



A REVIEW INTO THE USE OF RESIDENTIAL PREMISES AS CHILDREN'S CARE HOMES

INTERNAL AFFAIRS SCRUTINY COMMITTEE

FYLDE BOROUGH COUNCIL | JANUARY 2024

CONTENTS

Foreword by the Vice Chairman of Internal Affairs Scrutiny Committee	5
Executive summary	6
Background	7
Scope of the Review	7
Outcomes of the Review	7
Methodology	8
Membership of the Task and Finish Group	8
Acknowledgements	8
Report	
• Provision/Lancashire Children’s Services	9
• Regulation/Ofsted	11
• Police	12
• Health	13
• Education	13
• Planning	14
• Council Taxation	18
• Government Policy	18
• Evidence from Providers	21
• Evidence from Residents	21
• Evidence from Elected Members	22
Findings and conclusions	24
Recommendations	26

FOREWORD

In May 2023, Fylde Council moved to a new model of governance which saw the previous programme committees replaced by a single Executive Committee with two scrutiny committees. The Internal Affairs Scrutiny Committee at its first meeting in June commissioned this in-depth review as a result of concerns raised by various bodies and the local community that children's care homes are being established in an uncontrolled and uncoordinated manner across the borough.

As Chairman of the Scrutiny Review Task and Finish Group, I am pleased to be able to present this our first in-depth scrutiny report on the impact of the use of residential premises as children's care homes in the borough. The review into the use of residential premises as children's care homes, hereafter referred to as 'the Review', took place between September and December 2023.

The Group received both written and oral evidence from a wide variety of bodies/individuals. Desktop research was also carried out evaluating the impact of current planning policies/ relevant legislation and emerging government policy. All of this produced a wealth of information that informed the evidence base of this Scrutiny review.

I would like to thank members of the Task and Finish Group and officers for giving so much time and energy to this scrutiny review, along with, the various public bodies and providers that have assisted the Group in digesting a great amount of information, much of which has been in some depth and of a complex nature and has required all our concentrated effort. I would also like to especially thank those individuals who took the time to give evidence to assist and inform the Review.

The Group feel that the conclusions and recommendations arrived at in this report are focused and of significant relevance to the issues currently faced in Lancashire and Fylde in particular. We hope that the Executive Committee of Fylde Council and His Majesty's Government take the time to consider this report carefully and respond to our recommendations in due course.

Finally, as this is the first in-depth review undertaken since scrutiny was reestablished at Fylde, I hope that this can be used as a template for other in-depth reviews undertaken and that you find this report useful and helpful in your understanding of the matter.



Cllr John Kirkham

Chairman of the Scrutiny Review Task and Finish Group and Vice Chairman of the Internal Affairs Scrutiny Committee, Fylde Council

EXECUTIVE SUMMARY

This report provides the findings from a Task and Finish Group established by the Internal Affairs Scrutiny Committee to look at the impact of the use of residential premises as children's care homes in the borough.

Fylde Borough has seen the biggest growth in additional children's homes of any Lancashire Borough in the year to September 2023. The growth in additional homes in Lancashire appears to be as a result of many children's services authorities placing children out of area and some distance from where they would call home. Yet despite such apparent oversupply Lancashire County Council Children's Service still has difficulty finding suitable places to accommodate its need within Lancashire.

Part of the process to register a new home with Ofsted requires the provider to obtain a copy of planning permission granted, a lawful development certificate, a copy of a planning application or evidence that planning permission is not required from the local planning authority.

As the majority of new homes in Fylde are granted through a lawful development certificate there is concern that these are being established in an uncontrolled and uncoordinated manner across the borough. This has prompted a review of the controls available to various public bodies involved in the regulation of such premises to ensure adequate controls are in place.

The Review has highlighted a mixed approach across different planning authorities with some approving lawful development certificate applications for small scale children's homes whilst others are of the opinion that a change of use from a dwelling-house to a children's care home will generally be material and so requiring the submission of a planning application. Meanwhile, the Government is considering changes to legislation to ensure that planning requirements, or local interpretation of them, are not a barrier to the creation of more homes for children. The Government has confirmed in a written ministerial statement that planning permission will not always be required, including circumstances where there is no material change of use when a dwelling (class C3) is used as a children's home (class C2).

A key objective of the Review was to better understand the interface that exists between different organisations and bodies to establish what (if anything) the borough council can and should be doing in the future to help improve the situation and minimise the concerns raised by representatives of the local community/service providers about new care homes being established in the borough.

The Task and Finish Group took evidence from key services providers, the Police, various external bodies such as education and health, and borough councillors. The council also sought to gather evidence (via written submission and/or in person) from members of the community who may be affected by this matter.

The Task and Finish Group identified a number of issues of concern which are set out in the report and have made several recommendations, some to Fylde Council through the Executive Committee and some to His Majesty's Government.

BACKGROUND

As planning permission is not always required to change the use of a residential dwelling to a children's care home, concern has been expressed that residential children's homes are being established in an uncontrolled and uncoordinated manner across the borough. The Planning Committee requested that the relevant Scrutiny Committee undertakes a review of the controls available to various public bodies involved in the regulation of such premises to ensure adequate controls are in place.

Considering this, the Internal Affairs Scrutiny Committee at Fylde Council agreed at its June 2023 meeting that a member Task and Finish Group be established to review the use of residential premises as children's care homes in Fylde.

This report presents the report of that Task and Finish Group including its findings and recommendations.

SCOPE OF THE REVIEW

The objectives of the Review that were agreed by the Internal Affairs Scrutiny Committee at its meeting on 20 June 2023 are:

- to establish how children's care homes are regulated by the various public bodies.
- to allow elected members and the wider community to be confident that adequate regulation is in place.
- to ensure interested parties are aware of the regulatory processes available.
- to understand how the facilities are operated by lead providers in the Borough.

