



Unregulated

Children in care living in semi-independent accommodation

September 2020

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Foreword from the Children's Commissioner, Anne Longfield OBE

When I meet children in care, I am constantly struck by their strength, talents and resilience. Often these are vulnerable children who have had to cope with incredibly difficult situations alone. Perhaps because of this, they often appear to be older than their years.

What can easily be forgotten when meeting these children, particularly the older teens among them, is that they are just that – children. However independent they might seem, these are teenagers just like any others, who need care and attention from adults, if their family are unable to provide it.



Unfortunately, the way our care system is organised does not fully reflect this fact. Some children in care, particularly older teens who are particularly vulnerable, are not placed with foster carers, or in a children's home – they end up in what is known as “unregulated accommodation”. This is independent or semi-independent accommodation with limited support, and is not regulated by the quality inspectorate. It might be a flat, it might be a hostel or a bedsit. Even worse, in some cases it could be a caravan, a tent or a barge. What is common to all types of unregulated accommodation is that the vulnerable children placed there are not entitled to “care”, where children are closely supervised around the clock, but to “support”. “Support” might mean a check in with staff to discuss education or employment opportunities, and limited help with practical things including money management. This effectively means that children supposedly in care are being left to fend for themselves, with very limited support from keyworkers – perhaps 5 hours or so each week, or less.

This report shows that 1 in 8 children in care spent some time in an unregulated placement in 2018-19. The number is increasing – a result of a lack of capacity in children's homes and in some cases an outdated belief that children aged just 16 should be ready to become independent.

Concerned for the safety and wellbeing of these children, I decided to shine a light on their experiences – to hear from these children themselves about what it is like to live in unregulated accommodation, and to examine what needs to change to provide these vulnerable children the protection, care and support they need.

My team undertook new analysis of government data and spoke to children in unregulated accommodation across the country. While they sometimes heard about high quality accommodation from children who felt supported by the staff around them, they also heard some truly shocking stories. We spoke to young people with issues ranging from mental health problems, self-harm and drug misuse who were receiving next to no support from the staff who were meant to be helping them. Many were very vulnerable as a result and some of these children became victims of exploitation and abuse while living in unregulated accommodation, such as one girl who had been exploited by a gang who began selling drugs from her home. Whilst it is clear that some staff are dedicated and doing their best, some children reported feeling neglected and intimidated by staff with some even reporting physical assaults from staff.

A concerning aspect of unregulated accommodation is that some providers are making very high profits from it. The cost varies significantly – from £800 to £9,000 per week. Given the severe shortage of places

in regulated children's homes, which offer full-time care and are inspected by Ofsted, desperate councils often find themselves paying over the odds to private providers of unregulated accommodation to take on these children, only for the teenager to receive little to no support and frequently poor quality accommodation. As this report reveals, some of these providers are known to have criminal links, and are avoiding routine procedures designed to keep children safe, such as DBS checks.

The Government has proposed to clean up the (currently) unregulated sector by introducing new minimum standards which providers will be required to meet. But at the heart of this problem is the fact that we allow children to be placed in this type of accommodation at all. The idea that children aged just 16-17, and even younger in some cases, are ready to live independently, with a minimal safety net of support, is simply wrong. Managing finances, relationships, education, employment and simply navigating life's twists and turns is difficult for all of us to do alone. Imagine trying to do it as a 16 year old in shoddy or dangerous accommodation with no support.

It is not okay that some children in care do not receive care, as the current legal framework allows. This is what has to change. I am calling for a change in the law so that all looked after children who need a residential placement are housed in accommodation regulated under the same standards as children's homes. New minimum standards have their place – care leavers over the age of 18 and other vulnerable young adults often find themselves in unregulated accommodation, and action is urgently needed to drive up the quality. But critically, these settings are not appropriate for those younger than 18 at all. They should be housed in good, fully regulated accommodation with proper care.

As parents, we all want our children to have stable, secure homes with access to the support and care they need to lead positive lives. No parent would willingly place their own child in the sort of places and situations that this report reveals. It is imperative that none of us accept this for children in the care of the state.

A handwritten signature in black ink, reading "Anne Longfield". The signature is written in a cursive, flowing style. Below the signature is a short horizontal line.

Anne Longfield, OBE
Children's Commissioner for England

Context

Over the past year, the Children’s Commissioner, through her visits and consultation with children and her advice line, has heard from many children in care, placed in unregulated accommodation, who have had extremely poor experiences in these placements. This includes children who were placed in unregulated accommodation when they were not ready to become independent, children who have received poor quality support, children housed in substandard accommodation and even those who have been exploited.

The Department for Education commissioned a research report looking at some of these issues, based on data analysis and interviews with 22 local authorities. It found that the number of children living in unregulated accommodation has increased since 2015. Most local authorities said that they used unregulated accommodation as a positive choice to support young people aged 16 and 17 to become independent. But some local authorities said they were forced to use unregulated accommodation when no other option was available. Some local authorities expressed concerns about the quality of accommodation, which they said was highly variable, and the ease with which providers could set up.

This report aims to build on this research by focusing on the experiences of children themselves who are placed in unregulated accommodation.¹ We have conducted:

- > New analysis of the Looked After Children census.²
- > Visits and interviews with children and young people across England with experience of unregulated accommodation. This included care leavers looking back on the places they had previously lived. These young people had stayed in a range of accommodation types, from multi-occupancy buildings to self-contained flats, charity provision to private.
- > Visits and interviews with service providers and other professionals, including local authority staff and police.

This report shines a light on what it is like for some of the country’s most vulnerable children living in poor quality, uninspected provision, to ensure that their voices and experiences are heard by policymakers, and makes recommendations for how this system can be effectively reformed.

¹https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/865184/Use_of_unregulated_and_unregistered_provision_for_children_in_care.pdf

² We also issued a data request to local authorities to find out more about the accommodation types children were being housed in. However, the quality of the data we received was poor – partly due to a lack of recording by local authorities, and partly due to confusion about the differences between accommodation-types, and inconsistencies in the interpretation of these. Due to our concerns about the quality of the data, we have not included our findings in this report. More detail can be found in Appendix 2.

What is unregulated accommodation?

Most children in care are looked after by foster carers or in children's homes, but the numbers housed in so called unregulated accommodation are growing.

These are settings which are intended to act as a stepping stone between care and independent, adult life, generally used for 16 year olds and older.

The type of accommodation children find themselves in varies significantly. Many are housed in self-contained flats or in hostels or foyers, of varying quality and with varying levels of supervision by staff. But there are also cases of children being housed in barges, caravans and even tents.

Unregulated accommodation is otherwise known as "independent or semi-independent accommodation" or "supported accommodation" (this report will use the phrase "unregulated provision" for ease).

How is unregulated accommodation different to a children's home?

It is the law that all children's homes are registered with and inspected by Ofsted. There is extensive guidance setting out what is expected of children's homes, including nine quality standards which set out what the home should aim to achieve across children's education, health and wellbeing, protection and more.³

In contrast, unregulated settings are just that – unregulated. They are just provision with no minimum standards or inspection. Instead, the system relies on councils doing their own checks. But with so few places in children's homes available across the care system, and so many unregulated places spot purchased in emergency scenarios, some local authorities are forced to use unregulated providers that they would prefer not to or have not had time to scrutinise properly.

