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ADCS response to the Department for Education's consultation on regulating supported accommodation for children in care and care experienced young people aged 16 and 17 years old

1. The Association of Directors of Children's Services Ltd. (ADCS) is the national leadership organisation in England for directors of children's services (DCSs) under the provisions of the Children Act (2004). The DCS acts as a single point of leadership and accountability for services for children and young people in a local area, including children's social care and education. ADCS welcomes the opportunity to make a submission to this important consultation by the Department for Education (DfE).
2. The key principles for supported accommodation developed in consultation with young people are helpful and root these reforms in what is most important: the rights and experiences of young people in care, or with care experience. The categorisation of supported accommodation – single occupancy; ringfenced and un-ringfenced shared accommodation or group living; and family-based accommodation, including supported lodgings – also feels broadly right, however, the status of foyer provision is not yet sufficiently clear in the draft guidance.
3. The draft standards are dense and whilst ADCS supports the ultimate goal of improving services, support and young people's experiences as well as their outcomes, there are significant concerns amongst our membership that the standards as drafted might present an immediate, and ongoing, barrier to registration leading to provider withdrawal. Consideration should be given to a phased introduction or the prioritisation of the standards so that core expectations are clearly articulated alongside 'go further' options, this was the approach recently taken in the framework for family hubs (DfE, 2022). ADCS would welcome further discussions about the detail of each of the standards and would be open to working directly with the DfE on the redrafting of the standards in line with the suggested approach.
4. Ofsted's role in the interpretation and operationalisation of the new regulations and standards will be central to success, from the opening of the initial registration process through to the commencement of inspection in spring 2024, and beyond. The framework required here will be unlike any other in operation as the diversity of provision, and providers, under the banner of supported accommodation, is significant. Additionally, a newly recruited workforce in Ofsted will be applying a new registration process to a set of providers who may not hitherto have experienced a comprehensive regulatory inspection regime (some may have been, or are currently, CQC registered). There should be regular review points involving all relevant stakeholders as this new process is rolled out to ensure that individual placements, or indeed the entire market, is not unintentionally destabilised; it would potentially be disastrous for young people if stable arrangements ended at short notice because of these changes.

5. In terms of inspection, the proposed approach is pragmatic given the dynamic nature of provision. Indeed, ADCS has previously called for children's home inspections to focus more on the quality of providers rather than physical buildings. So, there could be transferable learning which could helpfully be considered as part any review of the children's home regulatory framework in the future. However, it is important that the inspection framework is sufficiently flexible to apply to the four identified categories of supported accommodation and to recognise that at a certain point in time, for certain children and young people, a short-term placement in a mobile setting is the right intervention to stabilise them during a crisis, for example. It may potentially be the only available option whilst a search for a longer term placement continues. In such circumstances, it would be important to take into consideration the totality of the package of wraparound support for the placement, as well as the placing LA's decision-making process. The level of need in the cohort most likely to be placed in impermanent settings is acute and multifaceted, and there are significant and ongoing challenges in accessing placements with registered providers.
6. ADCS does not yet believe the proposed approach for mobile or temporary settings is right and would welcome further discussion on this point. There is a risk this could replicate the challenges emerging from the first phase of these reforms whereby LAs are unable to find registered children's homes to accept under 16s with complex needs. This is resulting in the making unlawful placements in solo settings, albeit with the approval of the courts. Moreover, the draft guide suggests that outside of exceptional circumstances, mobile or impermanent settings, such as motorised caravans or barges, will not be able to meet the quality standards and requirements for supported accommodation. Again, this requires further consideration to prevent some of the unintended consequences we have seen arising from previous regulatory changes. Similarly, it is not clear what support will be available to LAs, or what government expectations are, if no registered placement can be found; this could lead to further unlawful placements as placements of last resort, adding to the complexities and legal uncertainty arising from the ban for under 16s.
7. Under the DfE's plans each registered provider will be required to have a single registered service manager. Draft guidance states that in larger organisations this should be a named and nominated individual while a sole provider would be expected to take up this role themselves. ADCS does not agree that this is the right approach, in larger providers with multiple settings across a significant geographical footprint this could spread the manager too thinly while in a smaller setting, the owner may not meet the requirements set out in the leadership standard in terms of previous experience of managing a relevant team in children's services and/or holding a Level 5 qualification.
8. Additionally, there are a significant number of roles, duties and functions of the registered manager expressed across the draft guidance, including: recruiting the leadership team and staff; compiling a workforce plan; writing a statement of purpose and other key policy documents; and, undertaking six monthly 'quality of support