OUTCOMES OF THE REVIEW

To make recommendations to other bodies, agencies, and the Government if the Review highlights any areas relating to the establishment and operation of children's homes not adequately controlled/regulated by existing regulations or legislation.

The agreed indicator of success is that children's homes are integrated into the local community without detrimental impact on established communities.

METHODOLOGY

The Methodology of the Review agreed is to take evidence from key stakeholders to allow the Internal Affairs Scrutiny Committee to make recommendations to the Executive Committee and / or partner agencies for consideration. This included a visit to two local children’s homes by two members of the Task and Finish Group.

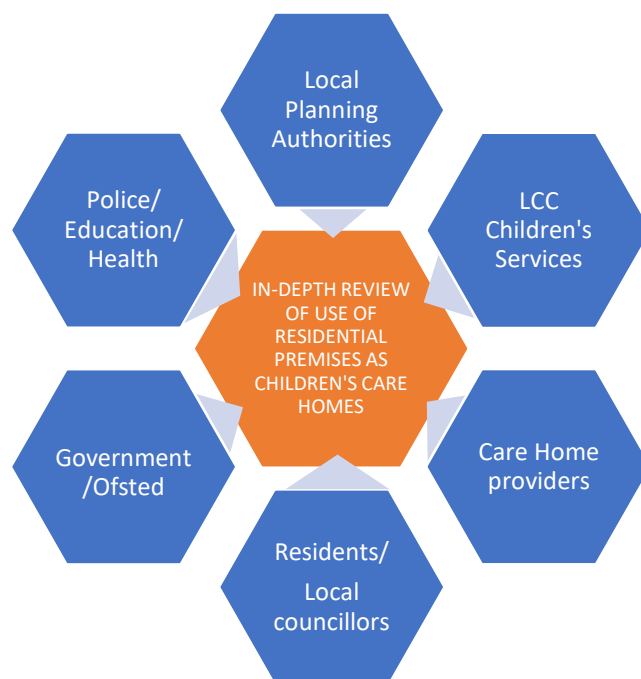


Figure 1 - Sources of evidence to inform the Review.

MEMBERSHIP OF THE TASK AND FINISH GROUP

The Internal Affairs Scrutiny Committee appointed the following members to undertake the in-depth review:

Councillors Chris Dixon, Susan Fazackerley, John Kirkham, Cheryl Little, Sandra Pitman and Viv Willder.

Councillor Kirkham chaired the meetings.

The Review was assisted and facilitated by Paul Walker (Interim Scrutiny Manager), Lyndsey Lacey-Simone (Principal Governance and Scrutiny Officer) and Mark Evans (Head of Planning).

ACKNOWLEDGEMENTS

The Task and Finish Group is grateful for the support and advice of those who provided information and evidence to support its work. In particular to Annette McNeil, Senior Commissioning Manager at Lancashire County Council, who gave evidence at the first meeting and who has been most helpful in giving her assistance and support throughout the Review.

REPORT

PROVISION/LANCASHIRE CHILDREN'S SERVICES

Lancashire has the largest number of children's homes within the local authority area than any other local authority in England. Seven percent of all children's homes in England are in Lancashire County Council's boundaries, with most (226 out of 242 as of 1 September 2023) operated by agency providers.

According to Ofsted's register of children's homes (September 2023), there were a total of 226 children's homes run by private providers in Lancashire, which were able to care for up to 734 children. As of 31 August 2023, 171 Lancashire children in care were living in an Ofsted registered children's home run by a private provider. Of these, only 60% (102 Lancashire children) were living in an Ofsted registered children's home in Lancashire County Council's boundaries.

DISTRICT (including two local unitary authorities for comparison purposes)	Number of Ofsted Children's Homes per district (as of Sept 2022)	Number of Ofsted Children's Homes per district (as of Mar 2023)	Number of Ofsted Children's Homes per district (as of Sept 2023)	Difference in number of Children's Homes per district over the last year	Proportion of Children's Homes in LCC per district (Sept 2023)
Blackpool (UNITARY)	33	36	36	+3	N/A
Lancaster	28	29	31	+3	12.8%
Wyre	22	26	31	+9	12.8%
Fylde	18	23	28	+10	11.5%
West Lancs	28	28	27	-1	11.2%
Rosendale	28	27	27	-1	11.2%
Preston	20	22	24	+4	9.9%
South Ribble	18	21	20	+2	8.3%
Hyndburn	11	13	14	+3	5.8%
Burnley	12	13	14	+2	5.8%
Chorley	11	10	12	+1	5.0%
Pendle	10	10	10	0	4.1%
Blackburn with Darwen (UNITARY)	5	5	4	-1	N/A
Ribble Valley	3	4	4	+1	1.7%
Lancashire County Council as a whole	209	226	242	+33	

Figure 2 – The extent of children's care homes across Lancashire with Fylde highlighted

Sixty percent of all Ofsted registered children's homes in Lancashire County Council's boundaries are in five (out of 12) district council areas: Lancaster, Wyre, Fylde, West Lancashire and Rossendale.

As of the beginning of September 2023, the Ofsted register of children's homes showed that 28 registered homes in Fylde (delivered by 16 different providers) provided a maximum of 68 places. However, only 12 of those places were being used by Lancashire children, and only 8 out of the 28 homes in Fylde had a Lancashire child living in the home.

Since September 2022, 40 new Ofsted registered children's homes have opened in Lancashire (and continue to be operational a year later). More than half of these new homes have opened in Fylde (11 new homes) and Wyre (10 new homes).

A quarter of the new homes opened in the last year in Lancashire have been opened by providers who have no relationship with Lancashire County Council (despite the commissioning arrangements being open for any provider to join and the Commissioning Team being approachable and willing to engage with interested providers) and/ or have never provided a home to a Lancashire child.