What all unregulated provision has in common is that it should only be offering children "**support**", rather than "**care**" – where care means a higher level of help and assistance than support. This is on the assumption that children in unregulated provision are meant to be preparing for independent life and are in need of less help than those in children's homes. For example, in unregulated accommodation children should be able to come and go from their accommodation as they please. Staff might not always be present around the clock and the child will be expected to prepare their own meals.

This is different from a children's home, where children will be having their meals provided and staff will be on hand at all times to help with things like medication and personal care. Children will be closely supervised.

Sometimes settings which call themselves unregulated accommodation may be offering a level of help to children that meets the definition for care rather than support. In these cases, the accommodation is effectively an **unregistered children's home** and is operating illegally.

Who are the providers of unregulated accommodation and what do they charge?

There is a mix of voluntary and private providers of unregulated accommodation. However, the majority (73%) is privately run, and the proportion is growing – up from two thirds in 2013.

³

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/463220/Guide_to_Children_s_Home_Standards_inc_quality_standards_Version_1.17_FINAL.pdf

Some providers have hundreds of placements across dozens of local authorities. Other providers operate in a particular area or region. Some providers operate a single setting – these are frequently owner managed businesses.

There is a lack of definitive evidence of the average cost of placements in unregulated accommodation. Discussions with local councils suggest that unregulated accommodation tends to be a cheaper option than children’s homes. For example, one local authority told us that they pay around £1,700 per week for a place in a shared house with staff available to be called 24/7. This compares to the average cost in a children’s home, which is around £3,000 - £4,000 per week. For example, we have heard evidence of one local authority being charged £9,000 per week for a place in unregulated accommodation, and a Guardian investigation has found cases of councils being charged nearly £365,000 per year – the equivalent of £7,000 per week.⁴ However, it is likely that some (if not most) of these placements are justifying the price by offering a service which amounts to care, rather than support, and would therefore qualify as unregistered children’s homes.

⁴ <https://www.theguardian.com/society/2019/dec/25/revealed-thousands-children-care-unregulated-homes>

More and more children are being housed in unregulated accommodation⁵

Government data shows that the number of children placed in unregulated accommodation is growing over time. 1 in every 8 children in care during 2018/19 spent some time in an unregulated placement during the year – a total of 12,800 children. This is up by 69% on 2012/13. The rise is not simply due to an increase in the overall number of children in care – the proportion of children in care who have experienced an unregulated placement during the year has also increased.

Figure 1: Numbers of children with any time in an unregulated placement during the year 2012/13-2018/19

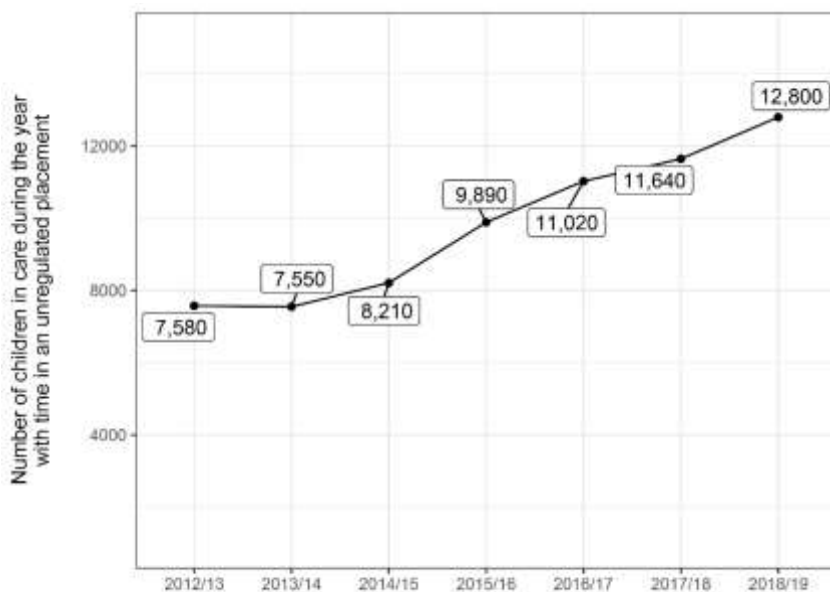
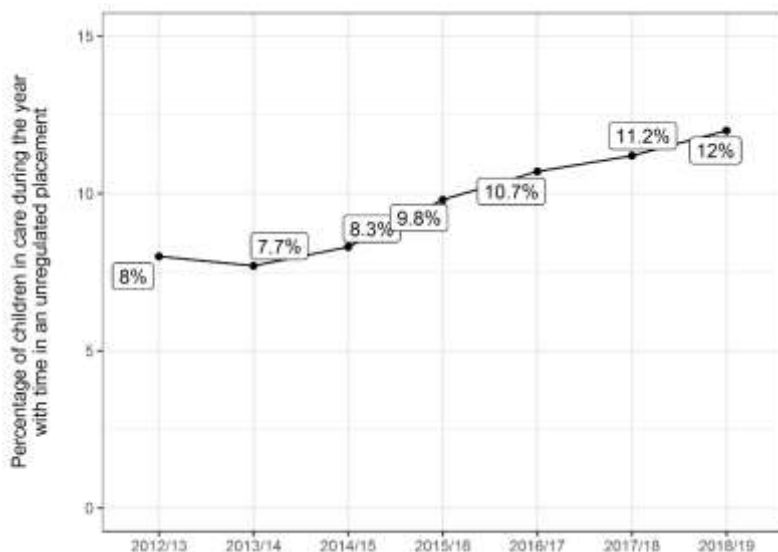


Figure 2: Proportion of children in care with any time in an unregulated placement during the year 2012/13-2018/19



⁵ Note that this report and analysis focuses on the use of unregulated accommodation for children in care. Other children and young people may find themselves in this accommodation, including care leavers and 16-17 year olds who have not been taken into care (as they should be) but accommodated by the council's housing department instead.

What is driving increased use of unregulated accommodation?

Pressures on council budgets, an increase in the number of teens entering care and a lack of suitable placements for them are creating a perfect storm which means that local authorities are overly reliant on poor quality unregulated accommodation. This is closely related to a lack of capacity in children's homes.

Research from the Children's Commissioner's Office has found that there has been a 21% rise in the number of teenagers in care in the past five years.⁶ These children often have a range of different needs, often more complex than younger children. At the sharp end, they are significantly more likely to have the following issues flagged up by social workers:

- > child sexual exploitation (6 times more likely)
- > going missing from home (7 times more likely)
- > gangs (5 times more likely)
- > trafficking (12 times more likely)⁷

The complexity of their needs means that all of these children need specialist help and care which is therapeutic and rehabilitative.

But this is what the system is struggling to provide. Such placements are typically in residential homes, and while the overall number of children's homes placements continues to rise, the market is not keeping pace with demand. Ofsted state that in 2018-19 the system saw only a 6% increase in homes and a 1% increase in beds. While this indicates a preference for smaller, more specialised homes which may promote better outcomes for the teens who are placed there, this limited increase in overall bed numbers has led to a shortage of placements for others, who are often sent away from their local area into unregulated accommodation. There is also a postcode lottery of support, with a lack of children's homes in the south and in London, compared to higher levels in the North West, East Midlands and West Midlands.⁸

The insufficient supply and high demand for children's homes placements mean that local authorities can pay extortionate amounts for residential care – usually more than £4,000 a week, with local authorities reporting that the costs of such placements are rising sharply.⁹ Costs can be as high as £9,000 a week or more. This is unsustainable in the context of extreme pressure on local authority finances.

