

Regulation of semi-independent accommodation response – Together Trust

1. Who we are

- 1.1. Since 1870 the Together Trust has been providing care, support, and education services. We support around 3,000 people aged 5 to 25+ each year across 40 different services.
- 1.2. Together Trust runs children's homes and a not-for-profit fostering agency. We support children and young people who have autism, learning disabilities and complex needs, as well as children who are at risk of or who may have experienced trauma.
- 1.3. We have cared for young people that have been placed in unregulated accommodation either before moving to our homes, or on leaving our care. We are often the first stable placement for young people who have had multiple fostering and residential children's home placement breakdowns. We see first-hand the impact this has on children.
- 1.4. We have been a member of the Keep Caring to 18 steering group since February 2021. We firmly believe that all children in care should receive *care* where they live until at least age 18.
- 1.5. Our response is not intended in any way to endorse the new semi-independent regulations or guidance. However, we have considered each question posed in the consultation to provide constructive feedback.

2. To what extent do you agree with the proposed 'Leadership and Management Standard' and supporting guidance?

- 2.1. The Leadership and Management Standard resembles that which already exists within the Children's Homes (England) Regulations 2015 but which is weaker because of the practical limitations of semi-independent settings (as outlined below).
- 2.2. We believe that the Leadership and Management Standard cannot be met in all settings. For example, the registered person has a responsibility under (1c) to 'ensure that children are protected from harm and enabled to keep themselves safe'.
- 2.3. In semi-independent settings where children live in a shared environment with adults and staff members are not permanently on site there is a very real safeguarding risk.
- 2.4. Only last month, an [inquest](#) into the 2016 death of Lance Walker, a care leaver who was tragically killed while living in semi-independent

accommodation, found that there had been a series of significant failings by the local authority and the provider.

- 2.5. Their findings were that the defendant, Idris Hassan, had been inappropriately placed in semi-independent accommodation, and that information about his forensic history, risk of offending, history of harm to others, and medication(s) had not been communicated to the provider. It is clear from the findings that it was neither in Lance's nor Idris' best interest to be placed in semi-independent accommodation.
- 2.6. Furthermore, within the multi-agency working guidance it states that the placing authority should not challenge the absence of a complete and current relevant plan in an emergency. Yet there is no explanation about what is considered an emergency, or whether in ordinary circumstances a provider should refuse to house a child based on an incomplete, outdated, or irrelevant plan.
- 2.7. The language used throughout the guidelines does not always clearly convey a responsibility. For example (1)(h)(iv) says that 'where necessary, [the registered person should] support each child to access those entitlements of education, rights' etc. However, under the support standard (k) it says that the registered manager 'must ensure that children are supported to access education, training or employment'. The government must clarify which standard providers are expected to strive towards.
- 2.8. In the Children's Homes Regulations, education has a standalone quality standard. Under (8)(2)(a) for example, the registered person is required to 'help a child who is excluded from school, or who is of compulsory school age but not attending school', amongst many other things.
- 2.9. In 2021, our [research](#) showed that across 67 councils there were 3,253 children aged 16 and 17 who were not in education, employment or training (NEET) for all or some of their time while living in non-care (including semi-independent) settings.
- 2.10. With the recent change in the law banning children who are aged 15 and under from being placed in semi-independent accommodation, every child living in semi-independent accommodation should now be 16 or 17. Given that it is compulsory for all children to be in education or training until the age of 18, education should be prioritised in the same way as it is in the existing Children's Homes Regulations.
- 2.11. If the government do move forward with the new regulatory regime for semi-independent accommodation, a standard on leadership and management is critical, as in any setting where a child lives the registered person must be able to create a stable and loving environment.
- 2.12. However, as discussed in the next section we firmly believe that the 9 quality standards which already exist in the Children's Homes Regulations

are a necessary safeguard to preventing harm to children and should be extended to cover every child living in a residential care setting.

- 2.13. Further to this, the £145 million being spent on the new regulation and inspection regime could contribute towards the cost of building more high-quality, regulated residential homes, and help address the recruitment crisis ongoing in the children's social care sector.

