National Centre for Excellence in Residential Child Care

CMA report analysis and response to CMA

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Introduction

With this report the CMA has completed the preliminary stage of the work. Much, but not all, of the available information is now in one place. There may still be more to be gathered in regarding commissioning[1].

In reality we are at the point that all previous projects have reached. These previous projects have then completed their task and declined to extend to undertake further analysis appreciating from what they had found that this was going to be a complicated, historical, cultural, political, intense, exhausting, exercise with contending data and views. They withdrew being of the opinion that it was too great a task, and may be an intractable problem, one that cannot be resolved by reason

[11] For example Marie Tucker Mapping fostering arrangements at NCCTC 2021 shows 31 different primary commissioning arrangements for fostering across England, 42 contract arrangements, 24 consortia, 18 LAs contacting on their own.

alone[2]. We may need to prepare ourselves for this being the view that coalesces for the CMA.

Materialistic strategies for cooperation do poorly: altruistic strategies do better. https://ncercc.co.uk/materialistic-strategies-for-cooperation-do-poorly-altruistic-strategies-do-better/

Historical analysis shows we are repeating discussions from previous decades, caught by deep cultural and psychological resonances. Notably these centre around the themes of the costs and outcomes of residential care.

Exploring the relationships between our ethics and our economics in the residential care sector proposals have been repeatedly made that the sector needs to embrace new economic thinking to help shape the sustainable relationships necessary for the future. This thinking often has the focus of a reduction of costs (difficult if there is needs-led costings).

NCERCC has advocated that the rules by which we currently conceive and operate must be changed, creating contracts, agreements, incentives, constitutions, to enable cooperation (instead of competition) for mutual benefit. In this shift of thinking, NCERCC are influenced by the ideas of Nobel Prize winning economist, Elinor Ostrom, and her analysis of Common Pool Resources (CPR).

Materialistic strategies for cooperation tend to do very poorly in the long run while altruistic strategies do better.

Without enforceable agreements 'cooperating' becomes diverted to a market-driven means of keeping prices at a pre-agreed minimum level. Local Authorities want the lowest possible prices, and as the only customers for residential care, are in a position to pressure prices downwards. Independent providers, for all manner of reasons not to be gone into here, look to sustain profits. This route leads to the destruction of the "commons", that is the depletion of a shared resource by individuals, acting independently and rationally according to each one's self-interest, despite their understanding that depleting the common resource is contrary to the group's long-term best interests.

In a CPR approach Ostrom finds that those who feel inclined towards cooperation with their fellows ('conditional co-operators') will tend to increasingly trust others and be trustworthy as the proportion of those in the 'system' who participate and reciprocate increases. In systems where cooperation is seen and experienced as being the most rewarding strategy, a cooperative 'norm' becomes self-reinforcing. Those who look for the more immediate or selfish return ('Rational Egoists'), will consistently receive a lower payoff, since others will not trust them.

[2] The Care Review is seen by many as a project to define the ideological: the prevailing values and beliefs, and the organisational: the way aims and values are enshrined in structures roles, regarding care.

NCERCC analysis contrasts this to a situation where there is work to co-produce a contract, to find the potential partners most likely to cooperate, or agree on 'internalised' rules for punishing 'cheaters', or artificially change the incentive ratios. If we were able to create for ourselves the practical collaborative methods for ensuring every child can get to be cared for in the right place, at the right time, every time, then together we could create an institution for collective action that is 'owned' by, and benefits, all participants.

Issues are identified but as yet there is a lack of engagement through incomplete information.

Issues are not identified and this may be through incomplete information

As the CMA is inconclusive we may anticipate more publications bringing forward information. These will need to be checked for veracity. It is important the CMA work only with assured evidence rather than interpretations.

The data collated by the CMA has been provided[3] or referenced. The new analyses by the CMA has yet to be checked.

