placement arrangements.
- 4.17 In respect of practice in Nottingham we understand the issues relating to unregulated and unregistered placements well and the following is an indication of what is working well in this area of work:
- The vast majority (92%) of Nottingham's looked after children are cared for in regulated care arrangements which meet their needs well.

- We know our children and their needs well which means that we suitably assess and understand the placement arrangements that they are living in and can then correctly identify unregulated and unregistered arrangements.
- The majority (70%) of our 16- and 17-year olds live in regulated care arrangements (foster or children's homes) and a smaller proportion (30%) live unregulated semi-independent placement arrangements.
- Of that 30% of 16- and 17-year olds who live in unregulated semi-independent provision 92% of them have been assessed as requiring support to be independent as opposed to requiring care. The 8% (less than 6 young people - specific number not given to avoid identification) who are assessed as needing care all receiving the additional help that they need in these placement arrangements and are making good progress. They are being supported to gain skills linked with age appropriate independence and are making good progress in gaining these skills. There is a higher degree of scrutiny of the placement arrangement given that it is unregistered, and Ofsted have been notified.
- If circumstances arise that require emergency unregistered arrangements (this currently applies to less than 0.5% of our children in care) to be put into place (i.e. there is no regulated option and the alternative would mean a child or young person being at risk of harm) a clear protocol of senior management oversight is in place. There is also increased oversight by social workers (minimum of weekly visiting) and the independent reviewing officers to ensure that these arrangements are closely monitored and there is also an active placement search ongoing to identify a regulated placement alternative. Ofsted is notified of any such arrangement.
- There is a clear internal system of identification regarding placement arrangements meaning that when an unregistered arrangement is being considered appropriate senior management oversight is in place. The Corporate Director and Director for Children's Integrated Services receive a weekly report relating to any children and young people in unregistered placement arrangements. Any unregistered arrangements are referred to Ofsted as per requirements.

4.18 To ensure ongoing and full understanding of the issues relating to unregistered and unregulated placements there has recently been a development session led by the Director for Children's Integrated Services with all managers in the social work service. We are also reviewing our practice guidance and assessment tools to support managers and workers in the early identification of the issues linked with establishing whether a placement arrangement is unregulated (and allowed within the care regulations) or is unregistered (and not allowed within the care regulations) and on any occasion where an unregistered arrangement is avoidable all appropriate mitigations are in place and all efforts are focused on identifying a regulated arrangement as soon as possible.

5. **Finance colleague comments (including implications and value for money)**

There are no direct financial implications to this report.

6. **Legal colleague comments**

The information provided in the report setting out unregulated and unregistered placements is legally correct. There is continued oversight of any unregistered placements to ensure children are safeguarded.

7. Other relevant comments

N/A

8. Crime and Disorder Implications (If Applicable)

N/A

9. Social value considerations (If Applicable)

N/A

10. Regard to the NHS Constitution (If Applicable)

N/A

11. Equality Impact Assessment (EIA)

11.1 Has the equality impact of the proposals in this report been assessed?

No

An EIA is not required because: The reason needs to be because there is no change in policy, doesn't impact staff or citizens etc.

(Please explain why an EIA is not necessary

Yes

Attached as Appendix x, and due regard will be given to any implications identified in it.

12. Data Protection Impact Assessment (DPIA)

12.1 Has the data protection impact of the proposals in this report been assessed?

No

A DPIA is not required because: the proposals do not warrant it

(Please explain why a DPIA is not necessary)

Yes

Attached as Appendix x, and due regard will be given to any implications identified in it.

13. Carbon Impact Assessment (CIA)

13.1 Has the carbon impact of the proposals in this report been assessed?

No

A CIA is not required because: the proposals do not warrant it

(Please explain why a CIA is not necessary)

Yes

Attached as Appendix x, and due regard will be given to any implications identified in it.

14. List of background papers relied upon in writing this report (not including published documents or confidential or exempt information)

None

15. Published documents referred to in this report

None