3. To what extent do you agree with the proposed 'Protection Standard' and supporting guidance?

- 3.1. The primary test of the new regulatory and inspection regime should be whether it keeps children living in semi-independent accommodation safe.
- 3.2. While the standards itself is fine, as it closely resembles the protection of children standard found in the Children's Homes Regulations 2015, it is not practicable for registered managers to fully remove the risk of harm from children living in semi-independent accommodation, when the conditions are as such:

High rate of children placed in 'emergency' situations – 1 in 3 16- and 17-year-olds now live in semi-independent accommodation when they first enter the care system.

- 3.3. Children living in shared accommodation with adults – while the registered person and staff need DBS checks (1aiii of the workforce plan), there is no requirement in the regulations for adults who live in the same place as children to have DBS checks. Care experienced people have told us that previously they lived with vulnerable adults in shared accommodation who were 'on tag' and had substance issues.
- 3.4. Children living in bedsits – how can registered managers and staff reasonably ensure that the standards are upheld in a bedsit while 'respecting children's need for privacy' (1bvii of the accommodation standard) and when every child is to have a bedroom 'which is lockable and physically secure?' (1div).
- 3.5. Furthermore, the guidance states that "the accommodation must be stable and safe and must effectively protect young people from harm. Young people should not feel isolated because of their accommodation or support. The accommodation should enable a sense of belonging for young people [...]". We do not think that a bedsit can provide children with a sense of belonging.
- 3.6. A recent parliamentary inquiry into the exploitation of children for drug trafficking, found that 80% of 41 police forces in England and Wales expressed concern about semi-independent (unregulated) accommodation ([The Guardian, 2019](#)).
- 3.7. We have seen first-hand the detrimental impact that semi-independent accommodation can have on children. J was in multiple children's homes

before moving into one of our therapeutic homes. J left our care and was moved into unregulated accommodation when he was 16.

- 3.8. This move was catastrophic for his life. He was living in a B&B with no facilities to cook his own meals; at one point he tried to cook pasta in his kettle. Without any adult care he felt alone. During his time in unregulated accommodation between the ages of 16 and 18 he got caught up in drinking and drugs, before ending up on the streets and then eventually in prison, all before he was 20.
- 3.9. Most children enter care after experiencing either abuse or neglect, adverse childhood experiences (ACEs) which are linked to physical illness, depression and even death ([Marschall, 2022](#)). Children who have many ACEs may demonstrate 'hyper-independence', a trauma response that comes from surviving without help and care from other people ([Marschall, 2022](#)). Subsequently, some children may themselves feel ready for the independence that comes with living alone, but that does not mean it is in their best interest to live without care.
- 3.10. Indeed, the prevailing rationale for semi-independent accommodation is that some children are 'ready for independence' at a young age. That might be true for a small minority – but we know that there are children living in semi-independent accommodation who should be living in foster care or children's residential care. Instead, they are living in a bedsit because it's the only available placement in their area.
- 3.11. The protection standard will not stop the above scenario from happening, instead it will have the inverse effect of increasing the stock of semi-independent accommodation, making it cheaper to commission than regulated children's homes, and increasing the likelihood of more children ending up there, whether it's in their best interest or not.
- 3.12. Furthermore, although the guidance states that 'where a young person has complex needs and/or requires a greater level of ongoing care and supervision, we do not expect that supported accommodation would be appropriate', the wording makes this a suggestion, not an obligation. Furthermore, as there is no one definition of complex needs, local authorities will interpret the term differently.
- 3.13. According to DfE data, almost one in ten (8%) of children living in semi-independent accommodation have a disability. We know from our work supporting children and adults with disabilities that it can take years to get a diagnosis and subsequent support. Last year, we responded to the government's consultation on SEND reform ([link to our response](#)) and its consultation on creating a 10-year mental health strategy ([link to our response](#)).
- 3.14. Children's needs are not being identified quickly or effectively enough by SEND and mental health services. Consequently, there will likely be children living in semi-independent accommodation who do have a

disability or mental health issue but are flying under the radar because of the lack of early intervention. We believe that it is not in the best interest of any child to live in semi-independent accommodation.