Recommendation: Already it is clear that the CMA will need to be able to call upon an independent group of experts, of whom there are few, to provide the essential assistance of sector specific knowledge and expertise[4]. Digging deeper will take many minds and group support for such a mammoth project will be crucial to counter feelings of being overwhelmed by the findings, powerless and inadequate to resolve counterposing data, evidence, experience, interpretation.

Observations and discussion

The CMA has already issued an important caution

5. 26 Report Supporting a resilient placement market

In Section 3 we noted concerns that certain external shocks – such as a change in regulatory or policy approach or sudden tightening of credit conditions - may lead to unforeseen and substantial market exit, significantly increasing the difficulties local authorities face in finding places for children in their care, particularly in children's homes.

5.41 Report '…without addressing the drivers of this under-supply, price and profit caps risk reducing incentives to bring new capacity to an already underserved market. This would be a poor outcome for children.'

[3] The report has an observable imbalance towards local and national government stance and statements. From reading the submissions (see case page) this asymmetry may have occurred through the responses from providers and their organisations often being descriptive, anecdotal or promotional, rather than providing analysis.

[4] For example, the experience at an individual level rather than through an organisational lens is provided in the very detailed 'lay' response to the ITC combining knowledge and experience to be found in Individual response 2 [Individual response summary (publishing.service.gov.uk)] This is required reading.

There are aspects that make this market very specific.

The CMA have situated their report in the context of how they think all markets[5] work and drawing from what they see as relevant previous work.

Knowing the specificity of the Residential Child Care (RCC) market the CMA statement in paragraph 10 of the report is seen to contain a number of value judgements. For example, in observing that there are '*significant and persistent economic profits' … 'there is evidence that some prices and profits in the sector are above the levels we would expect in a well-functioning market'*.

We need to understand the profits relevant to this specific market as there appears to be no current substitute.

Paragraph 34 in the report is significant in outlining the CMA perspective being taken. '*Although at this stage we share concerns that prices and profits for the large providers we have analysed appear higher than we would expect in a well-functioning market, we believe that this is fundamentally a symptom of the underlying problem of insufficient supply of appropriate placements and the difficulties faced by local authorities in engaging effectively in this market*'.

This paragraph contains the crux of the entire report as it continues, '*If this market were functioning well, we would not expect to see under-supply and elevated prices and profits persisting over time. Instead, we would expect existing and new providers to create more places to meet the demand from local authorities, which would then drive down prices and profits* (NCERCC adds - not necessarily if the current fees are costings for needs-led provision). *The fact that this does not appear to be happening suggests that there must be factors that are acting to deter new provision'.*

Whilst this potentially provides the CMA with good insight into the task that they cite their previous work eg care homes, private healthcare and regulated monopolies is troubling as they are not analogous to this sector and provide potential to skew CMA thinking.

This, and the value judgement operating, is represented in paragraph 11 *'Identifying and addressing these factors should lead to a better functioning market, offering more places that better match the needs of looked-after children at reduced cost to local authorities. Our primary focus has been on doing this'.*

Question for the CMA

- What were the others that were discarded?

A further caution is issued: matching the needs of children and reducing cost may be divergent aims.

The CMA issue a major caution in paragraph 35 '*Any moves to restrict prices and profits before we have addressed the supply problem would not address the supply problem and would be very difficult to apply where the needs of children (and the*

[5] Whether it is a market or monopsony has yet to be considered by the CMA

costs of meeting them) is so varied. While this could reduce the prices paid by local authorities for independent provision in the short term, this may be at the cost of further reducing the range of placements available for children and/or creating other cost pressures for local authorities as they had to make greater in-house provision to fill the gap.'

The responses to and commentaries of the report read to date have omitted to acknowledge this caution, if anything the rhetoric has been increased without a plan to mitigate or avoid the effects of such measures.

The CMA return to this caution in diverse ways several times throughout and it is necessary for policy and practice designers and directors to take heed.

