

## **An alternative vision of Regional Care Cooperatives; organising and operating at the right level to meet the needs of children and young people**

### **1. Ambitions for children**

ADCS members are ambitious to their core for children and families and all that they can achieve. Every child deserves a happy, safe childhood in which they can thrive, not just survive. Directors of children's services are system leaders in place, working across partners to ensure the right synergies to deliver the best outcomes for all children, with a sharp focus on those children in care and care leavers for whom we are corporate parents.

The government stated its ambitions for children clearly in the recently published Children's Social Care National Framework ([DfE, 2023](#)), and ADCS agrees wholeheartedly that these principles should be at the heart of the reformed system:

- For any child who cannot live with their family, a stable home is provided that meets their needs for love, care and relationships, safety and wellbeing, and opportunities for the best chance in life
- Children should live in a family environment as far as possible, which means prioritising foster care rather than other residential settings
- Children are supported to stay in the right place for as long as possible
- Children and young people to live as near to their family as possible and to live with, or remain in relationships with, their siblings.

These principles should be at the heart of any work taking place at greater geographical scale under the umbrella of Regional Care Cooperatives (RCCs). ADCS has significant reservations about the model of RCCs as outlined in the Independent Review of Children's Social Care, these are outlined in Appendix 1.

Below is an alternative vision detailing how local authorities and partners can come together across local, sub-regional and regional footprints to meet the needs of children and young people within a system that is underpinned by national action to provide the conditions needed to secure success.

### **2. The ADCS vision**

In order for these ambitions to be realised and for children to be brought up in kind, caring and compassionate homes that meet their needs and are as close to their communities as possible, it is important that both commissioning and service delivery is conducted at the appropriate level. Within this proposed framework, there is a role for individual local authorities (LAs), a role for smaller groups of LAs with similar profiles or challenges, and a role for larger groups of LAs located close together. Individual LAs in collaboration with their Regional Improvement and Innovation Alliance (RIAs) partners are best placed to determine regional and sub-regional arrangements on the basis of what works for children.

### **3. National conditions for success**

ADCS members are clear that in order to deliver on our shared ambitions for children, there are a number of national prerequisites that must be met. These will then enable other parts of the system to operate at the most appropriate level:

- Given the focus on families contained within 'Stable homes, built on love' ([DfE, 2023](#)), the government must develop a clear vision for the future of care, including the purpose and function of residential care
- There should be a wholesale regulatory review which includes a review of the regulator's function. The Children's Home Regulations are out of date and no longer fit for purpose, they do not reflect current practice or our ambition for children, and therefore hinder delivery of flexible, suitable provision. The recent ban on under 16's being placed in unregulated placements has only exacerbated matters. 657 children have been subject to Deprivation of Liberty (DoL) applications through the national DoLs court in the last six months (Nuffield Family Justice Observatory, 2022). This is more than double the number of children for the whole of 2020/21, suggesting that children are not safer as a result of the reform programme. ADCS members believe the introduction of registration and inspection of supported accommodation should be paused for 12 months to allow for greater preparedness and to avoid unintended consequences
- Youth justice, health and education partners need to accept a collective responsibility for the commissioning and funding of placements for vulnerable children with complex needs, which will require a significant change in approach. The sufficiency duty currently only sits with LAs, however, it is impossible for individual LAs to deliver sufficiency within the system across all types of placements, particularly high cost, low instance placements. There should be a 'system sufficiency' duty shared across those partners who have a role in commissioning and/or delivering placements for children. This joint sufficiency duty should sit with partners at whatever level the commissioning activity is taking place (national, regional or sub-regional). This should be supported by clear and rigorous expectations as to how partner agencies should engage in commissioning and funding activity, along with the associated accountability arrangements
- All commissioning partners should be corporate parents along with their government department counterpart, as per the care review, and the DfE should lead on this. This should include a responsibility to engage actively in the development of new and innovative models of care to meet new and evolving needs
- Profiteering from the care of the most vulnerable children and young people is unacceptable and a move towards a not-for-profit model is a pre-requisite for the reforms sought here. This should start with a move to implement bands and tariffs linked to need, similar to the proposals in the SEND and AP Green Paper, limiting the ability of the largest private providers to generate excessive profits
- All providers of public sector provision must be part of an open and transparent framework, underpinned by a set of national rules that outline acceptable engagement with private providers, set procurement arrangements, bands and tariffs linked to need, standardised contractual documentation, quality requirements and any other requirements deemed necessary
- Revenue and capital funding is needed at pace from government to support LAs to develop their in-house provision. Developing new provision, particularly for those children with the most complex needs, has risk attached. Government must step into this space and be willing to risk share with local government, recognising that for some provision, it is highly likely that there will be sufficiency issues and voids that have financial consequences, as part of the safe management of children and their needs. LAs alone cannot carry this risk