District	Number of new Ofsted registered homes opened in the last year and still operational by Sept 2023
Fylde	11 ¹
Wyre	10
Preston	5
Lancaster	3
Hyndburn	3
South Ribble	3
Chorley	2
Burnley	1
Ribble Valley	1
Rossendale	1
West Lancs	0
Pendle	0
TOTAL	40

Figure 3 – The growth in children’s care homes across Lancashire County Council administrative area with Fylde highlighted

¹ Figure 3 shows that 11 new homes have opened in the year to Sept 2023, although figure 2 shows the overall net increase during the year to be 10 homes, as one of the existing homes closed during that year.

Whilst LCC operates their own in-house children's homes (15 homes currently with 52 places), there is a heavy reliance on private providers to help deliver homes for Lancashire's children.

The average weekly cost of an agency children's home to LCC Children's Service in March 2023 was £5,201. There has been a significant rise in the average weekly cost of these homes (£1,163 more in March 2023 compared to March 2020, which is a 29% increase in just 3 years). This equates to an average cost of £270,452 per child per year.

Lancashire County Council has a statutory duty to ensure that there is a range of local homes available, sufficient to meet the needs of the children and young people in the care of the local authority; and to promote co-operation with relevant partners to improve the well-being of children in the local area. This is set out in a [CLA Sufficiency Strategy](#) which LCC produces and is considered as part of a local authority inspection by Ofsted.

LCC commissions children's home places in several ways:

- A block contracting agreement with three providers to deliver 24 beds (8 beds per provider) for the exclusive use of Lancashire children.
- LCC's own children's home commissioning arrangement. Applicants are allocated to one of the two Tiers using the criteria set out within the procurement documents. Tier 1 Applicants take part in a competitive process to be placed on Tier 1. The top ten highest scoring Applicants are accepted onto Tier 1. Tier 1 providers receive the majority of placement requests before Tier 2 providers.
- Placements North-West Dynamic Purchasing System, which is used to source children's homes not able to be found through the above arrangements.

Even though there are over 4 times the number of children's home beds in Lancashire than Lancashire actually requires, LCC Children's Service still has difficulty finding suitable homes for all of its children in care.

Members noted that LCC intends to:

- develop further smaller capacity in-house children's homes;
- continue to work collaboratively with Lancashire's contracted providers to maximise the use of local homes for local children and address gaps in provision;
- develop relationships with local and regional providers who do not currently offer homes to Lancashire children;

The challenge is that Lancashire Children's Service need new homes that will prioritise Lancashire children and need a mechanism that will make sure that providers of new homes do this.

REGULATION/OFSTED

Ofsted² is responsible under the Care Standards Act 2000 (CSA 2000) for regulating establishments and agencies that provide children's social care services. There are six types of establishments and agencies that provide social care services for children that require [registration with Ofsted](#), which includes children's homes.

² Ofsted is the Office for Standards in Education, Children's Services and Skills. It inspects services providing education and skills for learners of all ages and also inspects and regulates services that care for children and young people.

Ofsted has a range of enforcement powers that it can use when a regulated service fails to meet the requirements of the CSA 2000 and the relevant regulations. Any person carrying on or managing a children's home that provides care and accommodation must register with Ofsted in respect of that individual children's home. Failure to do so is an offence under section 11 of the CSA 2000.

Ofsted inspects other children's social care provision or services under the Education and Inspections Act 2006, including secure training centres and the Children and Family Court Advisory and Support Service (CAFCASS). Since April 2007, Ofsted has inspected local authority children's services under section 136 of the Education and Inspections Act 2006 under various frameworks.

Ofsted was approached to contribute to this review and attend the first meeting of the Task and Finish Group to respond to questions from members. After making enquiries Ofsted responded stating that they wished to support the Review but that couldn't include attendance in person. Members of the Task and Finish Group expressed their disappointment with this response. During the Review Ofsted have responded to any queries raised by email.

POLICE

Concern was expressed at the impact that high numbers of children being placed in Lancashire from elsewhere was having on public services.

In the first six months of 2023 (ending 30.06.23) Lancashire Constabulary recorded for the Fylde Borough area that 210 missing children investigations had been undertaken. This figure is all children missing. Of this 88 were children missing from the care sector, which includes 31 that are classed as children placed from outside the county that are not the responsibility of LCC Children's Social Care (referred to as children looked after elsewhere).

In 2012 Portsmouth University carried out some research and concluded that the cost for a medium risk missing person investigation to policing was £2,415 per investigation. All children that Lancashire Constabulary record as being missing (0-18yrs) are to be assessed as no lower than medium risk. This is part of the Children's Safeguarding Assurance Partnership (CSAP) Joint Protocol that was agreed in 2023. However, it is likely that by 2023 the cost per investigation will have risen given inflation and different policing resources that we now have.

Whilst a missing child investigation is underway this can put other work hold and divert police resources across Western Division, e.g., a missing child in Blackpool could require Fylde officers to be involved and visa versa.

It was highlighted that it was not uncommon for the Police to be involved in bed watches or children sleeping at Police stations.

Other examples were given regarding missing children who try to go back home. This represents a further strain on police resourcing.

It was acknowledged that looked after children are some of the most vulnerable children and young people. Adverse experiences often affect their emotional and mental wellbeing. Local authorities have a responsibility for these children and young people and have a commitment to act in the child's best interest and provide safety and stability in their home lives. The impact/trauma of child moved into an area in unfamiliar settings was also significant and often exacerbated the issues faced by the child in need of care. It was acknowledged that placement stability is an important factor in improving outcomes for children in care.