This reduction in price was the major plank of the lead of the Care Review at the ICHA meeting and was well reported.

It is to be feared that the well-founded caution of the CMA is being unheard. Precipitous actions could lead to the very situation the CMA are warning against.

Regional arrangements and the 'most appropriate placement'

Sector specific knowledge and expertise is essential for the next phase of working.

The current recommendations appear to suggest that this was not sought eg developing regional commissioning when it already exists and a critique of it as it is now has been made known for many years as ineffective, inefficient and dysfunctional.

Paragraph 16 seems to be edging towards the return of regional planning that was abruptly ceased on the introduction of commissioning. NCERCC has written extensively about the need for a needs-analysis providing projected demand figures in granular form and the potential for common pool resourcing as a way forward in the short-term. [6] [7] [8]

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[6] See also 4.29 Report '*must be able to accurately forecast their future needs, understanding both the overall number of children they are likely to need to place and the mix of different types of provision they are likely to need to meet the particular needs of all the individual children within that group'*).

[7] The LAs report that they face challenges but as reported by the CMA these are no different than for independent providers. See 4.30 Report '*Many local authorities and large providers in England highlighted that accurate forecasting of future demand is challenging. Reasons given included: that demand is inherently uncertain (for example, the needs of individual children change over time as well as the trends in need of children in care overall), external pressures (such as local events, budget/service cuts, changes in staff, change in practices) which are hard to account for let alone predict, and the accuracy of data recorded with regards to unplanned/emergency placements'*. See also 4.32 '*Most local authorities in England who responded to our request for information explained that they do not attempt to undertake complex forecasting analysis beyond that required as part of their sufficiency duties'*.

[8] 5.9 Report (d) '… prioritisation between children in need of the same scarce placement is more likely to be able to be managed in a coordinated way, rather than through competition between different authorities in the market. 5.11 We have also heard concerns that a lack of access to suitably fine-grained data is limiting the ability of market participants to understand the profile of needs in the market, and how well it is being met by

This would ensure the most appropriate placement is able to be made, the principle of the Children Act, the right place for the right child at the right time. Such identification brings the requirement for investment in the multi-professional workforce needed to meet the needs, we do not have the numbers or the expertise currently.

It is not incentive to create new provision but first the identification of what it takes to create it. If we are in the job of raising children then first we must raise parents.

However paragraph 19 removes that hope, '*To address these persistent concerns about the inherent constraints that local authorities face in delivering effective forecasting, market shaping and procurement approaches, we are exploring potential recommendations around the need for larger-scale national or regional bodies with a remit to help ensure that children are able to access the right placements for them. There are a range of options to consider. At one end of the scale, these bodies could act as a support function for local authorities to carry out their own market-facing activities and collaborate with each other. At the other, the bodies could take on the responsibility for delivering placement sufficiency across their geographical remit, or even placing the children themselves, with associated budget. Similarly, local authority engagement with collaborative approaches run by these regional bodies could be voluntary or mandatory*'.

There are not 'inherent constraints'. This is to adopt a naturalistic view. There are cultural, political, economic and organisational and as such as created by humans, subject to action to alter the conditions.

The presentation of the inability of LAs overly represents LA views and in reality the failure to work together has nothing to do with governance making it hard. There is no reason in law and governance not to work together. There are numerous consortia. The reasons for Local Government not being good at cross authority working, with some exceptions, should be analysed and challenged rather than accepted.

High level complex needs – specialist not generalist

Is Paragraph 20 the CMA walking away from the knotty issue of local, regional and national provision? It may be that, *'These concerns are best assessed by other policymakers, regulators and stakeholders'*. It is indeed '*important that we (CMA) understand these concerns as we shape our recommendations.'*

An important factor, as NCERCC has shown over decades, is the need for a system that provides 'As local as possible as specialist as necessary', and this comes through the requirement for planning for high level complex needs to be specific and not subsumed into generalist needs.