4. To what extent do you agree with the proposed 'Accommodation Standard' and supporting guidance?

- 4.1. Any place where a child lives should be well designed, furnished and create a sense of permanence. However, as discussed in our response to question 41, we believe that this is at odds with the nature of semi-independent accommodation.
- 4.2. According to the former Children's Commissioner for England, more than half of children living out of are (52%) have SEND or social, emotional and mental health needs. Therefore, increasing the overall stock of semi-independent accommodation across England would not be an apt solution if it is not intended for children with complex needs. Instead, the government should invest in residential children's homes that can provide a high quality of care to children with complex needs.
- 4.3. For example, M, a young person we cared for until last year, had previously been placed for 12 weeks and 3 days in unregulated accommodation. In her case, the semi-independent accommodation was a caravan. She was 15 at the time and was told she would only be there for a maximum of 28 days, as an emergency. She did not attend school for the entire time she was placed there or see anyone who she had a meaningful relationship with.
- 4.4. How can such an impermanent place create a sense of permanence and stability – even if it is well designed and furnished? The new regulations explicitly allow caravans to be used in emergency or exceptional circumstances.
- 4.5. Last year, the Competitions and Market Authority (CMA) found that the children's social care market is 'dysfunctional', with local authorities across the UK 'struggling to find placements for older children and those with complex needs'. There is therefore a very real risk that the use of caravans and other forms of impermanent accommodation will continue to increase year on year.
- 4.6. Finally section (2i) of the accommodation standard requires semi-independent providers to complete a location assessment for each premises, to assess for the suitability of the location and proximity to education providers amongst other things.
- 4.7. However, it can be suggested that the decision about where to build semi-independent accommodation will primarily be market led. While Ofsted can request to see the location assessment, the guidance suggests that the power will be constrained to checking that it has been done, not assessing the findings in any way.

5. To what extent do you agree with the proposed 'Support Standard' and supporting guidance?

- 5.1. According to the new regulatory regime, the 'setting should be in an area which supports young people's safety, wellbeing and personal development' (page 35). While this is a good principle, in practice market conditions are more likely to influence where a setting is built.
- 5.2. The cost of land and the potential for a return on investment will likely be the most significant consideration for providers of semi-independent accommodation. As highlighted above, semi-independent providers only need to confirm that they have done a location assessment, not that the location assessment showed favourable conditions for children.
- 5.3. As the government is aware, there is currently an oversupply of children's homes in the North West and an undersupply in the South East where prices are more expensive ([Foster, 2021](#)). If semi-independent accommodation is concentrated in few areas, it will worsen the problem of children living out of area.
- 5.4. Furthermore, the support standard fails because the regulatory regime is designed to make a type of 'flexible' accommodation permanent. The new support standards fall short of providing children with a 'stable and loving home which keeps them safe', despite that being the Secretary of State's stated aim ([Secretary of State, 2021](#)).
- 5.5. Children's needs are not fixed. Throughout their life, the type of care they need will change. However, if the needs of children living in semi-independent accommodation change, what is the process for helping them transition back into regulated residential care, or an alternative placement if things go wrong? This process is not suitably covered in the new guidance.
- 5.6. In the current climate, adults living in supported accommodation are struggling to manage their finances and maintain a good quality of life ([Harle, 2022](#)). Support with 'managing finances and maintaining a tenancy' should be part of any child's transition from regulated care, and we firmly believe that it does not need to take place in semi-independent accommodation, where risks are amplified (page 44). Furthermore, we are concerned that the impact of the cost-of-living crisis will be felt acutely by children living in semi-independent accommodation.
- 5.7. In Jerome's case, the decision by his local authority to move him into semi-independent accommodation when he turned 16 prompted him to run away and exposed him to additional safeguarding risks ([Bloomer, 2022](#)). Previously, Jerome had been living in a specialist children's home out of area which was able to support his complex learning disabilities and behavioural issues. Because of the lack of regulated options in his local area, semi-independent accommodation became the viable option.

5.8. Ultimately, the new proposals lower the threshold that 16- and 17-year-olds can expect from care to support. Instead, the government should focus on providing substantial funding to cover the previously mentioned cut in children's services.

6. Are the Quality Standards or the Guidance missing anything that you would expect of any provider of supported accommodation?

6.1. The Ofsted regime for semi-independent accommodation has not been detailed sufficiently within the guidance. It is unclear what powers the regulator will be given to challenge poor practice, and there are no practical examples of how semi-independent providers would demonstrate that they are meeting the quality standards.