- National government should stimulate and encourage the voluntary sector back into the children's home market, for example through providing upfront capital costs and encouraging innovation in this space
- Currently, Ofsted is the only organisation with a complete picture of provision across the country. This information should be shared with LAs, so they can better understand the sector capacity across their area. This information can then form the basis for more informed market shaping and development activity
- There should be a mechanism to allow LAs, either individually or collectively, to step in where there is a risk of provider failure resulting in unplanned withdrawal from the market
- Government must implement a national fostering recruitment campaign to encourage more LA foster carers
- In order to collectively achieve our ambitions for children, we need to re-evaluate how we think about finding homes for children. Commissioning of residential care needs to focus on homes, and not placements. Some areas are doing this already, and it would be helpful to share this learning and understand how it could be supported nationally, for example, through model contracts.

#### **4. Defining 'regional'**

Rather than all facets of care (bar adoption) being moved into one single regional collaborative multi-LA service which leads on commissioning for all placements, a more nuanced approach is needed which considers the different localised challenges to sufficiency within different areas, and creates opportunities for LAs, along with partners, to cooperate on responses to, and provision for, children and young people.

Working at a regional level makes sense for some types of provision, however, sub-regional arrangements are also valuable. Arrangements must build on the work of RIIAs and reflect what is right for local areas. Recent research ([DfE, 2022](#)) described the commitment between and across RIIAs to the assurance of good services for children, noting the structures in place allowed LAs to engage as a region and feel responsible for each other in a way that had not previously been the case. The trust and shared sense of responsibility built up over time between LAs within RIIAs should not be overlooked as plans for RCCs develop.

It must be for LAs within a RIIA to identify at what level different commissioning activities take place, based on what works for children, and taking into consideration the relevant context, such as ICS or combined authority footprint, and shared characteristics across LAs and communities. The make-up of sub-regions must be dynamic to allow for future proofing, and thought must be given to how multi-agency partners can fit into such arrangements if they are to have greater responsibilities for achieving positive outcomes for children. Where relevant, transition to adult services, and the different legislation and funding arrangements this involves, should also be considered at the appropriate level and with the relevant partners, to ease placement pressure and transition.

## **5. The right activity at the right level**

### **5.1 LA level**

- Delivering for children

The system described in this paper offers layers of additionality which build up from the local authority level, where it makes sense to do so and where working at a greater scale will deliver benefits over and above current arrangements.

LAs must retain their statutory responsibilities for meeting the needs of children and young people. LAs will continue to be responsible for the placement decisions for their children and deliver the services they deem necessary, collaborating with partners and other local authorities, for the benefit of their communities.

Individual LAs hold the statutory sufficiency duty and remain responsible for sufficiency assessments across place. It has been suggested that government allow for more partners to enter into this space to share the responsibility and work with LAs to ensure the system is able to respond to the projected needs across an area. LAs know their communities, and connectivity to place is important. They are best placed to work with partners to understand the multi-faceted needs of children, young people, families and communities.

### **5.2 Sub-regional level, to be determined as appropriate by LAs working together in regions**

- Foster carers

In order to realise the government's stated ambition for children to live in a family environment as far as possible, many more foster carers must be recruited and encouraged to continue fostering, through high quality training, effective support, reward and recognition of the significant impact they make to children's lives.

The coordination of foster care recruitment campaigns and activity could operate successfully at a regional or sub-regional level depending on the area in question, particularly in relation to specialist foster carers, or those needed to work intensively or differently with specific cohorts, for example, young people on remand, parent and child placements, and UASC. This would build on any national activity and help to create one single voice for fostering across an area, challenging the voice of IFAs, and reaching new and untapped audiences in the hope of increasing recruitment. There would also be scope for LAs to mainstream their allowances and support offer to carers ensuring a greater level of consistency across an area and thereby reducing churn.