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current provision. See also NCERCC Materialistic strategies for cooperation do poorly: altruistic strategies do better.

Local, regional, national

There are needs that require regional and national resourcing for safety and specialism, not every need can be met locally, and no LA can meet all of its needs itself.

Are big regional frameworks consistent with local working and placement needs?

Has anyone researched and analysed this recently[9].

Regulation now seeking accommodation to a dysfunction system?

'Clearly, appropriate regulatory standards must be maintained' (paragraph 22) must be heard loudly through Westminster corridors at a time when Ofsted are reducing registration requirements, a very concerning development seeking accommodation to the dysfunctional system the CMA identify rather than addressing the symptoms of the underlying chronic faults in the system. This has not been given Parliamentary scrutiny or made open for public consultation.

Unfortunately paragraph 23 immediately undermines any progressive stance, 'Our concern is not that regulatory standards are too high'. The words that follow have been uttered almost exactly recently by government and its agencies as justifications for exemptions to regulation, '*The overall regulatory framework has been in place for more than twenty years, during which time the market has changed very significantly*'. What is the evidence base for this assertion? The number of children now requiring placements, and the complexity of the needs of those children, may have increased significantly, as has the extent to which independent provision is playing a part in meeting those needs. What has caused this may be the diminution of early intervention as shows in the work of Hood, Bywaters and Webb regarding scarcity and rationing. The solution is not therefore reform of the '*some aspects of regulation (that) have become outdated and inappropriate to the market as it currently exists'*.

It may prove dangerous to pursue such reforms to regulations without forensic research.

It may be the solutions exist outside of regulation and in funding for services (see Blackpool as an example).

Reducing regulation does not necessarily lead to increased specialism.

The CMA do not consider it has the remit to *consider 'potential recommendations around the reviewing of existing regulations that apply to providers of children's social care placements*'. The CMA cede the responsibility to others.

However the direction by the government is such that the CMA would be cited as a supporter of reduction in the current reduction in safeguards besetting the care of

[9] There was DfE research regarding SEN safety, specialism and choice

children, including the removal of the expectation of care in new standards for previously unregulated settings.

Paragraph 25 raises the concerns of a range of barriers, staffing, recruitment, retention, property acquisition and planning processes that may be restricting the ability of providers to provide more placements where they are needed. '*Policy approaches to the delivery of local children's services and a lack of funds, or uncertainty about funding levels, may also be creating barriers to additional local authority provision'*. The CMA did not state the lack of support by government for care that make '*particular aspects of the children's social care system… especially problematic for the placements market'*. Presumably this will follow in the later stages. With specific regard to recruitment and retention it should be noted that no government minister for children has ever initiated a RCC recruitment drive as has been done for fostering or adoption or social work/teaching.

Useful explanations by the CMA

Essential reading

Paragraph 13 Different ways of financing property for social care provision

Paragraph 21 Risk

Risk can also arise from policy uncertainties specific to the sector. If investors consider that the risks of investing in children's social care are high, they will seek higher returns. Where expected returns from new investment are below the level required to compensate investors for risk, they may not invest in the sector. Where these returns are high relative to the risk, we should see more significant investment activity by existing providers and new entrants

Necessary reading

Economic (surplus) profitability Paragraphs 16-19

Where a provider generates an economic profit, investors also have the financial incentives to build new capacity and undertake CAPEX in existing residential accommodation and fostering agencies. Moreover, investors owning existing capacity are less incentivised to exit the market as the alternative use of the asset might not offer a higher return

Asymmetric information worries regarding the CMA and regulation capture

Asymmetric information occurs where the regulator may rely on information coming from a source e.g. information about prices, costs, levels of investment.

Regulatory capture is a form of government failure where those bodies regulating industries become sympathetic to the businesses they are supposed to be regulating. Here there are examples that the CMA is not applying analysis to LAs as market shapers by action or inaction or addressing LAs as the demand factor in the market or addressing the effects of the operating as a monopsony. There are grounds for seeing the regional and national aggregation and advocacy as examples of these.