6.2. Ofsted recently did a Q&A on the new inspection regime for providers and local authorities, however it was not publicised alongside the new regulations and guidance. All stakeholders including those who do not run, or commission semi-independent accommodation must be included in discussions about the new inspection regime. Safeguarding children is in everyone's best interest.

6.3. Similarly, there is an absence of evidence about which children benefit from semi-independent accommodation within the guidance. Although there are references to children who are 'ready for independence', there is no detail about why a hard transition into semi-independent accommodation may be in the best interest of some children when pathway planning in a regulated setting is already a legal requirement.

6.4. We believe that it is in the best interest of every child to live in a home with care. This is not an arbitrary distinction. Children living in settings covered by the Children's Homes Regulations 2015 benefit from five other quality standards which are not included in the new regime. Some of the substantive differences between care and support are outlined in the new few paragraphs.

6.5. The Children's Home Regulations (standard 1) says that:

The registered person or staff should challenge a placing authority to ensure each child's needs are met in accordance with the relevant plan ([Standard 1: Engaging with the wider system to ensure children's needs are met](#)).

The proposed semi-independent accommodation standard (page 23) says that:

The registered person should challenge any placing/accommodating authority who asks them to accept a young person in the absence of a complete and current relevant plan (except in an emergency).

6.6. Consequently, semi-independent providers can only challenge if a child has an outdated or incomplete plan, but regulated children's homes can challenge if a child's plan is not being met in accordance with their needs, which is a stronger standard.

6.7. The Children's Homes Regulations (standard 2) says that:

Staff should protect and promote each child's welfare.

The proposed semi-independent accommodation standard (page 12) says that:

Staff should promote and prioritise the welfare of children.

6.8. Providers of regulated children's homes have a duty to protect each child's welfare. In semi-independent accommodation, providers have a more general duty to 'promote and prioritise' children's welfare (as a whole) rather than a duty to each child individually. Furthermore, the word protect has been replaced with prioritise. This is a significant variation.

6.9. The Children's Homes Regulations (standard 5) says that:

Staff should help each child to develop their interests and hobbies, participate in activities that the child enjoys, and which meet and expand the child's interests and preferences [...] Each child should have access to a range of activities that enable the child to pursue the child's interests and hobbies.

Within the proposed semi-independent standard, there is no reference at all to children's interests and hobbies being supported by the registered manager and staff.

6.10. The Children's Homes Regulations (standard 6) says that:

The health and well-being needs of children must be met, children should receive advice, services and support in relation to their health and wellbeing, and children be helped to lead healthy lifestyles.

The proposed semi-independent accommodation standard (page 43) says that:

The specific responsibilities of the service towards supporting the health and wellbeing of each young person should be agreed with the placing/accommodating authority and recorded in the young person's support plan.

Young people in supported accommodation should be responsible for meeting their own day-to-day health needs [...] (page 46).

6.11. Consequently, the new regulations are missing many elements that exist for children living in residential care settings to ensure a high quality of safeguarding and quality of life.

6.12. The Children's Homes Regulations 2015 do not prevent children from achieving a level of independence which is suited to their age, but the new semi-independent accommodation regulations do fall short of the safeguarding standard found in the existing regulations. We want every child in care to live in a setting which at a minimum provides the standard of care outlined in the Children's Homes Regulations 2015.

7. Do you agree that this is the right approach to regulating mobile and non-permanent settings?

- 7.1. The recent recommendations of the review into Children's Social Care suggest stability and permanency is critical for children where they cannot remain with their families. Furthermore, according to the [Big Ask Survey](#), one of the most pressing concerns for children in care is a stable and nurturing home (2021). We believe that mobile and non-permanent settings cannot possibly meet the quality standards laid down in the new regulatory regime, as they do not protect the welfare of children.
- 7.2. Care-experienced young people have frequently spoken out about the lack of security, stability and support they have experienced living in semi-independent accommodation ([Harle, 2022](#)). Still, stories continue to break about children being placed in caravans, including young children who under the current law are banned from being placed in semi-independent accommodation ([BBC, 2022](#)).
- 7.3. By bringing mobile and non-permanent settings into a regulatory framework for the first time, these settings risk being legitimised. As highlighted in response to a previous question, there is no specification about what an exceptional circumstance is. With the chronic lack of regulated placements in the sector, and an ongoing recruitment crisis, we fear that mobile settings could be the norm.

