

Corporate Parenting Committee

Date of Meeting: 12 November 2019

Report Title: Unregulated Placements

Senior Officer: Mark Palethorpe, Acting Executive Director of People

1. Report Summary

- 1.1. This report has been written to consider the Council's use of unregulated placements for young people aged sixteen and over, which are generally known as 16+, supported, or semi-independent accommodation. In recent years there has been increasing national, political and press concern regarding the use of 16+ supported accommodation.

2. Recommendations

- 2.1. That Corporate Parenting Committee:

- 2.1.1. Note the contents of the unregulated placements report as set out in Appendix 1 and the recommendation to the Children's Minister to tighten regulations around 16+ accommodation.

3. Reasons for Recommendations

- 3.1. The purpose of this report is to provide reassurance regarding the use of 16+ supported accommodation in Cheshire East and some of the current challenges and support available for our cared for young people living in this type of accommodation. It also sets out next steps regarding the development of supported lodgings and Bespoke to strengthen our offer for this cohort of young people.

4. Other Options Considered

- 4.1. Corporate Parenting Committee may not support the recommended approach to strengthen our 16+ offer and develop Bespoke. This could mean that vulnerable young people were at an increased level of risk.

5. Background

- 5.1. The use of 16+ supported accommodation is increasing nationally for young people over the age of 16. There has been political and press concern regarding the risk to vulnerable young people living in this provision. Currently, unregulated provision is not subject to any regulatory framework.
- 5.2. In Cheshire East the use of 16+ accommodation is also increasing. There is a range of specifically commissioned provision. The accommodation used by our cared for young people is subject to internal quality assurance processes similar to those we would use for our cared for children living in children's homes.
- 5.3. There are a number of areas of good practice in Cheshire East including Ignition Panel and the supported lodgings scheme. There are plans to improve the level of support offered to our most vulnerable young people through the development of Bespoke.
- 5.4. The contents of the report will also be presented to the Cheshire East Safeguarding Children's Partnership following a request for assurance regarding our approach to 16+ accommodation for cared for young people. This followed the recent national political and press interest.

6. Implications of the Recommendations

6.1. Legal Implications

- 6.1.1. There is a range of legislation and statutory guidance that sets out the role of the local authority in respect of cared for children and care leavers. There is currently no legal requirement for 16+ accommodation to be regulated if "support" and not "care" is being provided.

6.2. Finance Implications

- 6.2.1. Bringing children into the care of the local authority represents a significant cost for the Council and growth in the base budget has been approved in recent years based on the increasing levels of demand and

complexity of need as well as the priority of achieving appropriate outcomes.

6.3. Policy Implications

6.3.1. A letter has been written to the Children's minister recommending that a regulatory framework for 16+ accommodation is introduced.

6.4. Equality Implications

6.4.1. All children and young people have a right to be treated equally and have their disability, gender, ethnic, cultural, religious, linguistic needs met. As corporate parents for children and young people in care and care leavers, it is essential that the Council is able demonstrate that it considers equality implications in all decisions made in relation to cared for children and care leavers.

6.5. Human Resources Implications

6.5.1. There are no human resource implications from this report.

6.6. Risk Management Implications

6.6.1. Cared for children and care leavers over the age of 16 are a particularly vulnerable group for whom there are a number of risks, including poor outcomes in education and training, health, safeguarding and transition into adulthood.

6.7. Rural Communities Implications

6.7.1. There are no direct implications for rural communities.

6.8. Implications for Children & Young People/Cared for Children

6.8.1. This report sets out the implications of 16+ accommodation for cared for children and care leavers over the age of 16.

6.9. Public Health Implications

6.9.1. Cared for children and care leavers are more at risk of poor health outcomes. Health services need to be targeted to ensure that they meet the needs of this group of children and young people.

6.10. Climate Change Implications

6.10.1. There are no climate change implications.

7. Ward Members Affected

7.1.1. Although the number of Cheshire East cared for children and young people is relatively small, they are a vulnerable cohort, who live across Cheshire East and in other local authority areas.

8. Consultation & Engagement

8.1. Key stakeholders, including cared for children and young people and care leavers are regularly consulted on the development of accommodation provision and services.

