

# New mandatory quality standards for providers of supported accommodation

## Consultation response

### Background

We have already consulted extensively on our proposed quality standards. These will be mandatory for all providers to follow, and Ofsted will hold providers to account so that the quality of support and accommodation across supported accommodation is consistently good and action can be taken where it is not as good as we expect it to be.

In May 2021, we consulted on a suite of four standards to be introduced against which Ofsted will regulate supported accommodation. These are:

- The leadership and management standard.
- The protection standard.
- The accommodation standard.
- The support standard.

We are confident that these four standards are the right ones. We have amended the quality standards in response to feedback from over 77 care experienced young people and 219 individuals and organisations, including existing providers, local authorities and other interested stakeholders.

Each quality standard contains an over-arching, aspirational, outcome statement with young people at its heart, followed by a set of underpinning, measurable requirements that providers and settings must achieve in meeting each quality standard. We have embedded this in the proposed “Guide to supported accommodation regulations including quality standards” (the ‘Guidance’) which sets out more extensive guidance for providers and local authorities on how we expect the quality standards to be delivered in practice.

Through this consultation, we are seeking views on the quality standards and supporting guidance to be published alongside the regulations. This section of the

consultation should therefore be read alongside the guidance which contains the quality standards.

## Summary

## The guidance

Providers of supported accommodation will be required to meet the Quality Standards and other requirements outlined in the regulations, all of which the Guidance is intended to support providers achieve. Ofsted will take quality standards and regulation into account when regulating and inspecting supported accommodation and, where necessary, will be able to take enforcement action to ensure that providers meet the standards. Further information on how Ofsted will hold providers to account is set out later in this consultation document.

The Guidance is a statement published pursuant to section 23 of the Care Standards Act 2000. It outlines the Quality Standards and supplements the regulations with additional advice on what providers will need to do to ensure compliance. Providers of supported accommodation must have regard to the Guidance in interpreting and meeting the regulations and Ofsted must have regard to the Guidance in regulating providers.

The draft Guidance is set out at Annex A. The latest version of the Quality Standards is displayed in blue boxes in the Guidance, which is set out in thematic chapters according to each standard.

## The quality standards

Please refer to the draft quality standards contained in the accompanying 'Guide to Supported Accommodation Regulations including Quality Standards' when responding to these questions.

## Questions

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

As a general rule, the number and detail of changes proposed in these standards and the short time available for implementation is likely to be very onerous for providers as they are all new and will all be expected to be implemented at the same time. Small providers in particular may struggle to implement everything that is needed within the timescales available. We suggest a proportionate approach that focuses on ensuring minimal standards of service and the essentials for protecting young people as a start, and a grace period where there is evidence that the standards are being worked towards. Staff recruitment and gaining qualifications will take time, so a grace period will be required (see also specific

responses on the challenges of staff recruitment in a tight market with limited commissioned funding). Providers embrace the need for accountability and regulation but there is a need for more time to work through the practicalities of implementation. In some cases, it will only be occasional that 16 or 17-year olds live in providers' schemes, and in some cases that will be shortly before the young person turns 18, so there needs to be a recognition that the standards should be proportionate to the level of protection actually required if the service is to remain financially viable. Otherwise schemes may be forced to refuse these types of placements. We are concerned about the lack of preparation time for local authorities alongside providers, and the (funding) pressures already burdening local authorities. Providers could also be subject to multiple standards, including commissioning standards, Ofsted standards and the Regulator of Social Housing (RSH) standards, existing DLUHC National Statement of Expectations for Supported Housing, and the proposed regime within the Supported Housing Regulatory Oversight Bill). The Ofsted standards should reflect the fact that some providers are already regulated elsewhere and are meeting commissioning standards. Being accountable under several regimes to meet slightly different requirements is a big administrative burden, taking resources away from customer-facing work. The systems should work together as far as possible. There's a risk there that instead well-run services will be lost and local authorities will have to place more young people elsewhere. Perhaps there could be some passporting of RSH-registered Providers so that areas RSH has considered do not need to be re-examined by Ofsted to become an Ofsted-registered Provider.