Residential providers are often unwilling to take on children with the most complex needs. The Children's Commissioner has heard of 'reverse auctions' where the place is given to the child with the least complex needs (i.e. the child who least needs it).

In many cases local authorities are unable to find a child a suitable placement in residential care and are forced to turn to the unregulated sector as a result.

⁶ <https://www.childrenscommissioner.gov.uk/2019/08/01/explosion-in-number-of-older-children-going-into-care-over-last-five-years-is-hitting-stability-of-the-system/>

⁷ <https://www.childrenscommissioner.gov.uk/2019/08/01/explosion-in-number-of-older-children-going-into-care-over-last-five-years-is-hitting-stability-of-the-system/>

⁸ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/859422/Annual_Report_of_Her_Majesty_s_Chief_Inspector_of_Education_Children_s_Services_and_Skills_201819.pdf

⁹ <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/housing-communities-and-local-government-committee/local-authorities-childrens-services/written/97735.html>

Who are the children in unregulated accommodation?

It tends to be older teenagers (aged 16-17) who are placed in unregulated accommodation. When looking at only children who were 16 or 17, two thirds had been housed in unregulated accommodation during 2018/19.

However, a small but significant minority are under 16: 651 children in an unregulated placement during 2018/19 began their placement while under 16¹⁰. This compares to 273 children in 2012/13. Most of the children placed in unregulated accommodation below the age of 16 were 14-15.

As a result of the lack of capacity in children's homes, children with extremely high needs can end up in unregulated accommodation. Our help line Help at Hand heard about one such case involving a girl under 16 who moved straight from a secure children's home into an unregulated setting because she was deemed too high risk by other care settings who refused to look after her. The risk to this girl heightened further in this low-support setting resulting in her having to move back to secure accommodation within 2 months. This accommodation was hundreds of miles from her home.

Some providers of unregulated accommodation will refuse to take children whose needs they feel unable to support:

[Regarding LAs requesting unregulated providers take on children with complex needs] "I have a good relationship with the local authority. They phone me directly and say, I know I shouldn't be asking you this, but..... Now I just have to say no" – director, semi-independent provider

But others will take on these children – perhaps because they are unaware of the true level of the children's needs, to try to help out a desperate local authority, or simply to fill the place.

"I was arrested. They said this is the only placement that will take you" – male, age 17, Huddersfield

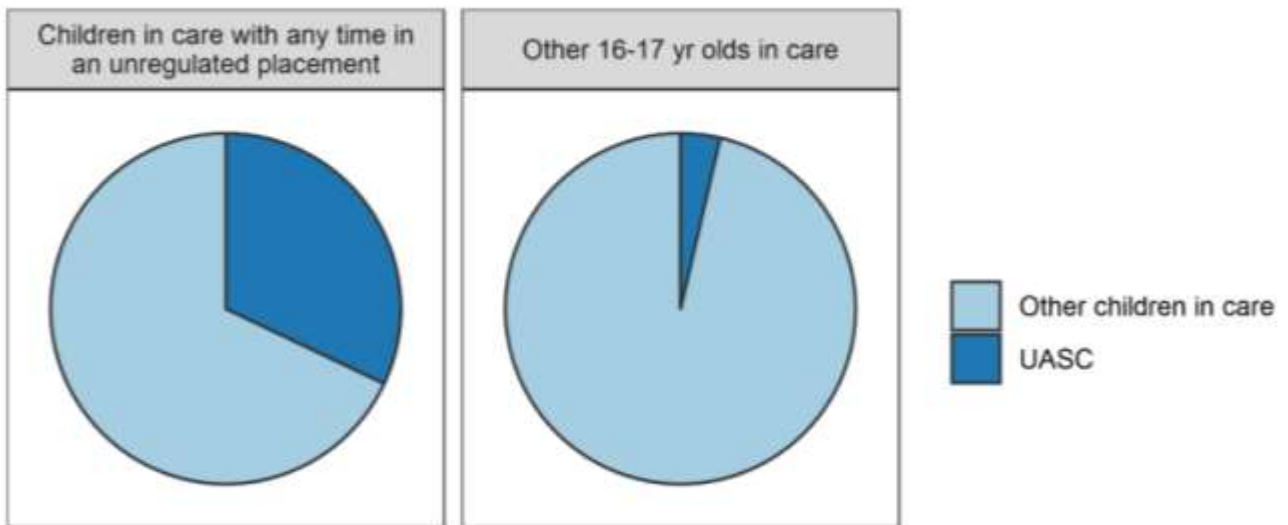
"I assaulted another resident and smashed the place up" ... "I was kicked out of there then and arrested. When the social services came to pick me up from the cells, I went to [placement name]. There were two carers with me at all times. It was a crash pad, an emergency place ... It was alright. I was in there 4 days until I came here. There was nowhere else that would accept me" ... "The social worker said that my referral went out to all of the UK and there were only 2 that accepted me, and the other was in Wales" – female, age 17, Huddersfield

Another group of children who commonly end up in unregulated accommodation are those who have experienced a period of family breakdown and have either been thrown out or walked out. This is part of the reason why children in unregulated accommodation typically enter care at a later age than others, at an average age of 14 years old compared to 6 years old for other children in care, and 10 years old for those in children's homes.

A disproportionate number of children in unregulated placements are unaccompanied asylum seekers (UASC) who have arrived in the country from abroad and been taken into care. A third of children in unregulated placements in 2019 were UASC, compared to just 4% of other children in care during the year.

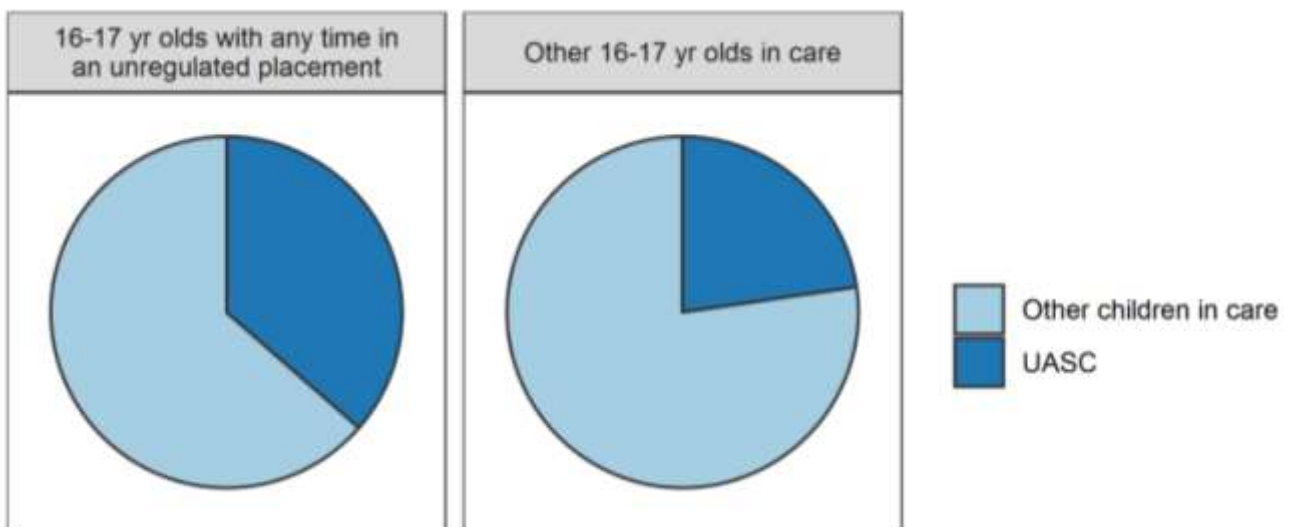
¹⁰ Note: these figures therefore include children who start a placement aged under 16 and subsequently turn 16.