The worries are exemplified in the following paragraphs, though there are other examples throughout

3.72 *We are interested in receiving any evidence of the specific impact of private equity as distinct from the wider group of private providers, in the areas set out above or other concerns*

4.4 *We have heard from local authorities that "the market is led by the providers and there is little competition in offers and little incentive to negotiate the initial price" and "it is very much a provider-led market and we can find ourselves at the behest of providers, particularly for more niche placements."*

Section two

What did the CMA find?

Finding	**Location Paragraph**	**Comment**	**Further**
7. The quality and appropriateness of the placements which children receive is extremely important to their experience of care and future outcomes. Regulators assess most residential placements and fostering services as being of good quality, and where they are not there is pressure for this provision to improve or leave the market. We do not see significant differences in assessed quality between local authority and independent provision	7 report	Reiterated 27 Report … we have not at this stage seen any evidence of significant variations in quality between independent and local authority provision as evidenced by inspection outcomes	32 Report … concerns that the involvement of private equity is driving up prices, driving down quality and decreasing resilience in the sector. In terms of prices and quality (as measured 13 by inspection ratings) outcomes from private equity-owned provision do not appear any worse than those of independent provision in general.
… the placements market is functioning, we have concerns that it is contributing to poor outcomes for children and local authorities Sufficiency distance, access to therapy, separation form siblings	9 report	NCERCC research reviews re distance and felt security address issues of distance as providing safety, specialism (access) and choice. (See NCERCC website)	
In any market, buyers and sellers must be able to interact effectively to generate positive outcomes. For buyers, they must be able to effectively signal their likely demand, now and in the future, and purchase the product or service that best fits their needs from those	12 Report		

available. For sellers, they must be able to recognise and respond to buyers' needs, adjusting the amount and type of the product or service they supply to meet these. Our view is that the placements market, as currently constituted, inhibits the effectiveness of both of these functions: local authority engagement in the market is not as effective as it could be and there are barriers to new supply being brought to the market.			
There is clear variation in the extent to which local authorities act to encourage sufficient provision to meet the future needs of children in their care, suggesting that spreading best practice, resource and expertise could lead to some benefits.		It is not clear what is meant by the following, However, our current view is that there are intrinsic limitations to the extent at which these functions can be effectively carried out at local authority level. This is not addressed in the current a) and b) provided by the CMA	
Local authority operating costs have been approximately 26.4% higher, on average, than the equivalent for the large private providers using identical definitions to gather the cost data	6 Appendix	The CMA asked local authorities and private providers to submit operating costs with identical definitions to ensure completeness and accuracy of the data This is the 3rd report to provide this finding following PSSRU, NCERCC/Revolution Consulting 3.58 Report Our financial analysis (see Appendix A) found that for children's homes, local authorities' operating costs were in aggregate approximately the same per child as the fees paid to large providers. However, the fees local authorities pay are higher than private providers' operating costs as they also cover capital costs and profit. We found local authority operating costs have been approximately 26% higher, on average between 2016 and 2020, than the equivalent for the large private providers whose accounts we have examined. It therefore	CMA will examine acuity of care, quality or other factors. One of these other factors is often lower pay, terms and conditions for RCCWs in the independent sector.