It would be useful to have multiple registered service managers for larger providers. We acknowledge the advice that some large services that operate nationally may consider registering their services by geography as distinct registered providers to ensure the registered service manager can have effective oversight of all the settings, ensuring compliance with the Regulations and quality standards. This would of course entail extra cost to providers and would need to be covered by the commissioned funding/in the business plan or the rent for the accommodation. If these costs are not covered and only one registered service manager can be appointed to cover areas where there are a large number of service users, this could lead to challenges for large providers, leading to an artificially created divide between large and small providers.

It is unclear who should register as a provider – it is understood that the intention was the local authority in most cases but the way the guidance is worded is that many support providers will need to register. Currently it is unclear what the requirements are for the accommodation and/or support

provider (who may be two separate organisations). We recommend that the organisation with whom the resident has the agreement to live in the property should be the registered provider (not necessarily the property owner). There are instances for example where the accommodation is managed by a managing agent on behalf of the landlord, or where a property is leased from a head landlord.

There is an indication of which specific qualifications are needed for registered service managers (a management qualification equivalent to Level 5) and how much experience they need (having worked for at least one year in a role requiring the supervision and management of staff working in youth services) but there is no guidance on the specific skills/experience/qualification of leadership staff/other staff. Guidance on this would be helpful. The training required will represent an extra cost. Existing staff may need to be retrained. A grace period before complete implementation would help this to happen. The time allowed (April – October) is unrealistic.

It is very challenging to recruit and retain staff in supported housing given the lack of commissioned funding and therefore the ability of providers to pay staff a wage commensurate with their responsibilities, which leads to staff being lost to sectors such as retail and hospitality that can pay higher wages for less responsibility. This will be especially true if additional qualifications are required but pay cannot reflect this increase in qualification level. This will have an impact on the ability to meet the standards of “having enough suitably trained staff” and “the registered person must demonstrate every effort to achieve continuity of staffing”, which may be determined by funding rather than effort on behalf of the provider. There is also a risk of having to dismiss/demote/redeploy experienced staff who do not meet inflexible requirements.

The onus is on the provider to hire staff to maintain the property but many operate as managing agents so there is a potential split in ownership and a need for inspection/transition periods to recognise this. Otherwise or else there is a risk that buildings will be lost to services for 16 – 17 year olds.

Under the definitions it needs to be clear that this doesn't apply to accommodation without support provided to relevant young people, such as if a 17-year-old is provided with a flat without support, or without support that is directly linked to the accommodation. It would be untenable to have a position where they move in to unregistered accommodation without a need for support, and then after a crisis providers can't provide emergency support because it would be unlawful to do so.

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

As a general rule, the number and detail of changes proposed in these standards and the short time available for implementation is likely to be very onerous for providers as they are all new and will all be expected to be implemented at the same time. Small providers in particular may struggle to implement everything that is needed within the timescales available. We suggest a proportionate approach that focuses on ensuring minimal standards of service and the essentials for protecting young people as a start, and a grace period where there is evidence that the standards are being worked towards. Staff recruitment and gaining qualifications will take time, so a grace period will be required (see also specific responses on the challenges of staff recruitment in a tight market with limited commissioned funding).

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less responsibility. This will be especially true if additional qualifications are required but pay cannot reflect this increase in qualification level. The increased responsibilities on staff and potential increase in staffing levels will need to be reflected in pay awards or it will be difficult to recruit and retain staff and meet the requirements in the protection standard. There is also a risk of having to dismiss/demote/redeploy experienced staff who do not meet inflexible requirements.

Under the definitions it needs to be clear that this doesn't apply to accommodation without support provided to relevant young people, such as if a 17-year-old is provided with a flat without support, or without support that is directly linked to the accommodation. It would be untenable to have a position where they move in to unregistered accommodation without a need for support, and then after a crisis providers can't provide emergency support because it would be unlawful to do so.