Figure 3: Proportion of children in care with any time in an unregulated placement split by UASC status

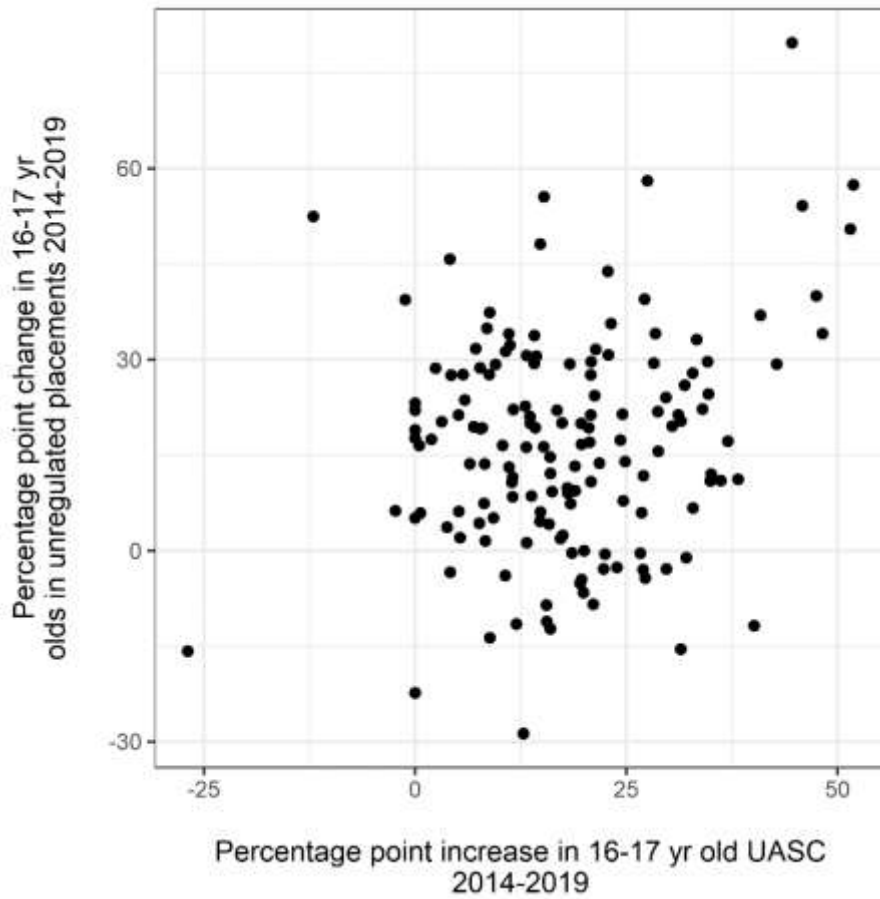


This is not simply because UASC children tend to be in their late teens (37% of UASC children in care during the year are aged 16 or over compared to 10% of other children in care) and it is late teens who are placed in unregulated accommodation. The higher representation of UASC children in unregulated accommodation remains when we look at just 16-17 year olds. 36% of 16-17 year olds in unregulated accommodation are UASC, compared to just 23% of other 16-17 year olds in care.

Figure 4: Proportion of 16-17 year olds in care with any time in an unregulated placement split by UASC status



The fact that UASC children make up a large proportion of children in unregulated accommodation is reflected by how the use of these placements varies by local area. In areas where numbers of UASC have risen significantly since 2013/14, the number of unregulated placements has also grown significantly (see below). The graph below indicates a small but meaningful correlation showing that the rise in the rate of children in care who are unaccompanied asylum seeking children partly explains the rise in unregulated placements, but is far from the only reason.¹¹



¹¹ The change in rates of UASC children overall explains 5% of the variation in changes of rates of unregulated placements amongst LAs.

The experiences of children in unregulated settings

Government data highlights serious concerns about the experiences of children in unregulated provision, with high proportions placed out of area, experiencing repeated placement moves and recorded as going missing.

5,860 children spent time in unregulated accommodation away from their home area in 2018/19 – 128% more than 6 years ago. Children have told us that they sometimes have little warning that they will be leaving the area, and travel across the country only to find a room or flat without basic supplies such as bedding. Out of area placements in children’s homes also increased but by less - up by 43% in the same period.

The evidence suggests that children in unregulated placements experience a great deal of instability. The average time spent in an unregulated placement in 2018-19 was 112 days. This is notably shorter than other types of placement, which lasted on average 162 days. The average placement in a children’s home lasted on average 197 days. In some cases the amount of time spent by a child in an unregulated placement can be much shorter than the average, e.g. just one or two nights, if it is an emergency and the local authority can find nowhere else to place them.

Furthermore, they are more likely to experience placement moves than other children. Looking at a group of recent care entrants,¹² on average, those who had lived in unregulated accommodation had four different placements over an 18 month period – twice the rate of other children in care. The Children’s Commissioner’s Office produces an annual Stability Index as instability is known to have a poor impact on the outcomes of children in care.¹³

Finally, there is evidence to suggest that children in unregulated accommodation are more likely to go missing than other children in care. Three in 10 children aged 16 or over in an unregulated placement in 2018/19 went missing, compared to 12% of other looked after children of the same age.

¹² Specifically, the cohort of children with a care entry in the 6 months between April – December 2017.

¹³ <https://www.childrenscommissioner.gov.uk/publication/stability-index-2019/>

What children tell us about unregulated accommodation

This section explores two key themes which emerged from our conversations with children with experience of unregulated accommodation:

1. The quality of unregulated accommodation is highly variable and a significant proportion is very poor quality.
2. Even with high quality provision, unregulated accommodation is not right for the majority of children.

The quality of unregulated accommodation

What was clear from interviews with young people was that the quality of unregulated accommodation is highly variable, and often very poor.

Staffing and management

At one end are providers who are going above and beyond; young people in these places often felt they had been 'lucky' compared with others in similar situations. These providers acted beyond their remit, for example by continuing support for young people after they left, or by securing free tickets for young people to go to theatres, galleries and so on. Young people in these homes felt confident that support was there when they needed it, from staff members who 'actually cared' and made themselves available even when they are not working. Good practice was evident across both private and voluntary organisations operating in this space.

"I'm really close to my keyworkers and really close to [my manager]. I can call her even when she's not on shift" – female, age 17, Huddersfield

As always, the relationship between staff and young people is extremely important. This means staff who young people can relate to, and who 'have their own stories and understand, not just ones that have a degree', as one 17 year old put it. It also means providers who do not give up on them when things go wrong, but accept this as a normal part of the process, and gain the trust of young people along the way.

"They'll help you with anything you need. They'll get straight on the job. They help me with council tax, although I've been slipping up lately, I'm not gonna lie." ... "They make sure I'm keeping on top of it" – male, 18, East London

"[The manager] actually cares. He got me a house to go to from the police station. He's done everything for me. He found me a caravan in Wales to go to when I needed some time to take my mind off things" - female, age 19, Merseyside

But while there are strong managers with strong values working hard to recruit likeminded staff and make a difference to children's lives, there are also providers on the other end of the spectrum who do not share the same motivations.