9. Access to Information

9.1. Not applicable.

10. Contact Information

10.1. Any questions relating to this report should be directed to the following officer:

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Report to	Cheshire East Safeguarding Children's Partnership
Date of report	11 th October 2019
Author and Title	Steve Nevitt, Service Manager Resources: Unregulated Accommodation for Children and Young People

1. Purpose of the Report
<p>This report has been written to consider the Council's use of unregulated placements for young people aged sixteen and over which are generally known as 16+, supported, or semi-independent accommodation.</p> <p>Background:</p> <p>In recent years, the availability and use of unregulated accommodation have risen significantly and it is an area in which there has been a degree of confusion about exactly what is allowed in law. Indeed, some of Ofsted's own correspondence has used terminology interchangeably, for example they have also used the phrase 'unregulated setting' to describe time limited activity-based crisis and emergency placements in temporary accommodation such as bunkhouses and narrowboats. We tend to use provision such as this on one or two occasions a year only and therefore it will not be considered in any detail here. As there has been a great deal of press and political interest about supported accommodation over the past year or more, it would be helpful to briefly outline the regulatory position at the outset; in a Blog post in July 2019, Yvette Stanley, Ofsted's National Director for Social Care wrote:</p> <p><i>Many people are unsure what we mean by unregulated and unregistered provision, and often confuse the two. They're different things.</i></p> <p>Unregulated provision is allowed in law. This is when children (usually over the age of 16) need support to live independently rather than needing full-time care. Ofsted do not regulate this type of provision. <i>It should be used as a stepping stone to independence, and only ever when it's in a child's best interests. For many children, it's the right choice. Some children do not want to live with foster parents or live in a children's home. For some unaccompanied asylum-seeking children this can be the right option too, but not for all.</i></p> <p>Unregistered provision is when a child who's being provided with some form of 'care' is living somewhere that is not registered with Ofsted. This is illegal. Once a provider delivers a care element as well as accommodation, they must register as a children's home. It's an offence not to.</p> <p><i>What does 'care' mean? It is not defined in law. It is not just about the age of the child, although that's a factor. It is about a child's vulnerability and the level of help that they need. If a child does need care, then the service they're getting is very likely to need registration as a children's home. Certainly, if children are under constant supervision then this is likely to be 'care'.</i></p> <p>In its 'Introduction to Children's Homes: a children's social care guide to registration' published in July 2018, Ofsted included a helpful checklist to assist in the differentiation of 'care' and 'support'; we use this routinely in our various forums and it is included as an appendix.</p>

2.	What's working well?
	<ul style="list-style-type: none"> Cheshire East has adopted an innovative approach to sourcing placements in supported accommodation through the Ignition Panel, a name that was chosen by a group of our young people. The panel was set up in January 2016 to give Cared for Children and Care Leavers more choice and ownership with regard to their accommodation arrangements; information from young people had identified a view that decisions were too often '<i>made about us rather than with us</i>'. The Ignition Panel therefore brings together a variety of accommodation providers, social landlords and the housing department with Cheshire East's Commissioning Team so that any gaps in provision can be identified and addressed. The young person is encouraged to attend the panel to explain what they want for their future and services can then outline what they offer; following this, arrangements are made to visit providers so that young people can make informed choices about where they are going to live with their social worker or personal advisor. The Council currently commissions supported accommodation and independent living for our Cared for Children and Care Leavers aged 16 and over. The initial three year term of the contract for P3 to operate supported accommodation from Watermill House in Macclesfield ends on the 31st March 2020, as does the contract for supported accommodation, emergency beds, taster flats and dispersed properties via Crewe YMCA. Although these arrangements have proved effective in supporting our young people, a decision to recommission the service was taken at Cabinet on 10th September with a view to increasing the flexibility and scope of our offer; a full report from the Head of Children's Commissioning about this project is available on the Council's website. Although this is not always a straightforward area in which to work, there is a sense that 'we know what we're doing' in relation to unregulated placements. We are confident that we are operating on the right side of the regulations and wherever there has been any doubt about this, we have adopted an open and transparent approach with our Ofsted HMI. In a small number of cases, where placements in supported accommodation have not been meeting the needs of individual young people, we have moved them back into residential or foster placements. Providers of unregulated placements are subject to a similar Quality Assurance process as the independent children's homes that we use and again in a small number of cases, this has led to young people being moved or a decision not to use a particular project again. We are also diligent in completing risk assessments of these placements, a matter that was raised in our last full Ofsted inspection in 2015.
3.	What we are worried about?
	<ul style="list-style-type: none"> Much of the press and political attention referred to above has raised significant concerns about local authorities' use of unregulated provision. There have been longstanding calls for registration and inspection including for example the 2015 Children's Society report '<i>On your own now: the risks of unsuitable accommodation for older teenagers</i>'. More recently, Anne Longfield, the Children's Commissioner for England has added her voice to the calls

for regulation and as recently as last week, she issued all local authorities with a statutory data request in relation to their use of such provision for Cared For Children. Disappointingly perhaps, the then Children's Minister Nadhim Zahawi told the BBC's Newsnight programme in July that whilst he wanted to eliminate a 'rogue element' in some 16+ and supported accommodation, full regulation 'would be a knee-jerk reaction'.