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

As a general rule, the number and detail of changes proposed in these standards and the short time available for implementation is likely to be very onerous for providers as they are all new and will all be expected to be implemented at the same time. Small providers in particular may struggle to implement everything that is needed within the timescales available. We suggest a proportionate approach that focuses on ensuring minimal standards of service and the essentials for protecting young people as a start, and a grace period where there is evidence that the standards are being worked towards. Staff recruitment and gaining qualifications will take time, so a grace period will be required (see also specific responses on the challenges of staff recruitment in a tight market with limited commissioned funding). Providers embrace the need for accountability and regulation but there is a need for more time to work through the practicalities of implementation. In some cases, it will only be occasional that 16 or 17-year olds live in providers' schemes, and in some cases that will be shortly before the young person turns 18, so there needs to be a recognition that the standards should be proportionate to the level of protection actually required if the service is to remain financially viable. Otherwise schemes may be forced to refuse these types of placements. We are concerned about the lack of preparation time for local authorities alongside providers and the (funding) pressures already burdening local authorities. Providers could also be subject to multiple standards, including commissioning standards, Ofsted standards and the Regulator of Social Housing (RSH) standards, existing DLUHC National Statement of Expectations for Supported Housing, and the proposed regime within the Supported Housing Regulatory Oversight Bill). The Ofsted



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The onus is on the provider to hire staff to maintain the property but many operate as managing agents so there is a potential split in ownership and a need for inspection/transition periods to recognise this. Otherwise or else there is a risk that buildings will be lost to services for 16 – 17 year olds.

Meeting the requirement to “(b) ensure that the premises used for the purposes of supported accommodation— (i) provide stability and consistency of accommodation for children;” will be dependent on commissioning arrangements: if commissioning is short term, this will have a negative impact on the stability and consistency of accommodation for the children. Length of commissioning arrangements is outside the accommodation provider's control and depends on local authority decisions and funding arrangements from central government.

As regards the requirement that “Young people should have a separate, spacious bedroom”, it is not clear what is meant by “spacious”. Which space standards are to be applied?

As the accommodation will be the young person's own home, it would be preferable if they could be supported to choose and buy their own items like bedding, towels, personal hygiene products and kitchen equipment, rather than being issued with them. Otherwise the service resembles residential care rather than supported housing, which is the person's own tenancy.

The requirement to “[review] the appropriateness and suitability of the location of the premises used for the purposes of supported accommodation at least once in each calendar year” could be in conflict with commissioning cycles. If a service has been commissioned for three years, it is not feasible to review the location each year. It is preferable to have long-term commissioning arrangements to ensure stability for residents and providers who can commit to providing accommodation when there is long-term security of funding.



Requiring that premises be “designed and furnished so as to meet the needs of each child individually” will not be possible as the accommodation will have to be built or refurbished before young people move in. As the accommodation will be the young person’s own home, it would be preferable if they could be supported to choose and buy their own furniture items rather than it being prescribed for them.

Under the definitions it needs to be clear that this doesn’t apply to accommodation without support provided to relevant young people, such as if a 17-year-old is provided with a flat without support, or without support that is directly linked to the accommodation. It would be untenable to have a position where they move in to unregistered accommodation without a need for support, and then after a crisis providers can’t provide emergency support because it would be unlawful to do so.

## **To what extent do you agree with the proposed ‘Support Standard’ and supporting guidance?**

As a general rule, the number and detail of changes proposed in these standards and the short time available for implementation is likely to be very onerous for providers as they are all new and will all be expected to be implemented at the same time. Small providers in particular may struggle to implement everything that is needed within the timescales available. We suggest a proportionate approach that focuses on ensuring minimal standards of service and the essentials for protecting young people as a start, and a grace period where there is evidence that the standards are being worked towards. Staff recruitment and gaining qualifications will take time, so a grace period will be required (see also specific responses on the challenges of staff recruitment in a tight market with limited commissioned funding).

Providers embrace the need for accountability and regulation but there is a need for more time to work through the practicalities of implementation. In some cases, it will only be occasional that 16 or 17-year olds live in providers’ schemes, and in some cases that will be shortly before the young person turns 18, so there needs to be a recognition that the standards should be proportionate to the level of protection actually required if the service is to remain financially viable. Otherwise schemes may be forced to refuse these types of placements. We are concerned about the lack of preparation time for local authorities alongside providers and the (funding) pressures already burdening local authorities. Providers could also be subject to multiple standards, including commissioning standards, Ofsted standards and the Regulator of Social Housing (RSH) standards, existing DLUHC National Statement of Expectations for Supported Housing, and the proposed regime within the

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For the support standard to be met, adequate commissioning must be provided – so that staff numbers and training can be of a high enough level.