One example of the variation in quality is keywork time in semi-independent settings, which LAs pay providers to deliver. Keywork is one-to-one time between a staff member and young person, and might involve helping them develop certain life skills like cooking, or writing job or college applications. Although LAs might pay for a certain number of keywork hours each week, this rarely tallies with the help the teenagers actually receive. One young man entitled to 10 hours keywork a week said he only gets staff asking him once a week 'how's everything going, how's life, how's home life?'. Another girl aged 18 spoke about a flat complex she had lived in previously. She said about there being a couple of

staff that would only drop by one or two times a week to 'check that you're still alive'. There was a sense, on the whole, that staff were not emotionally invested but instead there to keep them 'out of trouble', as one put it. Too many providers are not delivering the keywork they are paid to provide, and local authorities are unable to adequately hold them to account – partly because they have nowhere else to place the children.

Some children reported feeling unsafe in the hands of staff who were not equipped to work with complex young people. One said that he had been punched by a staff member, and another described chaotic scenes in his home with staff unable to control the behaviour of the other residents. One girl talked about going hungry because no one helped her with managing her money and doing her shopping, but said she did get this support in her subsequent placement.

“I was living in a different semi-independent before. It was horrible in there. My relationship with staff wasn't good ... they didn't give me any support, I didn't feel like I had anything. Sometimes there was no food and that. Here when I'm spending money on things I shouldn't, staff supervise my shopping to make sure we have what we need” – Female, age 17, Huddersfield

Staff qualifications and training goes some way towards explaining this variation in provision. In unregulated settings workers are not required to have a Level 3 Diploma for Residential Childcare or equivalent which staff in children's homes must have¹⁴, nor are there the same standards around professional development and training. This naturally means that staff are less qualified to work with children. There is also the fact that many providers rely heavily on agency workers who change regularly, therefore cannot build the rapport with young people which is so essential. Some providers set their own internal recruitment standards to combat these challenges but they are not incentivised nor obligated to do so.

“They all pretend they care but as soon as you do something, you're out” – male, age 17, Huddersfield

“I don't think they cared to be honest. They weren't really bothered about it. You can tell when they're in it for the money or not” – Female, age 17, Huddersfield

The quality of accommodation

A handful of the children we spoke to had been placed in comfortable accommodation, sometimes with the opportunity to personalise it and make it feel like home.

“[My unregulated setting] let you pick your own stuff. I got to pick my own couch and keep it when I moved out. It's homely, I got to decorate it myself. If things need fixing they get it done straight away” – female, age 19, Merseyside

However, on the whole, poor accommodation was a common complaint from young people who used words like 'disgusting', 'absolutely terrible', and 'like a prison cell' to describe their living arrangements. Things weren't fixed when they were broken; one young man ended up using his own money for repairs because he was ashamed to have friends over. Some homes did not even supply essential items like cutlery and crockery, pans to cook with, duvet covers, or a sofa in the living area. This is despite legal obligations on local authorities to provide looked after children with suitable homes and to meet their health, wellbeing, and self-care needs.

“The boiler stopped working last week or something. It got pretty cold. I asked for a heater and got nothing” ... “Before it was shit but they did improve it. Like doors hanging off, everything was broken, food used to rot” – male, age 18, North London

¹⁴ The Children's Homes (England) Regulations 2015: <http://www.legislation.gov.uk/uksi/2015/541/regulation/32/made>

“There were no couches, no forks, no plates, no telly, honest to god. All he had was a bed, he just stayed in his room” - female, age 19, Merseyside, speaking about her boyfriend who was also in unregulated accommodation

For some children, this means spending some of the little money they are given to survive on improving their accommodation and buying essential furniture.

“[My partner] had no money to paint his wallpaper. He had to pay for it out of his own money cos he was ashamed to bring people back” - female, age 19, Merseyside

Staff members also expressed shock at the state of some provision. One manager we spoke to had previously worked as an agency worker – employed to provide temporary cover in unregulated accommodation affected by staff absence. She described that she once arrived for her first shift at one accommodation to discover rats inside and blood on the floor.

Having a decent place to live should not be a lottery, nor should having proper support and guidance in the crucial years before adulthood. The consequences for children who lose out are considerable and destructive on every level, from their physical and mental health to their education and future prospects.

Living alongside vulnerable adults

Many types of unregulated provision cater for young people well beyond the age of 18. This results in 16 and 17 year olds frequently living alongside vulnerable young adults (usually up to 25 years) battling with their own difficulties, including those struggling with homelessness, mental ill health, addiction, or even transitioning from prison back into the community. Living arrangements such as these can present additional problems for teenagers, not least because this can be an intimidating environment to live in. There are also risks associated with being around adults who may be there precisely because they cannot yet live independently safely. Where provision has different rules for different residents, such as over 18s being allowed to drink alcohol in their rooms, there is the potential for young people to be exposed to negative influences and, unfortunately, exploitation.

Unregulated accommodation is inappropriate for the majority of children

Some young people appreciate certain aspects of unregulated accommodation

Some teenagers say that they have had positive experiences in unregulated accommodation. They relish their new independence and the opportunity to develop life skills. For those we spoke to who had previously been in children’s homes, the change was sometimes seen as a relief after care which felt excessive and at times oppressive, for instance involving tight restrictions on when they could go out.

“You get a lot more leeway, they’re a lot more understanding. In a care home you can’t do much, they don’t trust you. In semi-independent they let you learn by your own mistakes.” ... “It was a big change. They gave me more freedom so I could trust them more. In care there were lots of kids so you couldn’t really talk to staff” ... “I think [unregulated accommodation] is fine as it is. I think all 16 year olds should be in semi-independent as you learn life skills. It teaches you a lot about yourself, like that you can do things for yourself” - female, age 17 Merseyside

Unregulated accommodation was also seen by some as a welcome alternative to foster care – especially by those children who had found it hard to fit into a family that wasn’t theirs.

Young people talked about their mental health having improved, with one 17 year old who lived in a flat saying that she finally felt ‘like a normal person’ because she wasn’t marked out as a looked after child to neighbours.

“I loved it. I’d rather live independently. I like having my own gaff, my own stuff. I can clean my house

myself and not have people pecking my head all the time” ... “But there are pros and cons. Here they support me with anything I need” – Female, age 18, Huddersfield

These success stories can be explained partly because these particular young people felt they were ready for unregulated accommodation, and because they happened to end up in places they were happy with. There was a general satisfaction with their living conditions, the staff supporting them, and the level of support on offer. Unfortunately, this is not a given for all those in unregulated homes, and this inconsistency among providers can test even the most capable and self-assured teenagers.

Furthermore, some of those we spoke to who were positive about some aspects of their experiences also told us stories that were alarming. This included a girl who had at one point been exploited by a gang who began selling drugs from her accommodation. This demonstrates the need to put children’s views and experiences into context – sometimes there is a preference for unregulated accommodation simply because children’s experiences in other parts of the care system (e.g. residential care) have been so bad, not because unregulated accommodation is particularly good or suitable for them.

Unregulated accommodation is not suitable for many children

The overwhelming message from both young people and those supporting them was that unregulated provision is not right for everyone.