8. To what extent do you agree that this is the right approach to staff recruitment, checks, induction, staff fitness requirements, training and supervision and disciplinary proceedings?

- 8.1. There is no requirement for the registered person to have a management qualification, as there is in the Children's Homes Regulations. Instead, it is 'recommended that the registered service manager has a management qualification equivalent to Level 5 or should seek to acquire this qualification within 3 years of registration' (page 14).
- 8.2. It is important that the registered person has the necessary knowledge to run the setting effectively and meet the needs of the young people.
- 8.3. The new regulations leave open the possibility of a single registered person running several different forms of semi-independent accommodation, including bedsits, shared accommodation with adults and supported lodgings. These forms of accommodation are very varied and may require different forms of skills and knowledge. Therefore, the registered person should be at least as qualified as those running regulated children's homes.
- 8.4. Currently, there is too much responsibility on the shoulders of the registered person when the quality standards themselves are weak. We believe that it would be virtually impossible to ensure the safety of children living in shared accommodation with vulnerable adults, for example, if the regulation permits

the registered person and staff to be off-site most of the time. If Ofsted only visit a sample of the accommodation maintained by providers of semi-independent accommodation, there is a risk that children will slip through the cracks and be left in an inappropriate setting.

- 8.5. Similarly, the Review of Children's Social Care, which was finalised last year, highlighted that relationships are a crucial factor for children's wellbeing. Research supports this finding ([Crouch et al, 2019](#)). Within the guidance it states that 'the use of external agency staff for different kinds of floating support may play a part in the support package for many providers of supported accommodation and can be a positive choice' has a significant caveat (page 20).
- 8.6. It is unlikely that high levels of agency staff will contribute to a sense of permanency and belonging for children. If agency staff are used, ideally, they should be regular agency staff who are known to the child in the setting. Providers should ensure that the use of agency staff is monitored and reviewed.
- 8.7. We agree with the proposal that the registered person must demonstrate every effort to achieve continuity of staffing. Having irregular staffing creates inconsistency for children, which reduces their chances of building relationships which are important for their well-being and sense of security.
- 8.8. This year has seen a 52% rise in vacancy rates for care workers in adult social care, and we are seeing similar trends across children's social care. This poses the biggest risk to 'business continuity', and the stability of children's care.
- 8.9. The government must take urgent steps to address this problem or risk losing high quality providers of children's care. Part of the solution is to increase funding to local authorities to ensure that they can afford to pay providers who offer fair pay, progression and retain trained and qualified staff.

9. To what extent do you think that the proposed approach to the service's protection policies is the right one to ensure the welfare of young people in supported accommodation?

- 9.1. The regulations only go as far as to say that 'staff should protect and promote each child's welfare', they say nothing of 'ensuring the welfare of young people', as the question suggests.
- 9.2. If the duty on the provider is that of the promotion and prioritisation of children's welfare, rather than the protection of every child's welfare, no child who is unable to understand and articulate their rights should be living in semi-independent accommodation, including non-verbal children.
- 9.3. While it is crucial to have child protection policies in place (e.g., safeguarding, missing child, behaviour management), those policies cannot only exist on

paper. It must be practicable for the registered person and staff to understand and implement them quickly when things go wrong.

- 9.4. As discussed in response to previous questions, we believe that the categories of accommodation make the protection policies outlined in the guidance unworkable. Registered managers and staff cannot ensure the safety of a child living in a bedsit, nor the safety of a child living with vulnerable adults.
- 9.5. Consequently, we believe that these policies will not ensure the welfare of children living in semi-independent accommodation.

10. To what extent do you think that the proposed approach to restraint is right one to ensure the welfare of young people in supported accommodation?

