

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/592275/Consultation_Response_16.02.17.pdf

Section One – ICHA response

Importantly, the DfE accept that the conclusions and proposals are contrary to those of the sector.

The DfE consultation response does not follow the evidence and connect with the reality of providing children's residential care.

The ICHA asks all parliamentarians to read and consider carefully any request to agree the proposals and conclusions of the summary report.

The summary report is far too brief, its contents are simplifications and the situation requires a sophisticated response.

This deficiency is remedied in this response, as it includes essential material from the ICHA contribution to the consultation. There may be more information in other responses to the consultation that would provide the foundation for the appropriate and considered discussion and development.

The ICHA contribution to the consultation was far wider and deeper than reported by the DfE. Readers of the DfE document could be given the impression that consultation responses were confined only to the questions. This response presents necessary information that the consultation questions were opportunities for a wide ranging consideration of many matters.

The DfE conclusions promote many further questions, the need for further research, and consideration of the implications of the proposals before agreement. These are detailed in Sections Three and Four.

Section Five reports the findings of a survey of the experiences and opinions of providers of inspections, conducted between April and September 2016, who were surveyed. The results were shared with Ofsted and DfE.

Section two - Remarks regarding paragraphs

Paragraph 5

The summary of responses is again provided in a form that does not record the weight of responses.

The ICHA response appears to have been recorded as a single response rather than representing over 1000 homes and 190 providers.

The DfE are aware that the ICHA responds to all consultations using an iterative method of working that results in a collective response on behalf of over 1000 homes

and over 190 providers. This is a weighty single response, especially as created participative democratic methods.

Paragraph 6

This paragraph includes the following statement, *'The respondent sample may therefore not fully reflect views across all the relevant sectors'*.

It must be recorded that ICHA membership is over 80% + of the independent homes and over 50 % of all children's homes.

Paragraph 7

Given the following extracts from the DfE summary, it is difficult to comprehend how the Government are prepared to add to the continuous increase in children's homes costs.

The majority of respondents were not in favour of increasing fees by 10% where settings were not already at full cost recovery. The strongest themes emerging from respondents' comments were that the increased fees put further pressure on already stretched budgets.

See also Paragraph 11 and 13.

Respondents were particularly concerned that the proposed fee increases were another pressure on providers' budgets.

The DfE appear to have omitted any consideration of the current context of providing residential care for children.

- ICHA publishes the six monthly State of the Sector Survey and the latest shows a continuing difficult financial situation.
- The DfE know that LAs, as motivated by the Narey report, are 'aggressively negotiating' fees for 2017-2018 and current indications that they are seeking nil increases.
- The costs for children's homes are rising and the ICHA has written to all DCSs to advise of the cost factors for the coming year; business rates rise; local employment situation and competition for staff; NLW rise; Ofsted 10% increase; pension auto-enrolment - adds 1% approx to staffing costs from April this year, 3% by 2019; general inflation figures - cost of running a household/CPI basket of goods is directly relevant; fuel prices rise; cost of responding to the numbers of commissioning tenders/contracts/market testing/complex spreadsheets; above a certain size, apprenticeship levy; specifics that might be relevant for some providers, sleeping in - harmonisation to legislative requirements; south East only - prisons 5% immediate increase for lower grades.

Question analysis

Given the negative financial climate for residential child care, it is inconceivable that rises for Ofsted fees could be supported by the sector. It would have been a useful feedback to record providers' and others responses. There is a persistent desire to believe that the sector is in robust financial health, whereas in fact many providers are just about managing to make ends meet.

The ICHA reads with incredulity that providers would agree to any rise in costs for this year. To agree, without consultation to further years, is to be opening a blank cheque for proceeding years and is not a financially prudent method. There must be annual consultation.

Paragraph 13

The common theme amongst respondents was that it is unclear what full cost recovery is and how much settings are currently subsidised by. Respondents felt that an assessment needed to be conducted annually and full consideration given each year to the impact of increasing fees on the sector.

How the cost of inspection is constructed is not publicly available information. In recent years, the ICHA asked a FOI of Ofsted for a breakdown of costs for inspection and were told it could not be provided as it was 'commercially sensitive.' Responding to this, ICHA observed that this view seemed hard to substantiate as Ofsted is a monopoly and there were, by design, no competitors. Without this information, it is not possible to evaluate if an alternative method might be more effective and efficient and offer greater Value For Money. If this cannot be included in the evaluation of fee rises, then the foundation for any rise is deficient.

Paragraph 18

A 10% increase per year is only 'measured' if it is affordable - for RCC it is not.