“I’ve seen people not ready. They end up getting kicked out [by the home]. It’s a big shock, that’s how people end up homeless” – female, age 19, Merseyside

Most of the teenagers we spoke to had seen, from friends and/or other residents, that it ‘can go either way’ and it is hard to know how anyone will cope until they get there. This is hardly surprising considering the level of support provided and the variation in quality of provision. It is common to be placed in an unfamiliar area, far from home, without having visited the property or been introduced to the staff beforehand. Add to that the unpredictability of how you might get on with other residents and the shock of having to manage your own finances for the first time (on a small and non-negotiable budget), and it is little wonder that some fail to thrive.

“It depends on who you are and how well you deal with situations. If you go from completely being parented, it can be a struggle” ... “We [residents] don’t really interact. Most people are quite closed in.” – male, age 18, East London

When children enter unregulated accommodation before they are ready, this can lead to trouble. Some told us how easy it is to get ‘lost’ to drugs and alcohol in these settings, especially if they have too much time on their hands from not being in education, employment or training, and feel bored or lonely.

“The reason most children in care get in trouble so much is because they’re bored so they go out and get drunk or get stoned. If all the kids [from separate settings belonging to same provider] could join together and keep occupied then we wouldn’t get in trouble so much” – female, age 18, Huddersfield

Other children have such high level needs, they are clearly not ready for the independence that comes with life in unregulated accommodation.

“[Unregulated isn’t right] if you’ve got really bad mental health or are a self-harmer, if you need someone constantly and there’s only one staff member” – female, age 17, Merseyside

“I get extra support but I don’t know how much. I have ADHD, Autism, I’m schizophrenic and have psychosis” – Male, age 19, Huddersfield

“This crazy guy came in and got sectioned. He chased staff with a knife” – male, age 18, North London

Case study: April

April is a 17 year old girl with a diagnosis of Autistic Spectrum Disorder. Her parents are unable to provide the support and care needed to keep her safe. Despite having complex needs and a history of self-harm, April has been living in numerous different unregulated placements since April 2019. Her local authority acknowledges that she needs a high level of care but reports that no specialist care settings have agreed to look after her, despite its on-going attempts to find somewhere suitable for her to live.

The Children's Commissioner's helpline, Help at Hand, began working with April in 2018 when she was discharged from a paediatric intensive care unit (PICU) because staff were unable to manage her behaviour. With assistance from Help at Hand, April moved to a new hospital and later moved again to a residential special school. Again, this placement broke down when the school felt that it could not keep April safe.

Since then, April has been in a series of settings around the country, some of them unregulated, purely because nowhere else will take responsibility for her care. Some of these placements have been properties that the LA rented specifically for April – "solo" placements with 2:1 staffing from agency carers. Some of them have been very dirty and in a state of disrepair.

These placements have repeatedly ended, usually because no one feels they can provide April with the care she needs. These constant changes have meant that April has not been receiving any education during this time nor received any therapeutic intervention despite the urgent need for these services. It's as if society has given up on her.

April's story shows that it is often the children with the most complex needs who are ending up in unregulated accommodation, where they can access the lowest level of support. The Children's Commissioner's Office secured April an advocate and helped her parents to access legal advice. In spite of our representations, local authorities have continued to struggle to find the right home for April because there is such a shortage of the right providers. April is now an adult and has been given her own flat by her council with carers on hand.

Managing budgets is a particular challenge

One aspect of the independence of unregulated accommodation that children often struggle with is managing a budget for the first time with little support. This is exacerbated by the fact that budgets can be very tight. Children in unregulated accommodation are given a weekly allowance which varies according to local authority and by the exact accommodation type, but typically set close to the Income Support rate for adults (around £55-£60). Out of their total income, children are not required to pay rent (which is covered by the local authority) but they need to pay for their own food and bills. Sometimes utilities might be paid directly by the local authority instead, but the weekly allowance will be reduced accordingly.

On top of this they will often receive small additional weekly or monthly sums for clothing and leisure activities, and special allowances for birthdays and Christmas. In some areas children receive no weekly allowance for leisure; elsewhere it is just £10 per week. The local authority might also assist with travel costs to attend college or to see family. Allowances are not reduced if a child earns money through working or training, to incentivise engagement in these activities.

The majority of young people struggle to get by on their weekly allowance, which is stressful for them. They say that lack of funds, and the struggle to manage their budget with limited support, drives some to more dangerous ways of getting cash like stealing, or towards people out to exploit them.

“It’s stressful having no money, it gets hard. You got £25 on Monday then £5 a day after that. You didn’t have any stuff in your house. You didn’t get activity money. I ended up letting people sell drugs from my house and the police came and shut it down” - female, age 19, Merseyside

Young people without any experience of managing their money each week can be especially vulnerable:

“I don’t think we get enough. We need a bigger food shop. I can eat all my food for the week in a few days” – male, age 16, Huddersfield

Some of the children tell us they have significant problems managing their own money, as they are expected to do. Some spend all of their money when they first receive it, and then have to attend food banks a few days later to make it through the rest of the week. This leads some staff in unregulated accommodation to withhold money and hand it over to children on a daily basis, rather than giving it to them all in one go. This is done with the aim of protecting children, but it presents a risk to the setting, as it could be interpreted as a sign that they are providing care rather than support.

Children are expected to move into unregulated accommodation at age 16, whether or not they are ready

Another major problem is that many children are moved to unregulated accommodation because they have turned 16, rather than because it is in their best interests. Unregulated provision is often cheaper than other forms of residential care, plus moving 16 year olds frees up space for younger children who need somewhere to live. When these are the considerations driving local authority decisions rather than what the child wants or what is best for them, it is no surprise that many are not ready, and the move is unsuccessful.

“In care, everyone is treated like they’re 10. When children turn 16, they often need to move out of children’s homes because they don’t want 16-17 year olds in the same home as younger children.” – Director, semi-independent provider

This is made even worse by the way that moves are handled by social services. Some teenagers we spoke to during our research were devastated by being forced out of foster homes they loved and felt safe in, sometimes without any prior warning. For some, the only reason given by social workers was that they had turned 16, depriving them of a meaningful explanation which they could make sense of and find peace with.

“[I moved] because I was 16 and social services thought it was the best thing. I wanted to stay in foster care” ... “It was a shock. I had no choice. You can end up anywhere. I was moved the day they told me” ... “I was just scared cos I didn’t know what to expect” – male, age 16, Huddersfield

This trend towards moving the majority of 16 year olds into unregulated settings holds another danger, and that is the implicit acceptance that this is roughly the right age to move towards ‘independence’. This narrative might suit corporate parents which are faced with placement shortages, but it clashes with the needs of children and is at odds with parenting outside care, where parents are generally heavily involved in their children’s lives well up to and beyond them turning 18. Children in care tend to need just as much, or even more support as they get older than children living with their parents, because of what they have been through. This is what lies behind the introduction of the Staying Put and Staying Close schemes (which allow children to stay with their foster carers or in their children’s home after they turn 18). The Children’s Commissioner often hears from care leavers, including those

who were in unregulated accommodation, who are unable to access Staying Put or Staying Close and who feel extremely disadvantaged without the safety net that most children have in their parents, whether that be financial or emotional or practical.

This shows the need for extremely careful thought about the concept of 'independence' in the context of 16-18 year olds. Children of this age are only ready to take initial steps *towards* independence – they cannot be expected to become independent overnight.

Placement instability

The fact that so many children are placed in unregulated accommodation when it is not right for them, and that it is often very poor quality, is evident from the data around how quickly they move on from these settings. Placement instability for those in unregulated placements is *double* that in other forms of care.¹⁵ For the average young person in unregulated provision, each placement lasts less than 5 months, meaning they have 4 different placements over an 18 month period.