- Supported accommodation

The commissioning, market shaping, and coordination of quality assurance of supported accommodation could take place at a sub-regional level.

With increasing numbers of older unaccompanied asylum seeking children (UASC) arriving across the UK, a sub-regional commissioning model for supported accommodation could support a greater number of UASC being transferred to an area, allowing young people to stay in groups and maintain friendships. Specialist services could be commissioned

alongside accommodation, including translation, mental health, settlement, integration and education to support asylum seeking children make a life in this country.

### 5.3 Regional level

- Strategic oversight and development of sufficiency

Strategic oversight of sufficiency could be undertaken at the regional level, bringing together individual LA sufficiency assessment data to be analysed as part of the region's commissioning cycle, identifying trends across the region for specific areas of projected need and informing market shaping activities, including the express agreement for providers to establish new provision within a region ensuring this is in line with need. This strategic oversight function could also pick up quality assurance activity for residential care, avoiding unnecessary duplication between LAs.

Any capital funding available from government should be allocated to regions, who, in turn, would use this to best effect as per the stated strategic ambitions and direction of travel.

- Regional framework

Frameworks for children's residential care could sit at the regional level, supported by the national enablers outlined above. Some helpful principles have been established in the recent DfE consultation on the use of agency social workers ([DfE, 2023](#)), these could also be adapted and applied to the children's residential care market:

- Procurement of all placements must go via an agreed regional framework
- The introduction of banding and tariffs for the fees chargeable in fostering and residential services matched to levels of need
- Where providers do not adhere to the rules, removal from the framework and restrictions on re-joining for a minimum of 6 months
- Requirements for providers to provide data on costs, capacity and overall utilisation of services

The establishment of regional arrangements for oversight and development of sufficiency, along with regional frameworks underpinned by a set of national rules, would enable regions to grow capacity in line with need, thereby keeping more children closer to their homes and communities. Drawing multi-agency partners into regional arrangements could allow for a standardised, minimum offer of support for children in care across a region, allowing services and support to follow the child. This would provide an additional element of stability and allow children to maintain relationships with the professionals who are supporting them.

- High cost, low instance placements

High cost, low instance placements, such as placements for children with complex learning disabilities or for deaf children, lend themselves to being commissioned on a larger scale. Commissioning and funding should be carried out jointly between education, children's social care and health partners. The recent national child safeguarding practice review into safeguarding children with disabilities and complex health needs in residential settings highlighted the challenges faced in finding suitable placements for children with disabilities and complex health needs, and in securing the buy in and support of health and education partners. It is vital they are equally invested in any changes in this space.

- Care leavers

Regional arrangements might offer a more efficient structure to deliver on the proposals for care leavers in the Independent review of Children's Social Care and provide joined-up specialist support for care leavers' outcomes and wellbeing through collaboration with DfE, DLUHC, DWP and MoJ. Housing is a particular challenge that may benefit from a more regionalised approach.

## **5.4 National level**

- Secure placements

There should be a review of sufficiency in relation to all secure placements for children and young people, along with mandated national joint commissioning and funding across education, health, mental health and youth justice. This could be tied into expanded corporate parenting duties.

In addition to this, regional arrangements could offer a platform to do things differently with PACE and remand placements, including offering some capacity to develop specialist fostering, as well as resettlement options, which are significant and ongoing challenges. This could dovetail with other forthcoming reviews and reforms, including the focus on reducing the use of remand in the Police, Crime, Sentencing and Courts Act 2022. Ideally, the focus should be needs based, as opposed to being dependent on where the young person first presented, e.g. via the criminal justice route.



## An alternative vision of Regional Care Cooperatives: Appendix 1

### 1. Introduction

For the vast majority of children, the care system works well, most children are cared for in stable placements that meet their needs ([DfE, 2022](#)). However, for some children and families the current system does not work and ADCS is keen to address this by building upon the areas of strength that the DfE's implementation strategy identifies while also tackling the challenges it sets out. In reimagining the future system of commissioning, the system must be guided by the principles we hold dear and which we know help to contribute to improved outcomes for children and young people:

- Children feel safe and valued
- Children maintain meaningful relationships with the people they care about and those that care for them
- Children's sense of place is supported
- Children's care should not be institutionalised
- Children are in the placement that can best meet their needs, this may not always be in their local area
- The link between children in care and the provision of care placements is fundamental. It promotes continuity of care and responsibility; children should not be outsourced
- Local authority, health partners, voluntary and private sector providers work hand in hand to meet the needs of children
- The provision of care for children should not be an opportunity for profiteering.