- 10.1. The guidance needs to be clearer about when restraint should be used. According to the proposals, the use of restraint should be taken in 'exceptional' and 'rare' circumstances. There is no explanation about what 'exceptional' and 'rare' circumstances are, leaving it to the discretion of the registered person.
- 10.2. In the guidance, there is an example of the use of restraint in an urgent situation to prevent harm or injury to any person, but it not clear whether that's the only time restraint should be used. Without regular inspections, robust accountability checks, and the need for detailed records of any restraint to be held by the provider, we are concerned about the use of restraint occurring in semi-independent accommodation.
- 10.3. We agree that staff should be trained in preventative, de-escalation techniques and safe restraint. However, safe restraint techniques must be identified in the 'support' plan. Staff should also pre-emptively identify and mitigate risks that are likely to cause restraint to be used.
- 10.4. The new guidance states that "It is not expected that—given the assessed needs and level of independence, autonomy, and responsibility of young people...restraint would need to be used in supported accommodation" (page 34). Obviously, there is no single test to measure the above criteria.
- 10.5. We would suggest that restraint may be used in semi-independent accommodation more frequently than the Department for Education expects. On one hand, the regulatory regime will normalise the use of semi-independent placements, and on the other, the shortage of foster carers and regulated residential settings will result in more children being placed in semi-independent accommodation.

11. Do you agree that the proposed practices around producing, storing and maintaining records are proportionate and will ensure young people are kept safe and their needs are met?

- 11.1. There is not sufficient detail about recording practices within the proposed guidance and regulations. Generally, details about workforce recording (i.e. supervisions, training) are fine. However, it should be a requirement, rather than a 'choice' for the registered person to maintain and store records on staff rosters and hours.
- 11.2. In the guidance, it states that 'some settings may choose to set rules around recording visitor IDs, hours, the number of visitors at the setting at any time, or visitors staying overnight at the setting'. We believe that the approach to recording this information should be consistent across all settings.
- 11.3. If information is recorded in an ad-hoc manner it will make multi-agency safeguarding work more difficult. For example, if a child goes missing, details about who has recently visited may be helpful to police in identifying their whereabouts. Research by the former Children's Commissioner has shown that children living in semi-independent accommodation are at greater risk of criminal and sexual exploitation. Those risks must be mitigated as far as possible.
- 11.4. Within the proposed regulations, there is too much discretion given to providers of semi-independent accommodation about how they record incidents. For example, the guidance says that 'staff should keep appropriate records of self-harming incidents and share relevant information and decisions with the young person's placing/accommodating authority and other relevant professionals' (page 32). Sharing of this information must be timely.
- 11.5. Furthermore, as there is less overall oversight in semi-independent accommodation than in regulated children's homes, there is an increased need to maintain a high-quality record of incidents.
- 11.6. The guidance does not stipulate whether the registered manager or staff will have a responsibility to update a child's records while they are living in semi-independent accommodation on topics other than restraint, missing incidents, and serious harm.
- 11.7. In our residential homes we record details about day-to-day life for the children in our care. This provides something valuable for care experienced adults to look back on should they request their records in the future. We believe that this should be standard practice in any place where a child lives.
- 11.8. Do you agree that the proposed practices around complaints and representations are proportionate and will ensure young people are kept safe and their needs are met?
- 11.9. As we have stated in response to previous questions, we believe that the new regulation and inspection regime will not keep children safe. Practices around complaints in semi-independent accommodation appear to be the same as those found in the Children's Homes Regulations. However, all of the relevant details are not found in the main [guidance](#), but in the consultation [text](#). The

detail should also be included in the main guidance, as this is what providers will work to.

- 11.10. If the regulatory regime is to go ahead, we believe that providers of semi-independent providers should have to proactively provide details about complaints over a twelve-month period to Ofsted, rather than this action taking place 'if requested' (page 21, consultation text). Ofsted should prioritise visiting and inspecting semi-independent accommodation where a number of complaints have taken place, not only a sample of providers accommodation. We believe that this is necessary because of the extremely limited oversight of children living in semi-independent accommodation.
- 11.11. We agree with the proposal that all young people must have access to advocacy support. Advocacy helps to safeguard children and young people and protect them from harm and neglect ([Hodge MP, 2004](#)). All children in care, and care leavers are entitled to an independent advocate. Despite this, current efforts to promote advocacy to children fall short, leaving many unaware of what advocacy is and their entitlement to it.
- 11.12. A report published by [Coram Voice and NYAS \(the National Youth Advocacy Service\)](#) summarises feedback from over 80 children and young people aged 8-25 years from 27 local authorities across England on advocacy. The report found that a third of children and young people in care do not know how to get an advocate.
- 11.13. One young person said: "It can feel like you have to 'fight' for an advocate at the moment. It feels because the process was really difficult and not straightforward that having an advocate was something I weren't meant to have..."
- 11.14. The government should implement the care review's recommendation for an opt-out model of independent advocacy support and extend it to semi-independent accommodation. This must come with additional funding for local authorities to implement the proposal effectively.