The way in which these placements break down varies: in some cases the provider might tell the local authority that they simply cannot cope with the child's needs. On other occasions children simply run away and refuse to go back because they feel unsafe.

Having a period of such immense uncertainty and change at the end of childhood prevents these teenagers from being able to prepare for the next stage in their lives, especially when it comes to getting education.

¹⁵ 68% of children with any time in an unregulated placement had 2 or more placement changes over an 18 month period and 31% of had four or more. This compares to 35% and 8% of other children in care in the same cohort. Data collected centrally from Department for Education as part of the Children Looked After Census.

The distinction drawn between care and support is misleading and unhelpful

Ofsted guidance makes a distinction. Any setting which provides a high level of assistance to children, meeting the threshold for 'care', must be registered as a children's home. By law, without registering as a children's home, unregulated provision can only offer a much more limited amount of assistance, defined as "support". A setting which provides care to children without registering with Ofsted is effectively running an illegal children's home.

The distinction between 'care' and 'support', which requires social workers to slot children into one of these categories at a single point in time, does not reflect the reality of children's needs in the real world. Children and their circumstances are far too complicated for that type of classification. Young people may be prepared for independent living in certain aspects of their lives, but not in others. During our research we spoke to one young man who was able to cook and clean, but struggled with feelings of anxiety and low mood without very frequent contact with staff – something which is currently more associated with "care" than "support".

A person of 16 or 17 may feel that they are ready to live independently most of the time, but it cannot be guaranteed that they can cope with it all the time. The Covid-19 crisis shows only too well that we never know what is around the corner for any child, and it is unlikely that children can cope with life's biggest challenges without a higher standard of care – something which they are legally unable to access in unregulated provision, under current regulation.

The current system of regulation means that providers of unregulated accommodation can feel they are prevented from intervening when they see a child at risk or in distress. One example of this was the teenager quoted above, who was exploited by a gang who used her home to sell drugs. The manager felt that this could have been prevented if unregulated provision had more flexibility with the level of assistance it could provide, since he recognised early on that the young person needed additional help. In this same situation, other managers might have made the decision to end the placement as soon as they realised that the young person had more complex needs than expected. This alternative however would have involved subjecting the young person to yet another move, and all the damage this process causes.

Some providers are abusing the system, at the expense of children

There are concerns that right now, the unregulated sector allows for high profit-making, without the checks and balances that are seen in other care settings. Three quarters (73%) of unregulated provision is privately run, and this part of the care sector is fast expanding¹⁶. The financial opportunity presented can attract entrants to the market that know little or nothing about the care of children, with the upshot that, in some settings, children are not kept safe.

... “They don’t have the same ethics as children’s homes. Their only concern is money and the more they can tease out of the local authority. Companies are incentivised to keep a child unsettled so they can ask for more money. They’ll do the minimum that they have to. You never really see qualified really good staff. People are getting really really rich off the back of this. All the wrong types of people are getting enticed into this world” ... “There is an arrogance of unregulated placements as they know they can’t be touched” – Director, unregulated accommodation provider

During this research the Children’s Commissioner was told by police about providers affiliated with major organised crime operations, which are exploiting the lack of regulation for their own gain. Police have also found staff members with criminal records working in these places, who would not have been allowed to work with children had proper checks been done. Police suspect that, in some cases, providers are abusing the DBS (Disclosure and Barring Service) system and approving staff to work there without the necessary documentation – especially in small settings which do not have quality assurance built in. Questionable management and employees not being vetted properly inevitably filters down to young people themselves. The Commissioner was informed about a young person who had been given cannabis to sell by a staff member, and a separate unregulated placement which sold cannabis from the shop below it. Intelligence suggests this is just the tip of the iceberg.

“One staff member gave [my partner] a load of weed to sell. One let him drive a car because they couldn’t park it. All they were arsed about was getting money” – female, age 19, Merseyside

“Looking at the quality of this sector, it’s shocking. I wouldn’t place kids in some of these homes ... Some have no interest in children at all – they just care about heads on beds. The child is seen as a unit and not a child. I’ve seen shoddy places, a lack of professionalism. In one place the kid said the setting was getting him to sell weed” – Director, unregulated accommodation provider

¹⁶ This is up from 67% in 2013.

“Criminality in these settings is rife”

Case study: Care Home Action Resolution Team (CHART), Merseyside

CHART is a specialist team within Merseyside police, focused on investigating unregulated accommodation for under 18s. The team was created after police received a dramatic increase in reports of missing young people, many of which had come from care staff in unregulated homes. Police discovered during follow up enquiries that these teenagers often did not meet the definition of a missing person and had concerns that staff at these settings were not taking basic steps to locate young people before contacting police. CHART warned that this sometimes led to young people being unnecessarily criminalised and stigmatised by police involvement, and in fact put them at more risk by severing trust between teens and the staff there to support them. CHART officers feared that staff were often not acting in children’s best interests due to inexperience, unclear guidance and lack of investment in the job.

Of most concern for CHART was the ownership and management of these homes because “criminality in these settings is rife.” Several companies have been identified that have directors linked to organised crime.

CHART’s investigations also discovered staff members with “dubious backgrounds and chaotic lifestyles” including violent offences on their criminal records. One staff member’s access to his own children, who were under a Child Protection plan, had been restricted. CHART explained that certain staff members would not have been allowed to work with children had proper criminal record checks been done. The team saw evidence of staff submitting false and deliberately misleading personal information to hide their criminal histories. It also warned about problems with the current DBS system which trusts employers to accurately verify the identity documents of applicants, since this system has the potential to be abused.

CHART also found that most unregulated homes were providing care rather than support to children, and therefore operating illegally as unregistered children’s homes – doing things like withholding medication, managing money for young people and imposing curfews. They also saw examples of extreme negligence, such as a home that had failed to collect vital medical information about one teenager with a serious health condition, despite charging the LA approximately £9,000 a week.

CHART have liaised closely with other agencies including Ofsted, HMRC and the Disclosure and Barring Service to take action against poor quality settings.

As the case study details, frequent police callouts from unregulated settings is a growing concern. Often this happens because a child is reported missing by a staff member, which is over twice as likely for children in care aged 16 or over living in unregulated settings than for those who are not (30% vs. 12%).¹⁷ Greater police involvement suggests that either these young people are more vulnerable than those in care elsewhere, or that the staff supporting them are more inclined to make police reports than other types of care, or both. Over-reporting of 'missing' looked after children to police is a known problem across all care establishments, so not unique to unregulated placements, however it stands to reason that staff with the least training and least statutory guidance to steer them will be most likely to prematurely and incorrectly report a child missing. This applies to other occasions that police are called, such as fights in the home. Young people we spoke to explained that contacting police can be the default response to unwelcome behaviour in unregulated accommodation, instead of situations being dealt with by the settings alone. This can land young people with criminal records for low-level incidents and contribute to negative relationships between themselves, police and the staff around them.

“The house is well known to the police. Everything happens here. When someone kicks off, staff always call police. They stretch it. They threaten you that they’re going to call the police if you’re not back, and I’m like, call the police, I don’t care. It’s funny. Police end up coming and they do nothing. They just waste their time” – male, just turned 18, North London

“[At previous unregulated placement] if you’re not back at 10/11 they’d call police, then the police would come and ask how you are and what happened. It was frustrating. They could be more lenient and give me a call and see if I’m alright. They do that here” – male, 18, East London

¹⁷ 30% of children aged 16 or over with any time in an unregulated placement during the year 2018/19 also had a missing incident, compared to 12% of other looked after children aged 16 or over.