### 2. Regional Care Cooperatives

The Independent Review of Children's Social Care ([2022](#)) has proposed that Regional Care Cooperatives (RCCs) will: *"take on responsibility for the creation and running of all new public sector fostering, residential and secure care in a region, as well as commissioning all not-for-profit and private sector provided care for children as necessary"*.

The review states that: *"care needs to be more tailored for teenagers (the fastest growing group entering care), less binary for children who can continue to safely see their families, and significantly better at keeping children close to their community, school, friends and brothers and sisters"*. It suggests that the creation of RCCs will help to achieve these aims while also addressing the issue of profiteering.

Whilst collaborative commissioning might offer part of the solution, ADCS members believe that the concept of RCCs is unlikely to be the whole solution to a complex set of issues. Structural reform has a legacy of over promising and under delivering. While it is accepted that more needs to be done to address the immediate challenges of a shortage of placements, weak market oversight and high profitmaking and costs, the system also needs to offer a continuum of services and support, reinforce the importance of place and uphold the guiding principles which will ultimately improve outcomes. Form must always follow function.

RCCs have been proposed with the aim to disrupt the placement market, yet there is no evidence that a regional commissioning approach which reduces the number of purchasers



from 152 to 20, will be able to address the myriad pressures the placement market is facing. These include staff shortages, an obvious gap in existing provision leaving a small but worrying cohort of 'never placeable' children, and the imbalance of power between providers and purchasers. Indeed, with RCCs holding a monopoly of placements, these risks might be exacerbated. Recent ADCS research ([ADCS, 2022](#)) suggests that providers are less interested in entering into frameworks as these limit profits. Such is the fragility of the market, ADCS is concerned that establishing RCCs may result in the mass exit of providers, further adding to sufficiency pressures and spiralling costs of placements. Attention must also be given to the extraordinarily bureaucratic process needed to establish RCCs as envisaged in the review, involving the transfer of staff, assets and power. This will be both costly and time consuming with little certainty that the result will deliver improved outcomes for children and young people.

Action to disrupt the market must be multi-faceted and cannot rely on what would essentially be a regional monopoly of publicly funded placements. LAs across the country are currently investing in the development of in-house provision to expand sufficiency and choice, for example, the Liverpool City region's work to open 10 new children's homes in the next five years with charitable investments and LA funding. ADCS members are concerned that hard won local authority investment over the medium term to boost in-house provision, could be put at risk by the move to RCCs; elected members have approved investment on the basis it is for local children and provision. There is a risk that any move to create RCCs where services are transferred to regional bodies could jeopardise any plans in this space.

The evidence base for the model is unclear. The nearest comparable example of mandated regional working in this sector is the adoption regionalisation reforms. While the idea of regionalisation is central to both concepts, there are many differences including:

- **Purpose:** Regional Adoption Agencies (RAAs) were intended to reduce the large number of agencies providing adoption services. The expectation was that larger organisations would be able to pool resources and share best practice to deliver more efficient and effective adoption services. On the other hand, RCCs have been proposed as a mechanism for reducing profiteering and putting the system on a path where care is not based on profit
- **Specialisation:** RAAs only work with children who are placed for adoption, a relatively small cohort, while the review envisioned that RCCs are intended to cover the spectrum of care including fostering, residential care and secure welfare placements. The care population is dynamic and significantly larger than the number of children whose permanence plan is for adoption. A significant challenge with the concept of RCCs is the volume and complexity of the number and type of providers, the differing needs of children and the dynamic nature of the cohort
- **Size/footprint:** 32 RAAs are currently in operation, with models established by the LAs involved. The review's intention was that there will be up to 20 RCCs, which would have no more than 20 LAs in each, according to the implementation strategy. The rationale for these figures and the co-terminosity with other related partnership or administrative areas, from RAAs and integrated care systems (ICSs), to combined authorities, is unclear. Local areas must lead the debate about what concept of 'region' best works for them





- Statutory duty: In the formation of RAAs, responsibility of children remained with the LA, but it is intended that sufficiency duty will sit firmly with RCCs.