		appears that the amount paid for a place in the private sector, even allowing for profits, is not obviously higher than that paid by a local authority to provide an in-house place 3.60 Report (a) The different roles played (which are discussed above) mean one would expect private providers to have some higher cost elements than in-house provision. Meeting more complex needs (which is generally the case for placements in independent provision) is likely to involve higher costs, for example in terms of greater or more specialised staffing in children's homes or more expensive support of foster carers. Further, as local authorities prioritise filling their own provision, they are less exposed to the risk of under-utilisation of capacity and so are likely to face lower costs per child.	
3.25 Report For children's homes, prices increased steadily across the period, from an average weekly price of £2,977 in 2016 to £3,830 in 2020, an average annual increase of 5.2% compared to average annual price inflation of 1.7% over that period.		Price inflation is an insufficient perspective to be taking. There are sector specific cost increases as additions to the ability to provide care to be included eg insurance, pensions. This is acknowledged in 3.26 and led the CMA to look at operating profit (see comment below and Figure 3 in Appendix). Economic profitability is addressed in 3.31 with a preliminary estimate being 11.1% for children's homes for the period from 2016 to 2020. In 3.32 it is stated that 'at this stage we consider it unlikely that this level is as high as our estimate of the return on capital employed among this set of providers'. This is a significant and unreported, by anyone, finding.	5.36 report it is not clear that more local authority provision of children's homes would necessarily result in significant cost savings for them, because we have seen that on average local authority costs (to deliver a comparable quality of care) appear to be higher than private providers' costs for children's homes. 5.37 Report eliminating for-profit provision would risk reducing supply as local authorities and voluntary providers, who may not have access to capital to create new provision, may not be able to fill the gap left by reducing

			reliance on for-profit provision within an acceptable timetable.
For children's homes across England, Scotland and Wales, we have provisionally found that the prices charged to local authorities for private children's homes placements are typically not higher than the cost of providing placements in-house. We note that these figures do not take into account the level of needs of the children and we understand the children placed in independent homes tend, on average, to have more complex needs. Larger independent providers are able to earn significant profits because their operating costs are lower than those of local authorities. This difference appears to be primarily driven by staffing costs, both higher numbers of staff per child and higher cost per staff member.	29 Report	Significant Larger independent providers are able to earn significant profits because their operating costs are lower than those of local authorities. This difference appears to be primarily driven by staffing costs, both higher numbers of staff per child and higher cost per staff member	Significant 31 Report These findings suggest that there are unlikely to be operational cost savings available to local authorities directly through a shift towards much more in-house provision of children's homes.
The average equipment, fixtures and fittings for a new home costs £13,335 per child	34 Appendix		
Some providers have very high debt levels	42 Appendix		At this stage, CMA have not included a risk capital balance in capital employed.
Figure 3 indicates that aggregate revenue increased by 17% on average between FY 2016 and 2020. This increase reflects a 16.9% operating cost increase, 17.2% operating profit increase, 5.2% above-inflation fee increases (Figure 11), and the impact of acquisitions. The operating profit margin (%) has largely remained flat at an average of 22.6% between FY 2016 and FY	58 Appendix	This study looks exclusively at the largest providers. Sector specific knowledge suggests there is a difference with other providers.	

2020 and is forecast to do so in FY 2021			
PE v non-PE PE Figure 4 illustrates that aggregate revenue increased by 17.4% on average between FY 2016 and 2020. It reflects a 16.8% operating cost increase, 5.8% above-inflation fee increase (Figure 12), 19.2% operating profit increase, and the impact of acquisitions. The operating profit margin (%) rose by 1.7% and averaged 21.3% between FY 2016 and 2020. As a result, operating profits started accounting for a greater proportion of the revenue. Non- PE Figure 5 illustrates that aggregate revenue increased by 16.7% on average between FY 2016 and 2020. It reflects a 17.0% operating cost increase, 4.7% above-inflation fee increase (Figure 12), 15.7% operating profit increase, and the impact of acquisitions. The operating profit margin (%) decreased by 1.0% and averaged 23.7% between FY 2016 and 2020. As a result, operating profits started accounting for a lower proportion of the revenue during the review period.		Is this a valid distinction? And, if so, how to account for variety of small providers where the variance is pronounced?)	
Figure 11 demonstrates that: (a) the average fee per child increased year-on-year from £154,830 in FY 2016 to £199,186 in FY 2020, representing an annual growth rate of 5.2%.	79		
Figure 12 shows that on average between FY 2016 and FY 2020: (a) the average fee increased by 5.8% for PE-owned providers	81		