Amending regulations on the frequency of inspections for children's homes

Reduction of inspection

The ICHA, the policy and practice professional organisation for independent RCC providers, asserted in its contribution to the consultation that for reasons of child-centred professionalism and promoting ethical practice, a reduction is opposed.

Further, the ICHA advised that before moving to proportionate inspection, more needs to be known about the homes that have achieved Outstanding across a range of needs and other factors – SEBD, Disability, Mental Disorder; length of registration; length and type of ownership, S of P, admission throughput, staff turnover. Recent work undertaken for the ICHA shows this can be done by desk research, using Ofsted inspections reports with some expertise and experience.

To prevent precipitative action, it was the ICHA that promoted the safeguards included in the conclusions.

Paragraph 31

It is noted that Ofsted will retain a risk based approach, the ICHA supports this stance.

Paragraph 35 - 37

This gives an overly positive review of current working. There needs to be urgent research into the support from the wider system (Regulation 5) for children's homes. There needs to be more involvement of social workers, IROs and associated agencies. The feedback loop to the LAs commissioning team is often absent.

Section three - Urgent questions for DfE and Ofsted arising from the summary report

- 1. What will be the fee reduction for providers who have a reduced service and how will the repayments be made?**
- 2. How does this affect the business plan for Ofsted?**

Fees will need to be reduced for those receiving one inspection a year. It would be unfair to expect a provider to pay at an enhanced rate compared to others.

The implications for Ofsted of homes increasingly achieving Good or Outstanding has to be envisaged. A provider getting to Good potentially decreases the need for inspection and affects the necessary size of the regulator. There could be a period of destabilisation of the regulator.

There is a larger question to be posed to the Government and Ofsted; what is the level of Quality that is being pursued? Given other countries undertake inspection and scrutiny very differently, are the current arrangements the best means to achieve the level of Quality being pursued?

This proposal needs much more thinking through (see Section four).

Section four - Some implications of going ahead with the proposals unaddressed in the DfE summary report

- 1. Moving to this approach could have implications for the size of the inspectorate.**

If 12% of homes were to be inspected once a year, this would lead to a reduction of workload equalling approx.14 inspectors. (140 approx becomes 125 approx?).

How could these inspectors be redeployed?

- To instigate a three yearly inspection of all high level needs fostering placements, in addition to the already existing inspections of agencies. This

section of fostering shares many commonalities with children's homes, staffing and needs of young people, to the degree that maybe they should be registered as children's homes.

- That other inspections could become longer – this would greatly increase the anxiety level for Registered Managers, already given as reason either for leaving the role or not taking it up. The Ofsted inspection is a career defining moment, twice a year. There could be an effect on RM numbers, already there are difficulties.
- The above might be mitigated if there was a move to Ofsted to have an improvement function rather than being solely regulatory, a move resisted by Ofsted recently, though it was a function of previous regulators (CSCI and NCSC).
- Each inspection could be even more carefully considered as to its conducting personnel. The inspectorate would be created according to the needs of the homes registered and needs of young people currently in RCC. Less inspection allows each to be conducted by a person thoroughly grounded in the successful meeting of needs and knowledge of theory and practice relating to the approach of the home. Additional lay inspectors could be drawn in as needed. RIMs could develop an appreciation of the clinical work of each home or needs and oversee these inspections. Rather than the application of the framework as it applies to all homes (the framework is the best we have yet together devised), each inspection would be designed and delivered with regard to this particular home. In this way, we would be strongly supporting the uniqueness of each home.

2. There is potential for a wider review of the Ofsted inspection.

- The return of the improvement function – gaining advice from a RCC leadership and management board as an anticipated evidence and experience informed policy and practice organisation; bringing examples of good practice.
- Consistency heightened by a national oversight group creating a precedent log of inspection interpretation and judgement. We need to move from the radical separateness, the Quality Standards and current interpretative inspection framework impose on inspection, and move to a greater coherence that could be achievable through inspection by design.

3. The proportionate approach could be extended to homes that were Good for two years – 4 inspections. They would have demonstrated a robust quality of care.

- With an upper figure of 71%, we would have opportunity for a more substantial review of the purpose and function of external scrutiny in all its forms.
- Ofsted appears to be an instrumental factor in achieving improved outcomes in inspection of delivery of the Quality Standards. Its continued current activity may well be a part of what is potentially needed. What else, through a remodelling and shaping of existing funding into further activities, as part of or outside but linked to Ofsted, could be effect more effective development?
- With a wider opportunity, there could be a potential for remodelling of the external scrutiny. What is the purpose of external scrutiny? Does Ofsted encompass all that this external scrutiny needs to provide? What is the intended outcome? What are alternative methods by the outcome could be achieved? Is there a more effective way of spending the investment?