The most recent evaluation of RAAs ([DfE, 2022](#)), showed a mixed picture of impact, despite huge ongoing financial investment and ministerial focus through the Adoption Strategy. Some smaller LAs have realised financial benefits but, for others, regional working has resulted in higher costs. Several longstanding challenges in the adoption system, including timeliness for children from minoritised backgrounds, those with disabilities and larger sibling groups, have not significantly improved under RAAs, although it should be noted that with the complexity of establishing RAAs, some have been in existence for only a short time. RAAs were primarily a structurally driven reform rather than being rooted in a set of principles centring on the needs of children.

While RAAs and RCCs share regionality as a central concept, the differences in size and context are extensive. The value for money argument for RAAs has yet to be made.

The academisation of the schools system, accompanied by the creation of a now defunct role of regional schools commissioners, is another example of centralised structural reform which has not delivered the intended outcomes. From the outset, academisation was pursued as a means of returning power to parents and improving school standards. Research suggests this focus on structural reform has not delivered improvements in attainment in the way envisaged ([EPI, 2018](#); [House of Commons Committee of Public Accounts, 2019](#)). Recent LGA analysis of Ofsted outcomes suggests that maintained schools outperform academy schools, with 92% of the former rated as good or better and 85% of the latter ([LGA, 2022](#)).

### **3. Local knowledge is important for local commissioning**

Each local authority has its own individual make up of communities, services, levels of specific needs and key challenges. Commissioning structures work effectively at sub-regional or regional levels, but local knowledge of communities, services and context is key to this. Effective relationship based commissioning must be built on local relationships and knowledge. Research has shown that commissioning consortia are weaker when they involve many and very diverse LAs ([IPC, 2015](#)). However, most in the sector would say that there should be some economies of scale which need to be carefully balanced with the importance of localism.

The link between social work, care planning and placement provision is critical. RCCs risk separating the responsibility for, and decisions about, children and placement provision, and creating a gulf between children and their corporate parent. Similarly, possessing a single agency focus is likely to result in diluted focus on education and health systems and how they support children in both funding and supporting placements. Issues around a lack of coterminosity will add further complexity.



#### **4. The importance of place**

The importance of place cannot be underestimated; where it is safe to do so, children should live as close to home as possible so they can stay in their community, maintain the relationships that are important to them, reduce disruption to their education and continue to access wider services from a familiar source. A care placement is often just one episode in a child's journey and the continuum of services to support children in their journey is key. The system must ensure that children can seamlessly enter care and have access to the wrap around support needed to make that a success for them. On leaving care, the wider framework of help and support services must be in place to support transitions either back to parents, to a permanence arrangement or to independent living. Children will not benefit from having their care needs and care journey being considered in isolation from other services across a local place. This is a possible risk of RCCs.

#### **5. Local care for local children**

Progress has also been made in some individual local authorities over the years to secure local investment for residential care so that those children whose needs will be best served by residential services can remain closer to home. Establishing RCCs would mean a complex set of negotiations over funding contributions when both commissioning need and available resources are unlikely to be equal, especially at a time where LA budgets are under growing pressure. As mentioned in the [CMA report into the children's social care market](#) (2022), collaboration between LAs is hampered by risk aversion, budgetary constraints, differences in governance, and difficulties in aligning priorities and sharing costs. The political and corporate complexities of realising the vision of RCCs, requiring the transfer of assets, staff and funding whilst the LA retains statutory duties, should not be underestimated. The risks are significant. Mandating this collaboration over set functions on a regional scale, without mutual need and shared motivation, is a questionable approach. This is further complicated by the contractual and legal implications of entering into residential contracts which tend to last 5-10 years on a regional basis.

#### **6. Additional pressures on the system**

Implementing RCCs alone will not address the wider and related pressures on the system, including spiralling costs and rising profits; entry of providers backed by private equity seeking to improve the prospects of financial backers rather than children's outcomes; the fundamental undersupply of placements in the right places; providers charging for unused beds alongside a placement due to concerns over risk or matching; the ban on placing those aged under 16 in unregulated settings; meeting the needs of unaccompanied asylum seeking children (UASC); and, workforce recruitment and retention challenges, from social workers to residential children's home managers. Nor will they solve the significant issues with sufficiency of specialist mental health and youth justice services.