and by 4.7% for non-PE-owned providers. (b) PE-owned providers' average fee per child was approximately 3.9% higher between FY 2016 and FY 2020. (c) local authority operating costs have been about 21.1% and 29.7% higher, on average, between FY 2016 and 2020 than the equivalent for PE owned and non-PE-owned providers, respectively.			
Figure 17 shows that the debt levels of PE-owned providers have increased at a faster rate than for non-PE-owned providers. Acquisitions by PE-owned providers and new debt issuances may explain this rise	97	'Figure 18 shows that the debt levels have increased in line with rising revenues, reported fixed assets and notional property values. Debt increased by 30.9% on average between FY 2016 and 2021, compared to 18.3% for revenues and 20.7% for fixed assets. Also, total debt exceeded reported fixed assets from FY 2018 and notional property values from FY 2017. It suggests that there may be limited headroom for all debt holders to recover their outstanding debt (principle amount and interest due) in insolvency. It indicates that the large providers are carrying more debt than can be secured by the underlying assets' If only buildings and people are taken into account then this will always likely to be the case However, assets do not equate to value	
Figure 19 shows that the PE-owned providers' debt levels: (a) increased faster than that for non-PE providers and faster than PE-owned providers' revenue growth between FY 2016 and FY 2021. (b) are significantly higher than the PE-owned providers' reported fixed assets and notional property values.	101	See above	33 Report … evidence of particularly high and increasing levels of debt being carried by private equity-owned firms, which may leave them vulnerable to having to unexpectedly exit the market in the event of tightening credit conditions … the risk of unexpected disorderly exit as the credit conditions faced by highly-leveraged

			companies change, is one that needs to be taken seriously. To address this, we are considering recommendations focused on measures that would reduce the risk of unexpected disorderly exit (such as a financial oversight regime with clear limits on leverage and financial risk-taking) and mitigate its effects (such as step-in provisions for alternative providers).
3.46 and 3.47		Do not take into account need for re-registration	
Financial leverage, debt serviceability and solvency 103 most of the metrics are within range of the benchmark. However, cash flow generation to service debt obligations appears below this benchmark (in red). 105 Table 6 shows that PE-owned providers have had significantly worse financial leverage, debt serviceability, and solvency indicators than non-PE providers and also compared to the benchmark (in red).		This finding is dependent on the methodology used by the CMA	

Rethink by CMA necessary

Subject	Location	NCERCC observation	CMA future
Rate of return	22 and 24-26 Appendix	CMA used previous work for sectors they see as comparable. Care homes, private healthcare and regulated monopolies are not equivalent sectors. The ways the risks are described is not a read across.	The CMA intend to use a real return on capital employed and seek views from stakeholders on the appropriate rate and how we should assess this.
Asset valuation … ‘in principle, be the market value of those assets. Market values reflect the sale price	24	CMA say ‘The alternative use of property could be the redevelopment of that property	

of those assets as an alternative to using those assets for their current purpose.		into residential or commercial real estate' NCERCC comment. The alternative is no provision. (The same could be said, for example, re operating theatres in hospitals). It is the function that makes the value. The CMA appears to have not included function and value for society.	
Property valuation methodology should be similar to the standard practice chartered surveyors use to value similar houses in the real estate industry. This method should exclude any valuation premium attached to a property that had received planning permission to operate as a children's home. This approach is likely to overestimate the property market values on several counts	26, 27, 30	The CMA have used a narrow definition of value. The cost of a commercial business includes opportunity, good will and other factors	
Our calculation of property prices is likely to increase the capital employed and capital cost figure and reduce the level of economic profit, presenting a lower bound of economic profitability in the sector.	32	Important reading	
Profit margin analysis	43, 44	44… three reasons why high absolute levels of profit margins in a sector or of a provider might persist compared to similar businesses = intellectual property, training, risk. These are important in RCC.	43. … we need to consider not only whether margins are high in absolute terms but also whether they are high compared to margins earned by similar companies in other sectors.
(Fostering = asset-light business with minimal depreciation, amortisation, and property costs)	47	Might it not be useful to ask these companies why they are not involved in providing care? What are equivalents of RCC? Maybe Level 4 psychiatric care, invasive surgery, care of traumatic and physical injury, nuclear power, floods? The	EBITM 47… we intend to compare our results to comparable listed companies. We would welcome views on the appropriate (listed) companies we should