HEALTH

The Named Nurse for Children in Care advised that local authorities are responsible for making sure a health assessment of physical, emotional and mental health needs is carried out for every child they look after, regardless of where that child lives. She went on to say that in terms of private care settings, there were ongoing issues relating health service/medical provision and issues regarding social worker links from outside the area. The lack of communication was putting pressure and strains on services. An example given where Child A arrives in the area and key services are only advised when the child arrives with no details of their specific requirements, or medicines. NICE³ guidance is not usually followed. Other examples were given regarding demand on health services, dentists, opticians and pharmacies etc whereby specialist provision may not be readily available. The lack of regard for the child's best interest was a real concern and had a huge impact on their mental health.

A child in need of specific medication, including those medications used to treat behavioural disorders, will not be able to get that medication when moved into a new area, without having medical appointments. These are not readily available – sometimes for weeks - further exacerbating the distress for the child, leading to further difficulties caused by a lack of appropriate treatment.

She also stated that one of the biggest issues that her services deal with is short term emergency crisis placements. A 28 day rule can only be used when a child already has a home to go to and is staying there for a break/ holiday. These emergency/ crisis homes are often used when a child is unable to return to their home (as the provider no longer feels able to meet their needs). These homes do require Ofsted registration and are unlawful if they operate without this.

The standard of care provision can be poor in some areas with children being housed in settings such as caravans and barges. Mobile provision (such as caravans and barges) are exempt from registration but it is unlawful to place any child under the age of 16 in an unregulated home. A child cannot be settled in such circumstances. There are occasions where 28 days becomes 58 days etc.

Health assessment for children under 5's and over 5's was discussed, along with the increase in mental health issues.

EDUCATION

The Deputy Head of Virtual School and Lancashire Hospital Education Service (LHES) explained that his role was to carry out statutory duties relating to promoting educational outcomes for looked after children and previously looked after children. This was also a monitoring and support role in the Lancashire area. He explained that outside Lancashire children have a huge impact on their work.

Schools judged by Ofsted to be 'good' or 'outstanding' are prioritised when seeking a place for looked after children in need of a new school. Local schools that have a good and outstanding accreditation are full.

He also reported that a large proportion of looked after children have special education needs (SEN) issues. This has an impact on school places and services generally.

It was noted that in some care homes settings a package of full care (for a variety of reasons) is offered whereby education is provided on site. In reality, this sometimes translates to only 1 or 2 hours per day.

³ [NICE The National Institute for Health and Care Excellence](#)

PLANNING

National Policy

The Town & Country Planning Use Classes Order divides all uses of land and property into different classes. The two classes relevant here are:

Class C3: Dwellinghouses

Use as a dwellinghouse (whether or not as a sole or main residence) by—

- (a) a single person or by people to be regarded as forming a single household;
- (b) not more than six residents living together as a single household where care is provided for residents; or
- (c) not more than six residents living together as a single household where no care is provided to residents (other than a use within class C4)."

It should be noted that the courts have held that children can't look after themselves so can't form a single household on their own, so children's homes don't (generally) fall within Class C3(b)⁴

Class C2: Residential Institutions

Use for the provision of residential accommodation and care to people in need of care (other than a use within class C3 (dwelling houses)), use as a hospital or nursing home, or use as a residential school, college or training centre.

Planning permission is not required for changes within a specified use class, e.g., Class C2 covers all types of care, so a care home for the elderly could be changed to a care home for children without the need for planning permission as they are both C2 uses.

Importantly, just because two uses fall within different use classes it does not mean planning permission is required. Planning Permission is only required if the change of use is considered to be material, i.e. The Use Classes Order confirms those changes of use that don't need planning permission, rather than those which do. Developers can apply for a certificate of lawfulness of proposed use or development, commonly referred to as a lawful development certificate, which is a formal decision on whether planning permission is required.

Planning permission is only required for a change of use if the change is material. Material is not defined in legislation. Each case must be considered as a matter of fact and degree. Essentially the test is whether the proposed use would be any different in character to the permitted use. i.e., the existing use or a use that could be taken up without planning permission.

Lawful development certificates are not planning applications – i.e., are not judged against planning policy and do not take the views of the local community into consideration but are a legal assessment of whether or not a proposal represents a material change of use and so requires planning permission.

There are no neighbour notification requirements in the legislation for lawful development certificate applications. If planning permission is not required, a certificate must be issued. If planning permission is required, the developer may submit a planning application, which would be considered on its merits and have regard to development plan policy, the views of the local community and others.

⁴ North Devon District Council v First Secretary of State [2003]

In 2013, Ann Coffey MP for Stockport raised in a House of Commons ⁵debate the large numbers of children being placed in Greater Manchester which were from outside the region. She highlighted that there were 241 children living in children's homes in Stockport, but only 26 of them actually came from Stockport.

She felt that the present use categories, C3 and C2, created confusion and asked that the issue as to whether there was a material change of use to be clarified by having a different use category for children's homes, spelling out how a children's home is defined. She asked that the Minister clear up the confusion and issue new planning guidance on children's homes to bring clarity to this unsatisfactory situation.

In response Don Foster, the Parliamentary Under Secretary of State for Communities and Local Government referred to proposed reforms in relation to the registration and quality of children's care homes. He stated that, whilst he fully agreed with the hon. Lady's aims, he did not believe that changing planning law is the best way to achieve them. He went on to state that the Government would continue to keep under review the use classes order in general and continue to keep under review the issue of planning guidance, particularly in relation to the point she raised.

In May 2023, the Government issued a Written Ministerial Statement⁶ clarifying the existing planning policy position on the delivery of children's homes.

The planning system should not be a barrier to providing homes for the most vulnerable children in society.

Local planning authorities should give due weight to and be supportive of applications, where appropriate, for all types of accommodation for looked after children in their area that reflect local needs and all parties in the development process should work together closely to facilitate the timely delivery of such vital accommodation for children across the country.

Planning permission will not be required in all cases of development of children's homes, including for changes of use from dwelling houses in Class C3 of the Use Classes Order 1987 where the children's home remains within Class C3 or there is no material change of use to Class C2.