- Our use of unregulated provision has risen significantly over the past 12 months; whilst some of this can be attributed to the ongoing spontaneous arrival of Unaccompanied Asylum Seeking Children (many of whom find that providers such as MoCoCo House in Middlewich and Watermill House in Macclesfield meet their needs effectively) this is by no means the only explanation. It is of particular concern that former residents of children's homes are over-represented in unregulated placements, as are young people aged 16 and 17 who present as homeless.

	C4C	Supported Accm	%
Oct 19	516	35	6.8
Oct 18	495	16	3.2
Oct 17	466	17	3.6
Oct 16	398	11	2.8

- By its very nature, unregulated provision can be subject to people seeking to bend the rules, if not being prepared on occasion to operate completely outside of them. Ofsted has been paying attention to this issue of late and we receive notifications from time to time stating that they have visited a 16+ project and concluded that it was being run as an unregistered (and therefore illegal) children's home. Some local authorities also appear to overlook their obligation to consider if a placement can meet their young person's specific needs, and we have recently had to contact senior managers elsewhere to invite them to re-think their care-plans. In two cases, the young people were particularly vulnerable, had no connections to this area of any kind and almost immediately found themselves at risk of significant harm; following some joint work with our local Police, both were eventually moved, in one case to a psychiatric unit in Essex, the other to a secure unit in Scotland.
- Whilst many of our young people enjoy reasonably settled periods and experiences in supported accommodation, there is a small cohort who move around from one provider to another with an alarming level of regularity. If we are being truly honest, this sort of provision struggles to pass the '*Would I leave my child there?*' test and few people reading this report would be prepared to see their own 16 or 17 year old son or daughter living in an unregulated placement of this kind.

4. What needs to happen?

- In Cheshire East we are fortunate to have a range of 16+ providers with whom we generally enjoy positive working relationships; their managers and staff are clearly dedicated to the work and to delivering good outcomes for our young people. At the same time, it must concern us all that the extent of the care and support that they can provide is limited in law. We also know that there are other organisations operating in this sector who are prepared

	<p>to offer unsuitable placements at high cost to vulnerable young people from elsewhere (in one of the cases referenced above for example, the home area was more than 200 miles away) which are almost certainly in breach of the regulations. In these circumstances, the only defensible position for us to adopt is to back the calls from Anne Longfield and others for registration and inspection of 16+ and supported accommodation.</p> <ul style="list-style-type: none"> • Until then we must ensure that opportunities created by developments such as the re-tendering of our contract for supported accommodation result in a wide range of high quality provision that delivers positive outcomes for our young people and value for money to the Council. • We need to use the Bespoke Care Hub Project (our new children's homes commission) to improve the journey out of residential care for our most vulnerable young people. The Government is due to publish the outcome of its 'Staying Close' pilot projects in March next year which we will be able to use as Bespoke moves from its initial stage of establishing stable homes to the wider phases of the project. • Within this, there is probably already scope to increase our use of placements in supported lodgings in which young people are able to develop a key attachment relationship with a carer; there are currently four vacancies in the service and I understand that a number of new hosts will be available in the near future. • With the assistance of our partner agencies, we will continue to monitor the local market for supported accommodation and where necessary, challenge colleagues in other authorities who have made what we believe to be unsuitable placements; this includes being prepared to report providers to Ofsted where there are clear breaches of the Children's Homes Regulations.
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Appendix: Ofsted Guidance: Supported Accommodation or Care?

Criteria	Yes?	No?
Can young people go out of the establishment without staff permission?	Supported accommodation	Care
Do young people have full control of their own finances?	Supported accommodation	Care
Do young people have control over what they wear and of the resources to buy clothes?	Supported accommodation	Care
Are young people in charge of meeting all of their health needs, including such things as arranging GP or specialist health care appointments? Are young people in full control of their medication?	Supported accommodation (note that young people may ask for advice and help on their health, but if decisions rest with the young person, the establishment is not providing care.)	Care

Criteria	Yes?	No?
Do staff have any access to any medical records?	Care	Supported accommodation
Can young people choose to stay away overnight?	Supported accommodation (note that being expected to tell someone if they are going to be away overnight does not indicate providing care, but needing to ask someone's permission does.)	Care
Is there a sanctions policy that goes beyond house rules and legal sanctions that would be imposed on any adult?	Care	Supported accommodation
If the establishment accommodates both adults and young people, do those under 18 have any different supervision, support, facilities or restrictions?	Care	Supported accommodation
Are there regularly significant periods of time when young people are on the premises with no direct staff supervision?	Supported accommodation	Care
Do staff have any responsibility for aftercare once a young person has left?	Care (note that some supported accommodation services will offer some support to help young people get established in their next accommodation – this is not care.)	Supported accommodation
Does the establishment's literature promise the provision of care or relate to specific care support provided to all residents?	Care	Supported accommodation
Does the establishment provide or commission a specialist support service, which forms part of the main function of the establishment?	Care	Supported accommodation