12. Do you agree that the proposed practices around notifications are proportionate and will ensure young people are kept safe and their needs are met?

- 12.1. Notification practices should be improved if the regulatory regime is to go ahead. The Children's Homes Regulations states that where there has been a serious incident, 'the registered person must notify HMCI and each other relevant person without delay' (Regulation 40). However, for semi-independent accommodation, in the guidance the duty is to 'notify placing authorities, Ofsted and other relevant persons about any serious events' (page 27). The new regulations, if they are to be brought in, must include the phrase without delay to confer a duty to act within a short timescale.
- 12.2. As discussed in response to previous questions, the new regulations suggest the level of training and experience that the registered person should have,

while the registered person of a children's home must have 'the Level 5 diploma in Leadership and Management for Residential Childcare or an equivalent qualification' (Section 28, Children's Homes Regulations 2015). Therefore, there is a risk that serious incidents in semi-independent accommodation will go unreported not deliberately but because of lack of experience and training.

13. Do you agree these categories for supported accommodation are the right ones?

- 13.1. No. Children who are removed from the care of their parents because of abuse or neglect must not live in accommodation which is, by nature, neglectful. As stated by the former Children's Commissioner, it is common to all categories of semi-independent accommodation that vulnerable young people will not receive 'care', ([Longfield, 2020](#)).
- 13.2. Only shared accommodation for children in care and care leavers has the potential to be similar in nature to regulated children's homes. However, we do not agree with the provision of 'support' instead of 'care' in such settings. Furthermore, the lack of standardisation means that semi-independent accommodation will be of variable quality, with varying levels of supervision by staff, infringing the proposed quality standards within this regime.
- 13.3. As discussed in our response to previous questions, some of the standards cannot reasonably be met because of the nature of the accommodation. For example, in supported lodgings, hosts are to be considered staff (page 13), yet they will only take 'on certain roles and responsibilities of 'staff' as determined by the registered person (page 16).
- 13.4. Subsequently, different hosts will be responsible for providing different things, creating potential confusion for the child (for example, if they want to submit a complaint), and within the system that supports the child (i.e., for professionals working with the child, including social workers, advocates, health).
- 13.5. This undermines the whole purpose of the regime, which the Department for Education has said is about creating consistency, and improving the safety of children living in semi-independent accommodation ([Secretary of State, 2021](#)).
- 13.6. We believe that the right level of flexibility can be found within the current Children's Homes Regulations 2015 to help equip children in care with the skills they need for independence, without placing them in accommodation which risks their safety. This legislation should be extended to cover every child living in a residential setting, rather than implementing a new regime at the cost of £145 million which legitimises the use of categories of accommodation which are already being used, and which we already know do not deliver good outcomes for children.
- 13.7. We believe that children (16&17) are at most risk where they are placed in semi-independent accommodation which is shared with adults (18+). 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 ([Longfield, 2020](#)). Adults may be themselves battling with their own difficulties such as homelessness, mental ill health, addiction, or even transitioning from prison back into the community.

13.8. Strong oversight is essential to make sure young people are safe, secure, and doing well. No category of accommodation that does not offer care can be right for children in care.

14. Do you agree with the proposal for providers to notify Ofsted of new settings and with the use of conditions to restrict providers from using new settings without having informed Ofsted?

14.1. There is no detail in either the guidance which links to this question specifically. The guidance only states that ‘when a registered provider notifies Ofsted of a new setting [...] they might be asked to share details of their location assessment’ (page 35). As discussed in our response to a previous question, this assessment must not only be a tick box exercise.

14.2. In effect, semi-independent settings operating without informing Ofsted would be unregistered. Consequently, if there was no requirement for settings to register with Ofsted, there would be a legal loophole for known providers to set up unregistered accommodation. It is unthinkable that the regulator would not know where children in care live. Within the new regulatory regime Ofsted must have the power to close unregistered settings down.

15. Do you agree that this is the right approach to ensure provider adherence to the Quality Standards and the regulations across the service?