An application to the local planning authority can be made for a lawful development certificate to confirm whether, on the facts of the case, the specific use is or would be lawful.

Where a Certificate is issued, a planning application would not be required for the matters specified in the certificate.

In October the Department for Education issued consultation in relation to planning issues affecting the delivery of children's homes. The consultation states: *we continue to hear that providers are having difficulties successfully navigating the planning system which is discouraging them from opening homes in certain parts of England. Therefore, we are keen to understand the views of local authority planning and children's social care teams.*

In November 2023, Fylde Council responded to consultation from the Department for Education on planning issues affecting the delivery of children's homes. Since then, officers have been invited to take part in a round table discussion with other authorities to explore how need is identified and policy developed in Local Plans as well as how use class definitions and material considerations affect decision-making in relation to the establishment of children's care homes.

⁵ [Planning Guidance \(Children's Homes\) Hansard Volume 566: debated on Thursday 11 July 2013](#)

⁶ [Planning for accommodation for looked after children Statement made on 23 May 2023](#)

Fylde Council

The majority of new children’s homes in Fylde are sought through applications for lawful development certificate as opposed to planning applications. The table below shows the growth in applications for lawful development certificates.

Year	C2 related applications for lawful development certificates received	C2 related planning applications received
2022	5	4
2023 (to 31 December)	28	9

Figure 4 – Applications for new children’s care homes in Fylde (2022 and 2023 to 31 December)

Lawful development certificates are a legal assessment of whether or not a proposal represents a **material** change of use and so requires planning permission. They are not judged against planning policy and do not take the views of the local community into consideration.

When an application for a LDC is received and registered it is listed on the [Planning Public Access system](#). This often generates interest with residents who then become aware of proposals to open a children’s care home in their area.

The Fylde Local Plan to 2032 (incorporating partial review) does not contain any specific policies relating to the establishment of children’s care homes. There is, however, a generic requirement (in Strategic Objective 1) to meet the specific housing needs of all sections of the community which would include the accommodation of children. This objective seeks to ensure the right dwelling types and mix will be provided in order to secure sustainable communities and ensure housing choice.

Blackpool Council

Since 2010, Blackpool Council has issued a number of lawful development certificates for the proposed use of dwelling-houses as residential care homes for children and young people. In recent years, the pressure for this type of use has increased significantly⁷. The availability of relatively large properties at reasonably low prices is understood to be a key driver behind this trend.

As uses established through a lawful development certificate are not subject to council control in terms of occupancy, many of the care homes that have opened have elected to accommodate children and young people placed by remote authorities. This has two key implications:

- Vulnerable children with complex needs are brought into the borough placing additional strain on already pressurised local public services: and
- Blackpool Council struggles to accommodate local children in need of care within the borough.

A lawful development certificate for a proposed use is granted when the council judges that the use proposed is not materially different in planning terms from the existing lawful use of a building. Many factors must be taken into account when considering materiality.

Officers from the council’s planning department have worked closely with colleagues in public protection, public health and children’s services to better understand the nature of children’s care homes and the issues that exist within the sector.

⁷ [Why have so many children's homes opened in Blackpool?](#)

As a result, and whilst every application must be determined on its own merits, Blackpool Council is now of the opinion that a change of use from a dwelling-house to a children's care home will generally be material for the following reasons:

- Change in the character of the use based on day-to-day activity, operations and physical layout;
- Impact of the proposal on wider strategies, service delivery and the council's ability to meet local needs.

By requiring providers to apply for planning permission for the creation of children's care homes, Blackpool Council is able to ensure that such provision is established in appropriate properties in suitable locations. It also provides the council with the ability to ensure that children's home provision in the Blackpool area gives priority to local children, enabling the borough to meet its own needs.

In order to guide applicants, [an advice note](#) has been prepared to set out the council's expectations and to explain how applications will be considered. The advice note also stipulates the information that must be submitted with an application. The purpose is to provide clarity and guidance to enable the submission of better quality applications that the council can support.

Wyre Council

Wyre Council has prepared Guidance for Applicants on Children's Homes to support applicants seeking planning permission for the development of, or change of use of an existing building to a children's home. The guidance document sets out the information applicants should consider, including the requirement for a management plan and matters to be considered in its preparation.

The guidance document underwent public consultation between May and June 2023 and the consultation comments received were considered as part of finalising the guidance note.

In summary, Wyre Council's guidance note advises that, notwithstanding the fact that every planning application must be determined on its own merits, the council is of the opinion that a change of use from a dwellinghouse to a children's home will generally be material for the following reasons:

- Change in the character of the use as a result of increased day-to-day activity;
- Change in the character of the use as a result of the necessary form of operation of the premises;
- Change if the character of the use as a result of typical physical alterations to the property;
- Impact of the proposal in terms of the loss of family dwellings;
- Impact of the proposal on local public service delivery; and
- The change of use could include minor alterations that require planning permission.

Wyre Council states that by requiring providers to apply for planning permission for the creation of children's homes, the council is able to ensure that such provision is established in appropriate properties in suitable locations.

Lancaster Council

Similar to Blackpool, Lancaster City Council has taken the view that all of the applications that have been received this year (2023) for change from C3 to C2, the nature of support that has been required in each of those cases (which results in numerous, unrelated people arriving at the dwelling(s) at different times of day and night consistently through the week) represents a material change of use.

Any planning applications are considered against Policy DM8 of the Lancaster Local Plan, which seeks to prioritise the end user through the agreement of the Commissioning Manager from Lancashire County Council. Other than this development plan policy, Lancaster City Council does not have any other form of internal guidance or practice note.