#### **7. Alternative vision of Regional Care Cooperatives**

ADCS does not believe that RCCs offer a viable solution to all of the challenges faced. There are a number of alternatives in line with recommendations from the CMA report that involve government having a more collective approach to engagement with the placements market that warrant further consideration. If progressed in tandem, these could help to



deliver the outcomes we all seek while also upholding the principles we wish to establish at the heart of the system. A more consistent and effective approach to promoting kinship and connected care along with better support for these carers, could help to reduce sufficiency pressures.

## **8. Increase voluntary sector provision**

Overall, the number of children's homes is increasing, with a 7% expansion in the total number of homes in 2022 compared to 2021, however newly registered homes tend to be smaller, so the number of beds has increased by only 4% ([Ofsted, 2022](#)). This has not kept pace with the increase in the care population, and there are some wider conditions impacting on availability, including the rapidly aging profile of foster carers and the complex needs of a cohort of very vulnerable children. The reality is that there is little incentive for private providers to add capacity to the system, and increased outsourcing to private providers carries the risk that profit motivation will undermine quality of care. Not only are private provider placement costs much higher, but they are also more likely to receive poorer Ofsted judgements than voluntary and LA owned children's homes ([Bach-Mortensen et al, 2022](#)).

Surpluses should drive continuous improvement and expansion of quality provision in line with needs. Attention and loyalty will always be split between children and shareholders in the larger, private equity backed organisations extracting large dividends and accruing significant debts.

In recent years, there has been a small upward trend of LAs opening their own children's homes to boost local sufficiency and to reduce costs, the DfE children's homes capital funding has helped. However, this trend has not been mirrored in the voluntary sector. In 2021, voluntary agencies owned 4% of children's homes compared to 17% in 2016 (a decrease of 81 homes) ([LGA, 2021](#); [DfE, 2021](#)). The reasons behind withdrawal from the market need to be fully understood; there is a clear role for national government in helping to stimulate and encourage the voluntary sector into the market.

## **9. Recruitment and retention of foster carers**

For many years, ADCS has called for a government funded national recruitment campaign to encourage more people to consider becoming local authority foster carers, promoting fostering as a valued, caring profession where foster carers are properly rewarded and supported. Such a campaign should seek to address current challenges and target the right people, those who are willing to take older children, sibling groups, those with more complex needs, UASC, etc. The care review noted that independent fostering agencies (IFAs) are better at recruiting foster carers, however, more recent research from Ofsted show that LAs have a higher conversion rate between initial expressions of interest and approval ([Ofsted, 2022](#)). Furthermore, the CMA report drew attention to the larger than expected profit margins of IFAs, in excess of 20% in some cases, which is not a sign of a well-functioning market. Some LAs have already grouped together to recruit foster carers, so there is strong learning in the sector. For example, [You Can Foster](#), a longstanding joint recruitment campaign involving 20+ LAs in the North West and Yorkshire regions, and the forthcoming fostering pathfinder in the North East region. While recruitment is essential, focus must also be on development and retention of high quality foster carers, with significant increased support to encourage individuals to continue fostering.



## 10. Fund regional collaboration to go faster and further

The placements market has changed dramatically over recent years and LA collaboration has adapted to keep in line with changing pressures. For example, the North East region is moving forward with a pilot of a regional commissioning support function, the additional capacity would then support LAs to address system challenges and provide a mechanism to collectively design and develop new approaches. On a greater scale, the Pan London Placements Commissioning Programme has a number of workstreams targeting sufficiency, improved outcomes, and greater value from high cost, low incidence placements for children in their care. Thirty two London boroughs have signed up to the Pan-London Vehicle (PLV) to enable regional commissioning and risk sharing and it is due to formally launch in 2023. The PLV has been essential for the development of plans for London's secure children's home and as a platform for wider regional commissioning of high cost, low incidence children's placements.

Local collaboration requires the right conditions for success to work effectively. For example, the South East Together project explored the viability of establishing a regional dynamic purchasing system and found that the conditions necessary for the innovation to be embedded included the need for all LAs to have the resources and space for consistent engagement and involvement from all partners ([DfE, 2016](#)). Given the current financial context in which LAs operate, it is challenging to undertake commitments that carry a financial risk. Rather than mandating a one-size-fits-all structural reform, LAs should be given the funding and freedom to explore their own collaborative arrangements in greater depth and at greater speed.