Conclusions and recommendations

Children in unregulated accommodation are some of the most forgotten, sidelined and vulnerable children within the entire care system. For too long children have been placed in this inappropriate accommodation as the sector has gone unchecked, with some providers making large profits on running substandard accommodation with little to no support. Ultimately it is the 1 in 8 children in care who spend time in unregulated accommodation who pay the price.

Earlier this year the Government recognised the scale of the problem and promised much-needed reform. Its proposals include a ban on the use of unregulated placements for under 16s and introducing new national standards, potentially enforced by Ofsted via a new inspection regime. While the Government's commitment to reform is encouraging, these proposals do not go far enough to provide any child in care up to the age of 18 with the protection they need. Now is a rare opportunity to improve the quality of care for teenagers once and for all.

The Children's Commissioner is calling for:

- 1. The use of semi-independent and independent provision to be made illegal for all children in care.**

The Government has set out a commitment to ban the use of semi-independent and independent provision for under 16s¹⁸ – a decision which the Children's Commissioner fully supports.

But this policy does not go far enough. It is true that some 16 and 17 year olds may be ready to begin to make steps towards independence. However, as our research suggests, our assumption should be that most are not, and are being forced into semi-independent living, unregulated provision when it is not in their best interests, simply because there is no other option available – including children with complex needs and multiple vulnerabilities.

Furthermore, even the very few 16 and 17 year olds who feel that they are ready to start becoming more independent are likely to need a level of assistance that meets the threshold for care, rather than support – as the current coronavirus crisis demonstrates. Every child and young person has different needs, and an individual child's needs may fluctuate over time – a child may feel that they are able to live semi-independently some of the time, but is likely to need a level of high level of care at other times. They cannot currently access that higher level of care in unregulated provision, without the setting becoming an unregistered children's home. This is deeply problematic as it means that vulnerable 16 and 17 year olds are coming to harm.

No child under the age of 18 should be placed in an unregulated setting. All children aged under 18 should receive care, rather than support. As such, there should be a requirement that any setting they are placed in is regulated as a children's home.

Furthermore, all children under the age of 18 who are made homeless and need help from the council should be taken into care rather than accommodated under housing legislation – as the law and statutory guidance says they should be. In practice this does not always happen, and it means children lose out on vital protections and support.

Ruling out the use of independent and semi-independent housing for all looked after children under 18 is likely to lead to a short and medium term decrease in the supply of accommodation, as some providers withdraw from the market rather than sign up to become regulated children's homes. The Children's

¹⁸ <https://consult.education.gov.uk/unregulated-provision/unregulated-provision-children-in-care/> The consultation closed on 3 June and the Government is considering its response.

Commissioner is concerned about the impact on sufficiency of care places, and therefore supports a transition period to the new care and regulatory regime. In this transition period, however, all providers of unregulated provision to under-18s should be recorded by Ofsted.

2. Urgent action to be taken to increase capacity across the care system.

It is critical that the forthcoming Government Care Review promised in the Conservative manifesto addresses the challenge of sufficiency of appropriate care across the care system as a whole – in particular the lack of capacity in the residential sector. Residential care is failing to deliver the right placements in the right areas to meet children’s needs.¹⁹ It is largely this which is leading to so many children being placed in unregulated settings in the first place, when it is not in their best interests.

The number of children entering care is increasing which will place further pressure on already very stretched local authority budgets. The system needs to adapt in order to reflect the changing cohort of children in care. Increasingly children in care are older teens with multiple vulnerabilities and it is these children who are suffering the most significant failings.

The Care Review will need to address the funding available to local authorities to meet the growing number of children entering care, the reasons for the increase and whether care is the most appropriate response to some of the older children’s needs. Councils have experienced overall budget cuts of 29% since 2010²⁰ and in 2018-19 they overspent their budgets for children’s social care by £770 million.²¹ A significant programme of investment is urgently needed.

3. Clarification of what care looks like for children of different ages, including older teens.

Ensuring that all children in care receive care, rather than support, does not mean refusing independence to older teens who are ready for it. What care looks like will naturally be different for a 16 or 17 year old than for younger children. It may include activities that are currently associated with support rather than care. For example, it may be appropriate for children of this age to have more freedom to come and go from home, and any curfew should be agreed by negotiation rather than instruction – the same as with any 16 and 17 year old living at home with their parents. The current system does not seem to allow this.

The Department for Education should review in more detail what care looks like for older children, to help shape a new care to 18 approach.

4. Regulation of unregulated settings – to ensure quality for young adults in these settings.

The Department for Education has proposed the creation of new national standards specifying the requirements which (currently) unregulated accommodation would need to meet. Under its plans, 16-17 year olds could continue to be placed in semi-independent and independent accommodation, but these settings would be required to meet new minimum standards in terms of the quality of accommodation and support on offer.

The risk of this proposal is that semi-independent and independent accommodation would be legitimised as the norm for 16-17 year olds. While some children of this age may be able to live with lower-level support than their younger peers most of the time, even these children will need care at other times.

¹⁹ <https://www.childrenscommissioner.gov.uk/wp-content/uploads/2019/07/cco-vulnerability-2019-spend-report.pdf>

²⁰ <https://publications.parliament.uk/pa/cm201719/cmselect/cmcomloc/1638/1638.pdf>

²¹ <https://www.local.gov.uk/about/news/childrens-care-crisis-councils-forced-overspend-almost-ps800m-childrens-social-care>

The Children's Commissioner supports the introduction of new national standards in order to improve quality for the care leavers aged 18-25 placed in semi-independent and independent accommodation. These standards should be enforced by Ofsted, rather than local authorities themselves, through a new quality and inspection regime, to minimise local variation in how the standards are interpreted and applied. This inspection regime could be lighter touch than the inspection regime for children's homes.

5. Strengthening the role of Independent Reviewing Officers (IROs).

Councils have a duty to appoint an IRO to every child in care. They are experienced social workers who oversee and scrutinise the care plan of the child and ensure that everyone who is involved in that child's life fulfils his or her responsibilities.

The role of an IRO, to act as both a voice and guide to a child through, is very important, but often not effective in practice. The Department for Education has proposed new measures to ensure that children in unregulated settings are visited by IROs in their placement, rather than just contacted over the phone (or sometimes not contacted at all). Currently this does not happen often enough – particularly when children are placed out of area.

However, further safeguards are needed. It is important that IROs visit placements *prior* to children being placed, in order to assess their suitability. This would help prevent later placement breakdowns, which are highly damaging to children (and not to mention costly to resolve).

Conclusion

At the moment, some of the country's most vulnerable teenagers are being housed in accommodation that is barely fit for human habitation, without the protection, care and support they need to lead full and happy lives. This situation has not come out of nowhere – it is the result of a lack of strategic planning and investment in many areas of the care system over many years. Changing it will require an entire overhaul of that system.

But children in unregulated accommodation cannot wait. The government has committed to reforming the sector in the coming weeks and months, and there are steps that can be taken now to help improve this situation, before reform of the system as a whole. Fundamentally, this has to begin with recognition that older teens in care are still ultimately children. They should receive the care to which they are entitled.

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