15.1. No. For reasons discussed in previous questions, the new quality standards do not go far enough to protect the 7,000 16- & 17-year-olds who currently live in semi-independent accommodation.

15.2. Under the new inspection regime, a small sample of providers accommodation will be inspected by Ofsted every three years. The likelihood is that there will be accommodation where children live which may not be inspected by the regulator within a ten-year period. These odds are increased when Ofsted inspects accommodation of large providers who operate ten or more settings.

15.3. Furthermore, we believe that the inspection regime itself is at odds with the quality standards, including the protection standard and the leadership and management standard. This is appalling, given that 29 deaths of 16- and 17-year-olds have occurred within semi-independent accommodation over the last five years.

15.4. We firmly believe that every setting where a child lives should be inspected. Under the Children’s Homes Regulations, Ofsted should inspect each setting

twice a year. Research consistently shows that children living in semi-independent accommodation are at greater risk of harm compared with children living in regulated residential care, therefore oversight should be increased, not decreased.

16. What do you believe any potential unintended consequences of these reforms will be? We will use this input to inform our work with the sector.

- 16.1. The consequence of these reforms will be that 16- and 17-year-olds in care will live in settings which are technically covered by a regulatory regime, but which are not much safer than before the regime came into force. The cliff edge of support that care leavers face will move from 18 to 16.
- 16.2. Children's homes which are struggling financially and those who provide poor quality care may be attracted to change their function to provide 'support' instead of care, as the quality standards they need to work to are less comprehensive, therefore the cost of meeting those standards will be less than the cost of meeting the standards outlined in the Children's Homes Regulations 2015.
- 16.3. The impact of this will be a surplus of semi-independent accommodation, and continued scarcity of regulated, caring settings. The oversupply of semi-independent accommodation will make it cheaper for local authorities to commission, and the scarcity of regulated placements will make them overall the more expensive choice. In effect, we believe that this could make semi-independent accommodation the 'dominant' choice for children in residential care in the next five to ten years.
- 16.4. Already, local authorities have limited options about where to place a child. Increasingly, deprivation of liberty orders are being made on the basis that there are no suitable homes available for children with complex needs. This desperate situation means that decisions are already being taken which are not in accordance with a child's best interest. Implementing this regime will do nothing to change this situation.
- 16.5. Likewise, if funding for local authorities does not increase to a level at which they are able to commission the right type of care for a child, rather than the cheapest support available, then increasingly children who are not 'ready for independence' will find themselves living in semi-independent accommodation.
- 16.6. It is unrealistic to think that children with complex needs will not be placed in semi-independent accommodation if it is the only available placement. Furthermore, the regulatory regime lacks a solid awareness of children's mental health and how trauma can manifest into hyper independence for children who have experienced abuse or neglect.
- 16.7. We fear that this regime will increase the use of mobile and non-permanent settings, as the guidance states that they should only be used in emergency situations. Previously, semi-independent accommodation was seen as an

emergency placement. Now, it has been normalised to the extent at which there are almost as many children living in semi-independent accommodation as there are in regulated children's homes.

- 16.8. Furthermore, the new regulations change duties owed to each individual child into weaker general duties. For example, under the Children's Homes Regulations 2015, there is a duty to protect each child's welfare. In this regime, there is a general duty to 'promote and prioritise the welfare of children'. This duty has morphed from one owed to every individual child in care to one owed to children in care more broadly.
- 16.9. Its waters down the rights of children, and it potentially strengthens semi-independent providers protection against liability for causing harm. Every place where a child lives should have a responsibility to protect them. This must be reflected in the new standards if they are to be taken forward.
- 16.10. There is a tangible alternative to the new regulatory regime. The government could ensure that the Children's Homes Regulations 2015 cover all children living in residential care. They could make a commitment to phase out the use of semi-independent accommodation, mindful of the recommendation made in the Care Review that "all children should receive care where they live by 2025". They could invest the initial £145 million cost of the new regulatory and inspection regime into helping providers register and drive up their standards to that which amounts to care, not support.
- 16.11. We do not support the creation of the new regulation and inspection regime for semi-independent accommodation.

Contact

We would welcome further discussion with the Department for Education about our concerns and recommendations regarding semi-independent accommodation.

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