There are already regionalised structures and arrangements, which have developed over a number of years, including the Regional Innovation and Improvement Alliances (RIIAs). RIIAs receive DfE funding to support sector-led improvement activity and some Covid-19 recovery monies were routed via these channels. ADCS believes there could be a role here for RIIAs if funding was devolved to support new and different ways of working.

## 11. Government's role in market stability

ADCS is clear that profiteering from the care of the most vulnerable children and young people is unacceptable and the government must take steps to end to it. ADCS remains committed to the aspiration of a shift towards a not-for-profit model, and the government should explore exempting care for vulnerable children and young people from competition law. At a minimum, transparency in the system should be increased through open book accounting for providers and introducing a new national framework of banding and tariffs for the fees chargeable in fostering and residential services, matched to levels of need, as per the proposals in the SEND and AP Green Paper. Mandating open book accounting for providers would enable better decision making and aid in commercial negotiations, improve trust in local authority-provider relationships and provide public transparency over the general level of profitability ([NAO, 2015](#)). This would be more effective than comparing placement prices within the RCC, as proposed by the implementation plan.

ADCS welcomes the implementation's plan for Ofsted to closely monitor the financial health of providers. Greater monitoring and oversight is needed over the largest placement providers to mitigate the risk of a sudden exit which could affect the care and stability of a



large proportion of children placed in residential care. This should prevent the sudden exit of providers and allow for more orderly exits or support to be put in place, ensuring maximum stability for the children and young people who live in those homes. This should be made mandatory as soon as possible. In addition, there should be a mechanism for managing the risks of provider failure, similar to the precedent in adult social care, indeed Ofsted recently called for powers to do just this in its latest annual report ([Ofsted, 2022](#)). While in children's services there is the added complexity of out of area placements, the use of frameworks and other tools may help to address this.

ADCS is concerned about the stability and sustainability of secure children's homes. The government should underwrite placements in secure children's homes, as NHSE do for mental health beds and the Youth Custody Service does for secure custody beds. Block booking contracts would ensure that those places are available for use as and when they are needed. At present, a small number of LAs are carrying huge risk on behalf of the sector.

The CMA report calls for a stronger regional or national approach to needs analysis and forecasting demand, for example, a national level placement sufficiency lead. This may help to drive increased transparency in the market and develop the market more strategically and effectively. For any market shaping at scale, however, providers must be willing to invest in the geographical areas where there is need and an undersupply of placements. There is also a fundamental role for government to play in stimulating market capacity to complement the work being undertaken by LAs.

In the past, the National Contract Steering Group ran national contracts for residential and foster care provision, however, this work ceased due to a lack of funding and capacity. The government should fund the development of national contracts, based on a system of bands and tariffs, which cover the range of care placements available and are dynamic in nature to allow for changes in need and movement between bandings/ tariffs.

## **12. Regulatory and other relevant reforms**

Regulatory reforms introduced in 2021 made placing children under the age of 16 in unregulated provision unlawful. Demand for registered places outstrips supply and registered children's homes are increasingly reluctant to accept children with highly complex needs, particularly at short notice or in a crisis situation, for fear of jeopardising their Ofsted rating. This has contributed to an increase in placement costs, and more children entering the court arena; in summer 2022 the President of the Family Division established the National Deprivation of Liberty Court to manage increased demand. There has also been an increase in the number of children being placed in bespoke unregistered placements, as the placement of last resort (ADCS Eastern Region, 2022). The second stage of these reforms are due to begin in spring 2023, ADCS believes this must be paused for 12 months to allow for greater preparedness.

ADCS welcomed the CMA report's proposal for standardised planning guidance on 'change of use' to reduce costs and increase the speed of opening. The planning process should have regard to any such guidance in order to support sufficiency planning and avoid any areas having a disproportionate number of homes opening that is not reflective of needs. This may also help to provide a clearer line of sight on all provision in a given locality.



There is capacity within the system which is not being fully utilised for a range of reasons, including regulatory barriers. The CMA report highlighted a number of challenges or difficulties in the regulation of residential children's homes adding to the pressures in the placement market e.g. the requirement to have a registered manager in place before an application to register can be made. The Children's Home Regulations are out of date and need modernising to avoid this. ADCS would suggest a comprehensive review of the regulatory system, along with the role of regulators, to make sure that it is fit for purpose, with a view to achieving a more fluid system which aims to meet the needs of children and young people, with their safety and welfare as the underlying principle.