Hyndburn Council

There have been a number of applications for lawful development certificates submitted to Hyndburn Council and although a couple of applications for lawful development certificate were initially granted, the council took legal advice on these and have subsequently sought to take a consistent approach to them and they have since been refused. Refusal of a lawful development certificate of course means that planning permission is required, and officers have subsequently recommended approval of most of these subsequent applications although Planning Committee has refused a number of these (against officer recommendation).

A recent appeal⁸ against a decision of Hyndburn Council to refuse to grant a lawful development certificate use for a children's care home for 2 children and up to 4 carers on the grounds that the appellant's evidence was not sufficiently precise and unambiguous and did not, therefore, demonstrate, on the balance of probabilities, that the appeal scheme would constitute a C3(b) use, or that there would not be a material change of use to a C2 use in this case.

COUNCIL TAXATION

There is no special valuation category for "Children's Homes" and they are valued in the same way as a typical house down a typical street, albeit the liability will fall on the care provider/owner as a child cannot themselves be liable for Council Tax as they cannot legally hold estate. If however all of the residents (children) are under the age of 18 then the owner will receive an exemption, under Class S, according to the Council Tax (Discount Disregards and Exempt Dwellings) (Amendment) Order 1995 (legislation.gov.uk).

GOVERNMENT POLICY

[Pass the parcel – Children posted around the care system – The Children's Commissioner – Dec 2019](#)

The Children's Commissioner published a report in 2019 highlighting the issue of many children in care⁹ being placed some distance from where they would call home. The report stated that there are over 30,000 looked after children living 'out of area' in England. This is 41% of all children in care and has risen by 13% since 2014. Over 11,000 of these children are more than 20 miles from what they would call home, with over 2,000 further than a hundred miles away.

The report included regional breakdowns for children placed out of their home local authority as of 31 March 2018. Lancashire had 418 children looked after (CLA) placed out of area whilst having 884 CLA from other local authorities placed in Lancashire. This gave a ratio of 2.1 of children placed in Lancashire by other local authorities to those placed out of area by Lancashire (17th in the list of local authorities measured). The highest ratio was Kent which was 4.6 and the lowest was Westminster with a ratio of 0.1.

One of the recommendations in the report was that the Government makes children in care outside of their local areas a specific subject in its upcoming review of the care system, which was outlined in its election manifesto. The Review should look at how greater weight can be given to these children's long-term emotional needs, in addition to their immediate safety, and how children can meaningfully contribute to decisions made about them.

⁸ [Appeal Ref: APP/R2330/X/22/3309304 – 3 August 2023](#)

⁹ Figures relate to children in care at 31st March 2018.

The Competition and Markets Authority (CMA) launched a market study into children's social care in England, Scotland and Wales on 12 March 2021, in response to 2 major concerns that had been raised about how the placements market was operating. First, that local authorities were too often unable to access appropriate placements to meet the needs of children in their care. Second, that the prices paid by local authorities were high and this, combined with growing numbers of looked-after children, was placing significant strain on local authority budgets, limiting their scope to fund other important activities in children's services and beyond.

Overall, the CMA's view is that there are significant problems in how the placements market is functioning, particularly in England and Wales. The study found that:

- a lack of placements of the right kind, in the right places, means that children are not consistently getting access to care and accommodation that meets their needs.
- the largest private providers of placements are making materially higher profits, and charging materially higher prices, than we would expect if this market were functioning effectively.
- some of the largest private providers are carrying very high levels of debt, creating a risk that disorderly failure of highly leveraged firms could disrupt the placements of children in care.

The study concluded that this market is not working well and that it will not improve without focused policy reform. This will require careful policymaking and a determination to see this process through over several years.

The report's recommendations fall into 3 categories:

- recommendations to improve commissioning, by having some functions performed via collaborative bodies, providing additional national support and supporting local authority initiatives to provide more in-house foster care.
- recommendations to reduce barriers to providers creating and maintaining provision, by reviewing regulatory and planning requirements, and supporting the recruitment and retention of care staff and foster carers.
- recommendations to reduce the risk of children experiencing negative effects from children's home providers exiting the market in a disorderly way, by creating an effective regime of market oversight and contingency planning.

The report made two recommendations which are linked to the scrutiny review:

Recommendation 1.1: Larger scale market engagement

We recommend that the UK Government requires a more collective approach to engagement with the placements market. This should include:

- *Setting out what minimum level of activity must be carried out collectively. This should include an appropriate degree of activity in each of the key areas of forecasting, market shaping and procurement.*
- *Ensuring that there is set of bodies to carry out these collective market shaping and procurement activities, with each local authority required to participate in one of them. We expect sub-national bodies to be appropriate for England.*
- *Providing an oversight structure to ensure that each body is carrying out its functions to the appropriate level. This should involve an assessment of the extent to which sufficiency of placements is being achieved within each area.*

Recommendation 2.2: Review planning requirements

We recommend that the UK Government considers removing any distinction, for the purposes of the planning regime, between small children's homes and domestic dwelling houses. This could include, for example, steps to make it clear that children's homes which can accommodate less than a specified number of residents at any one time are removed from the requirement to go through the planning system notwithstanding that the carers there work on a shift pattern.

We recommend that where children's homes remain in the planning system (for example because they are larger) the UK Government introduces national guidance clarifying when planning permission may be required and the circumstances in which it is likely to be granted or refused.

[Department for Education - Children's Social Care: Stable Homes, Built on Love](#) -- Sept 2023

The UK's Department for Education has published a plan called "Children's social care: stable homes, built on love". This plan is aimed at reforming children's social care in England and is based on recommendations from three independent reviews (including the CMA study). The plan seeks to improve support and protection for children and families, support for kinship carers, and wider family networks, reforms to the experience of being in care, including corporate parenting, support for the workforce delivery and system reform. The consultation period for this plan ran from 2 February 2023 to 11 May 2023.