reviews,' which must be shared with Ofsted. This is not proportionate for the wide spectrum of providers of supported accommodation; this could be a big ask for a manager overseeing multiple settings and equally the case for the sole provider directly involved in the day to day running of the setting. This is an area that requires further consideration to ensure the breadth and scale of provision is not compromised.

9. In terms of the registration requirements and the focus on fitness and capacity, this is right, as is the focus on the financials of the provider, particularly where this is a larger company given the drive towards greater marketisation of the children's home market, the entry and growth of private equity firms, profiteering and mergers and acquisitions now regularly gaining the attention of the Competition and Markets Authority. Ofsted have undertaken a series of surveys and engagements with providers of supported accommodation, and the landscape here is very different to children's homes, with placements typically being closer to home or in-region and providers being smaller and rooted in local communities.
10. Regarding the draft guidance and standards there are some inconsistencies in language and terminology, with the use of children in care, looked after children, children looked after, children, young person or people, care leaver and care experienced young person. There are references to therapeutic care or environments, but there is no common or accepted definition of this, use of 'trauma-informed' practices in the standards is therefore preferable.
11. The consultation asks respondents about the risk of unintended consequences, some of the concerns raised by ADCS members have already been covered here, including provider withdrawal and the impact of this on young people plus the ability of LAs to meet important statutory duties in terms of placement sufficiency. The introduction of new expectations and standards will undoubtedly result in higher costs for providers, whilst on the one hand greater consistency in quality and experiences is desirable, additional costs will certainly be passed on to LAs as the only purchasers of these placements.
12. The consultation sets out a series of mitigations, including £259m investment in new capital funding to grow residential children's home capacity. Whilst welcome, just two tranches of funding have been allocated to date and it will take several years to realise the benefits of this investment in terms of new capacity. The consultation also notes £120m will be available to LAs to support these reforms, it is not clear how this figure was calculated or how it will be allocated, for what purpose and under what terms. An update to children's home regulations in 2015 resulted in increased costs and the more recent ban on use of unregistered children's homes has similarly resulted in significantly higher costs for LAs. ADCS would therefore welcome further new burdens discussions with the DfE. Additionally, £1.3m will be invested in appointing a third-party organisation tasked with raising sector awareness of the reforms and supporting providers to implement the national standards, register and prepare for inspection. This organisation and support is not yet in place.

13. ADCS believes it is important that a transition plan is developed to support the implementation of the second stage of these reforms following the ban on placements for under 16s in unregulated settings in Autumn 2021. Here a much larger cohort are in scope and there are a series of complex and interconnected factors in the wider safeguarding and care systems which will impact on the introduction of this reform programme. These include funding, challenges in recruitment and retention of staff right across children's services, a crisis in children's mental health services and growing levels of need and distress in the community for myriad reasons. Significantly increased levels of unplanned arrivals of unaccompanied asylum-seeking children (UASC), many of whom are 16 and 17 years old and are typically accommodated in this kind of provision, continue to be seen.
14. Hundreds of vulnerable new arrivals are currently being accommodated in hotel provision by the Home Office and LAs are finding it increasingly difficult to find placements for UASC; any loss of capacity in the supported accommodation sector at this time would be catastrophic. Given the context has changed so significantly, ADCS believes these reforms should be paused for 12 months to allow time for a comprehensive transition and implementation plan to be developed and the support for providers to meet the new standards be fully available to them.
15. ADCS would welcome further discussions with the Department on any of the points raised in this response. Please contact the relevant policy officer in the first instance via katy.block@adcs.org.uk.