Section Five - ICHA survey re Ofsted and recommendations

The experiences and opinions of providers of inspections, conducted between April and September 2016, were surveyed. The results have been shared with Ofsted and DfE.

Recommendations

Question 2 - Listening and talking to children and young people

The Residential Child Care profession places great emphasis in respect of 'listening to children'.

There is an expectation that Regulation 44 visitors ensure, with regularity, that they seek out, listen and record children's views about all aspects of their care and make time to do so. It is accepted that over a period of time, the Regulation 44 offers an opportunity to develop some form of relationship with children to the degree not afforded by a bi-annual inspection. .

The comments made over a period of time by the Regulation 44 visitor are also be less likely to be impinged by particular issues that may be current at the time of an Inspector's visit – as noted by some providers in their comments.

Inspectors read and evaluate all Regulation 44 reports.

However, we do not yet know of an instance where there has been a discussion between Regulation 44 personnel and the inspector, prior to an inspection. The comments noted by the Regulation 44 visitor could be included in the Ofsted report to present a longer term perspective.

The discussion could provide the context for the inspector's meeting with the children, which they should seek to do both individually and as a group during the course of their visit. This could, for example, be done over the evening meal during the inspection.

We believe that it is essential that an inspector has the requisite communication skills to communicate with the children with needs associated with learning or other disability. It is essential that all inspections are able to include the child's voice. The inspection should only take place if this is deliverable.

The ICHA Regulation 44 best practice guide includes a section on engaging with young people. It could be possible to create this and a child friendly aide memoire for use by the inspector in her/his meeting(s) with young people. This could be a standard template with the capacity to amend to suit the ages, gender, levels of ability and other significant factors related to children in a specific home.

Gathering views from other professionals who work with the home

A number of the comments made in relation to Inspectors listening to children, apply equally to their consultation with other professionals involved in the child's care. Once again, the ongoing work of the Regulation 44 visitor would seem to offer a comprehensive picture. Commonly, inspectors are not able to speak to other professionals, as they are not available on a particular day. Regulation 44 visitors again have the advantage in this respect, as their timetables are more forgiving and flexible than are afforded to Ofsted inspectors.

Inspectors should be required to include in their reports: details of which other professionals they have been notified about by the provider; the role of the external professional and their level of involvement with the child/children; those they have contacted and received views from and what those views are.

This would enable providers to feel that the inspector has thoroughly taken into account and recorded the views of other professionals.

Recording evidence

Given the proper acknowledgement, in the ICHA view, that outcome based inspection is a positive step forward. Providers need to know what type of evidence is acceptable or required. Providers should not be left in doubt; the inspector must say during the inspection if the evidence is either useful or not. Providers wish to show themselves in the most positive manner possible. Providers should not be left to speculate as to whether the evidence presented has been considered and assessed by the inspector. They need to be explicitly informed that evidence has been accepted or not, that it meets the Regulations or not, and which inspection grade is reached.

One method of achieving this would be for providers to offer evidence to the inspector of their achievements, or more particularly the children's achievements and progress. The provider would be required to supply to the Inspector a list of the evidence provided, in what format (written, verbal etc) and what they think this material actually evidences. The inspector should then include this list of evidence in the report with a comment in relation to each piece of evidence, whether it is accepted as valid, if not why not and how it has informed her/his judgement.

Included in the bulletpoints of the section 'Conduct during inspection' of 'Conduct during inspections - For inspectors undertaking inspections on behalf of Her Majesty's Chief Inspector of Education, Children's Services and Skills' <https://www.gov.uk/government/publications/conduct-of-inspectors-during-ofsted-inspections> , (Ofsted January 2016) is the expectation that inspectors 'maintain purposeful and productive dialogue with those being inspected and communicate judgements sensitively but clearly and frankly.'

The ICHA believes that no-one wishes for an inspection system that is too rigid but it may be that there is merit in considering the manner in which evidence is presented and (by definition, therefore) gathered by providers.

Evaluating the experiences and progress of children and young people – and - Discussions with the manager(s) and staff

The role and responsibility of Inspectors to monitor, scrutinise and judge the quality and consistency of children's homes is absolutely respected by the ICHA and all of its members.

In the ICHA survey, positive comments are recorded about the majority of Inspectors.

The section 'Conduct during inspection' of 'Conduct during inspections - For inspectors undertaking inspections on behalf of Her Majesty's Chief Inspector of Education, Children's Services and Skills.'

<https://www.gov.uk/government/publications/conduct-of-inspectors-during-ofsted-inspections>

(Ofsted January 2016) makes it clear that providers should expect all inspectors to undertake their work with 'courtesy, respect and sensitivity'.

The ICHA is certain that the positive working relationship between inspector and provider is a key factor in the continual improvement of children's homes.