Although the report covers many areas it does make the following observations and recommendations which are linked to the scrutiny review:

Since publication of the consultation plan in early 2023 the Government has:

- run engagement sessions with local authorities in all 9 regions to set out our vision for, and seek views on, Regional Care Cooperatives and fostering reforms.
- invited local authorities to form regional clusters and apply to be one of the two RCC pathfinders. The Government aims to announce which clusters are successful by the end of the year.
- issued a joint DfE and DLUHC Ministerial Statement to clarify the national policy position on planning applications for new homes for children ([referred to earlier](#)).

In the next 18 months, the Government will:

- work closely with the successful areas to co-design their Regional Care Co-operative operating model ahead of the start of the pathfinder, with a view to having operational Regional Care Co-operative pathfinders in 2024.
- deliver national support with forecasting, procurement and market shaping to local authorities - initially, we will commission an external organisation to deliver the support and over time, the function could be subsumed into the RCCs.

The report goes on to say that Regional Care Cooperatives are part of a package of measures that will collectively address key issues in the system, including placement shortages and excess profit-making. This package also includes:

- £259 million of capital funding to maintain capacity and expand provision in both secure and open children's homes.
- implementing the Competition and Markets Authority recommendations on:
 - providing national forecasting, procurement, and market shaping support
 - introducing a financial oversight regime
- considering changes to ensure that planning requirements, or local interpretation of them, are not a barrier to the creation of more homes for children.

Regional Care Cooperatives will operate on a larger scale than individual local authorities, giving them increased buying power and allowing them to use tools such as block-purchasing care places for looked after children. They will establish specialist data capabilities to analyse local authority data across the region to get a greater understanding of children's needs and demand across the area. This will enable more effective planning so that sufficient high-quality provision is available to meet that demand.

The Government expects the Regional Care Pathfinders to develop and publish a regional sufficiency strategy setting out current provision and action to fill gaps. This could assist with ensuring that there is enough provision in each region to meet need and reduce the placement of children in Lancashire from the South-East.

EVIDENCE FROM PROVIDERS

Contact was made with a number of children's home providers as part of the Review. Representatives from 7 providers met with the Task and Finish Group and gave oral evidence on the subject. The Senior Commissioning Manager from LCC was present.

Members sought clarification on a number of areas including: provision of care for Fylde / Lancashire children; rationale for providing children's care homes in the borough; education provision; preference for applying for a lawful development certificate (which seeks to demonstrate that there is not a material change of use) as opposed to planning application; relationships with Ofsted; community/ward related issues; the application of the location assessment; comparison with other similar sized family properties; management /staffing levels/skill sets of staff who work in the homes; statistics relating to the large number of Ofsted children's homes in the area that are not taking on local children; matching process; engagement/ relationship with LCC; engagement with residents and stigma/public perception issues.

The Senior Commissioning Manager from LCC indicated that it was LCC's preference that any new homes are set up by good providers that want to work collaboratively to place Lancashire children.

EVIDENCE FROM RESIDENTS

A [call for evidence](#) was issued to hear from members of the community who may be affected by this matter and/ or wish to submit any comments/views. By the closing date of 27 October, 28 submissions had been received. The majority of these were from residents expressing concern over proposals for a new children's home in their area. The concerns included issues such as:

- Shock that providers can submit a lawful development certificate to establish children's homes in a seemingly covert way.
- Questioning why is the council not requiring the provider to submit a planning application and to properly consult with residents?
- That providers are running a business in a residential area and making a lot of money at the expense of local residents.
- Concerns as to the background and motives of some providers.
- Concern that children placed may have highly complex needs resulting in challenging behaviours (vandalism, crime, etc.) impacting on residents.
- The impact that the opening of a new home would have on devaluing nearby residential property values.
- Concerns as to the change in character of the neighbourhood with disruption from more comings and goings of visitors/staff, carers, health professionals with traffic/parking issues, 24/7 etc.

- Children being placed in Fylde from other parts of England, some distance from where they would call home.
- There is an oversupply of these homes within the geographical Lancashire area.
- A distance rule needs to be put in place like at Blackpool Council to control the volume of applications.
- Questions as to whether the council has a plan/policy on the number of children's homes it has/are required in its borough?

In addition, three residents met with the Task and Finish Group and gave oral evidence on the topic.

Two representatives from Kirkham raised the following issues: health and safety; building infrastructure concerns such as unlawful work carried out e.g., 3rd party wall, digging up pipes; foundations exposed and the filling in of the main drains. In addition, matters associated with the impact on the residential development; parking issues; waste and rubbish left in the area; lack of information re change of use; inspection arrangements, accountability; legal challenge; respect for neighbours; impact on local schools; safety concerns and intimidating behaviour by developer.

The representative from St Annes raised evidence from family members regarding activities at a similar operation; the signing off / granting lawful development certificate and undisclosed information relating to a previous application; Notice period given re lawful development certificate; concerns regarding a material change of use; concerns raised by residents at a recent public meeting; lack of consultation undertaken with neighbours by the owner; right of appeal/ judicial review; impact on house prices; visitors to the house; parking of cars on site; security issues; matters raised at the council meeting item on 3 October 2023; children with criminal exploitation/county lines issues; duty of care to home local children; motivation of investors; safety of children; displaced children and matters associated with a letter of complaint sent to the council.

There was also a question lodged by two residents of Glen Eldon Road at the [council meeting on 2 October 2023 \(item 5\)](#) in relation to the establishment of a children's home in the vicinity. They referred to incidents of violence and disruption previously experienced in one of these properties. They sought clarification on the measures the council intends to implement in order to mitigate and address this issue. Councillor Fazackerley, Chairman of the Internal Affairs Scrutiny Committee responded and referred to the scrutiny in-depth review which was underway.