		magnitude of the event and the effects must be central.	use to compare to the fostering agencies. Examples given Capita, Mitie, Serco
Local authorities face challenges procuring the best placements for their looked after children. In some respects, their position is inherently weak as they must make sure a placement is provided for every child, often under considerable time pressure. This difficulty is made worse by the ongoing under-supply of appropriate placements, meaning that local authorities may end up paying a lot of money for places which are not ideal matches for the children they are placing.		Why does the CMA see the LA position as 'inherently weak?' Others see it as incredibly strong in its creation of a monopsony. What has led to the undersupply? 'A lot of money' is to perhaps take a pejorative view? The CMA state that LA homes cost more. The CMA need to distinguish between intensive and expensive. The focus on matching may account to the current 1/3rd under occupancy in regulated independent children's homes (as at 27 10 21). That the needs are beyond safe care of current RCC placements, as attested in current judicial cases conclusions, means that the unregulated placements are sought as pressure purchases under 'imperative necessity'.	
One key strategy that local authorities can adopt to strengthen their position as buyers is to try to move away from purchasing each placement completely separately, instead linking them, for instance by using block contracts or procurement frameworks, or by seeking bulk purchasing discounts. However, the extent to which local authorities are able to employ these approaches effectively is limited by the small scale on which they are operating. Smaller numbers make it less attractive for providers to limit themselves in these ways	14 Report	The numerous block purchase projects that have foundered must have been made know to the CMA? Similarly the ineffectiveness and inefficiency of procurement frameworks leading to the use spot purchasing. It is not the small numbers that limit the providers. A case study is needed.	

Omissions

Subject	**Location**	**NCERCC observation**	**CMA future**
Recruitment for RCC Comment re fostering	35		

'We recognise that in some cases, this will be a sizeable cost'.			
It is not a market analysis as it only looks at one aspect of supply (independent providers) and omits demand completely.		Such information is important especially as RCC is not one market but many niche markets and understanding how each works in itself and the interplay is necessary. Such information may need to be created through analysis of placement referrals.	
There is no consideration of the interplay between LA and other sector provision.		It may that the CMA chose to limit scope Avoiding this is to miss an essential aspect. There are differing cohorts of needs that must be identified as they are material to costs, risk and other matters being addressed	
How frameworks influence and create a spot market.		This is a big weakness. Frameworks exist to reduce cost of fees. They create the spot market. Providers are not unwilling to sign up to long term arrangements but that they will not do so on uneconomic adverse contract terms, and if the procurement process poor that they get no value from bidding. The current frameworks do not allow providers to invest. Not all providers are on all frameworks, some sign up to some, some to none, some are on frameworks but only take spot purchase placements. A national DPS with agreed fair terms and conditions may provide a useful approach but has been avoided by all sides for over a decade.	4.42 These included: the lack of willingness of providers to sign up to long-term contracting arrangements; differences in local authority governance limiting their ability to operate jointly; and the role of geographical boundaries (with local authorities wanting to keep children within their local area wherever possible). Local authority funding arrangements also seem likely to prevent local authorities from collaborating with providers in expanding capacity, the short-term nature and lack of available funding limiting their ability to make significant investments for the future

Smaller markets of some large providers, not all do everything.			
Some small markets and differential revenues (or how price is calculated).			