EVIDENCE FROM ELECTED MEMBERS

The following councillors made comments during the Review:

Councillor V. Settle attended the third meeting to address the Task and Finish Group on issues raised by residents in his ward. In doing so, he referred to a recent public meeting held in his ward on the matter. He went on to refer to the role of Ofsted on such matters and the recent Statement made by Rachel Maclean, Minister of State for Housing dated 23 May. He suggested that there was a disjointed approach to the use of residential premises as children's care homes in Fylde. The needs of looked after children in the local area was raised. In addition, he suggested the council develop a planning policy on this so that priority is given to local need.

Councillor R. Redcliffe made the following points: 'Children should be placed in good areas to ensure they get the best support they need. There is often concern generated when a new home is proposed in a neighbourhood but where is the evidence that such facilities have negative impacts or are harmful? It is a cause for concern however that Lancashire is taking more children from out of the area than it has local need for'.

Councillor J. Nixon noted that there were a couple of children's homes in Staining which were operating well with no issues. There was concern however that if there was to be a growth of new homes in the village that this could have a serious impact on the community and the existing homes/children that are there. There should be a restriction on the number/location of new homes in relation to the proximity of existing homes.

Councillor T. Threlfall stated that locating children's homes in communities can be disruptive and cause problems, such as vandalism. He was concerned as to the pressure this puts on public services such as the police.

Councillor K. Buckley made the following comments. 'I am anxious that the Review doesn't just have recommendations for other organisations/bodies to consider but that it includes meaningful things that Fylde Council can do to assist. In this regard I hope the Review would include addressing any gaps in planning policy on the establishment of children's care homes so that Fylde Council can better determine future planning applications against policy'.

FINDINGS AND CONCLUSIONS

Based on the evidence received and considered as part of the scrutiny in-depth review Members expressed the following issues of concern:

1. That there is a significant oversupply in the number of children's homes places in Lancashire to meet local need with there being over 4 times the number of children's home beds in the county than required.
2. Fylde Borough has seen the biggest growth in additional children's homes of any Lancashire Borough (11 new homes between Sept 2022 and Sept 2023).
3. That despite such apparent oversupply LCC Children's Service still has difficulty finding suitable places to accommodate its need within Lancashire.
4. That some of the growth in new care homes in the borough is from providers that have no relationship with Lancashire County Council and do not accommodate Lancashire children. Instead, these providers choose to accommodate children from authorities further away which does not meet local need and artificially increases the fees that LCC Children's Service pays.
5. The challenge is that Lancashire Children's Service needs new homes that will prioritise Lancashire children and need a mechanism that will make sure that providers of new homes do this. Many children placed in residential care have no say where they are placed or located, and some children find themselves far from their familiar surroundings and locations.
6. Ofsted does not have any role in the oversight of provision nationally and regionally to ensure that the registration of new children's homes are established in the right locations to meet local need. Neither does Ofsted have any role in ensuring that children are placed near where they would call home. This is the responsibility of each placing local authority.
7. The majority of new children's homes in Fylde are sought through an application for a lawful development certificate which are not judged against planning policy and do not take the views of the local community into consideration which means the Local Planning Authority (LPA) has no control over the number and distribution of children's homes.
8. Several councils such as Blackpool Council have introduced an advice note to inform and assist applicants seeking planning permission for the development of or the change of use of an existing building to a children's care home, which appears to have had the effect of pushing growth into adjacent boroughs.
9. While the cost of care for the child is paid to the provider by the contracting authority, members noted that no funding is made available to the hosting authorities for any support services. Therefore, the residents of any area hosting more care home places than there are children with need of care, are burdened with funding extra education, healthcare and policing provision for children in care. This in turn can result in longer response times for Fylde residents accessing such services in high demand. This is especially compounded by the fact that children's homes are exempt from Council Tax.
10. The Government is considering changes to legislation to ensure that planning requirements, or local interpretation of them, are not a barrier to the creation of more homes for children. A Written Ministerial Statement was issued in May 2023 which sets out the Government's planning policy position.

11. The Government is proposing to introduce Regional Care Co-operatives, through which local authorities will plan, deliver and commission placements on a regional, collective basis. Initially there will be two pathfinders established in 2024 to learn lessons before being implemented nationally.
12. At present, there appears to be no voluntary accreditation processes in place for private children's residential care homes within a local authority area only through the commissioning arrangements with LCC. Whilst the homes must have statutory procedures in place e.g., Ofsted registration and inspection, the aim of any voluntary accreditation process is to encourage higher standards and continuous improvement.

RECOMMENDATIONS

The Executive Committee of Fylde Council is recommended:

1. to consider the drafting of an advice note to inform and assist applicants, neighbours and other interested parties in the development of, or change of use of an existing building or premises to a children's home, through the seeking of planning permission or lawful development certificate.
2. to investigate and consider ways in which Fylde Council can assist and promote the work of Lancashire County Council Children's Services locally in Fylde.

His Majesty's Government is recommended:

3. to enable the local planning authority to consider and influence the number and location of children's care homes in their area, that His Majesty's Government be requested to amend the Town and Country Planning (Use Classes) Order 1987 (as amended) to introduce a new use class for small scale children's care homes and;
4. notwithstanding recommendation 3 above, to urgently issue national guidance clarifying when planning permission is required in relation to the establishment of children's homes and the circumstances in which it is likely to be granted or refused.
5. to acknowledge the pressure that local public services in Lancashire can face when children are placed some distance from where they would call home and to consider a mechanism as to how such bodies can be recompensed or supported to help cover any additional costs.
6. to consider as part of the roll out of Regional Care Cooperatives providing guidance/powers to Ofsted and placing authorities to ensure that regions such as the North-West and Lancashire are not faced with a disproportionate amount of provision in relation to local need.

Contact: Scrutiny Team- Telephone: (01253) 658504 – Email: scrutiny@fylde.gov.uk

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