We are concerned about the blurring of lines between care and support, and would want greater emphasis on the fact that this kind of accommodation is not a care setting.

Under the definitions it needs to be clear that this doesn't apply to accommodation without support provided to relevant young people, such as if a 17-year-old is provided with a flat without support, or without support that is directly linked to the accommodation. It would be untenable to have a position where they move in to unregistered accommodation without a need for support, and then after a crisis providers can't provide emergency support because it would be unlawful to do so.

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

As a general rule, the number and detail of changes proposed in these standards and the short time available for implementation is likely to be very onerous for providers as they are all new and will all be expected to be implemented at the same time. Small providers in particular may struggle to implement everything that is needed within the timescales available. We suggest a proportionate approach that focuses on ensuring minimal standards of service and the essentials for protecting young people as a start, and a grace period where there is evidence that the standards are being worked towards. Staff recruitment and gaining qualifications will take time, so a grace period will be required (see also specific responses on the challenges of staff recruitment in a tight market with limited commissioned funding). Providers embrace the need for accountability and regulation but there is a need for more time to work through the practicalities of implementation. In some cases, it will only be occasional that 16 or 17-year olds live in providers'

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It would be helpful if inspections could recognise where there is room for improvement and not automatically shut down a service, especially as it will take time for all aspects of compliance to be in place.

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## Impact on non-permanent settings

Mobile settings which offer accommodation and support to 16- and 17-year-old looked after children and care leavers under the relevant powers will be in scope of these regulations. This can include caravans, barges and boats which we believe are generally not appropriate settings for young people. We have not, however, taken the approach of introducing a ban on the use of non-permanent settings. In some limited and exceptional circumstances this type of provision might be the right option for young people, where it meets the supported accommodation standards and

requirements. What matters is that the placement meets the requirements and the needs of the young people being accommodated.

Provision which is not appropriately secure, isolates young people and is located such that a young person cannot access local services such as education and health, is very unlikely to be able to meet the quality standards.

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

Floating support in an independent tenancy could be appropriate for some young people so its use should not be banned, however the offer of floating support should not trigger the need for the tenancy to be registered as a service as this level of regulation would be very onerous for providers and would risk making it impossible for floating support to be provided. Floating support services are for people who need support to live in their own community based accommodation. Sometimes floating support is provided to people who have previously lived in supported accommodation and who will be moving in to their own flat or house within the community. Floating support helps people to remain living independently in their own home. The support is not linked to a specific building or type of accommodation and is not always provided by someone's landlord.

## **The administrative requirements on providers**

### **Background**

In addition to the Quality Standards, we will lay regulations that set out requirements around the management, administration and service delivery of supported accommodation providers to ensure that they deliver a high-quality service that offers support that meets the needs of young people and keeps them safe. These requirements should be read alongside the Guidance published with this consultation, which provides explanations of the terms to be used in the regulations, sets out what will be expected to meet the various requirements and signposts additional relevant statutory and non-statutory guidance.

The sections below refer to 'registered person' and 'registered service manager'. These terms, and the specific expectations linked to these roles, are explained in the Guidance and are referenced in the 'Ofsted registration, inspection and enforcement and provider accountability' section of this consultation.

As the regulator, Ofsted will have due regard to these requirements to assess compliance and the quality of the provision being delivered.

The requirements set out in the sections below are each covered in the guidance document. These requirements are referenced throughout the guidance. Within this consultation document, they are organised thematically, under the headings of one of the four standards.

## Requirements on Staffing

The registered person must ensure that staff work effectively as a team meet the needs of young people, that staff have the experience, qualifications, and skills to meet the needs of each young person, and that the service has sufficient staff to support and accommodate young people safely and effectively. We consider “staff” to include not just those directly employed by the supported accommodation undertaking but also hosts of supported lodgings as well as agency workers and volunteers involved in delivering the service.

### Recruitment

The registered person must ensure that in all settings, recruitment practices ensure staff are suitable to work with young people and keep them safe from harm and that all individuals working at the service or providing support to young people on behalf of the provider have recent and relevant qualifications and experience. The registered person must ensure arrangements are in place for the supervision, training and development of staff that take into consideration the organisational structure of the service.

### Fitness

Fitness requirements for staff include being of integrity and good character, having the appropriate experience, qualification, and skills for the work that the individual is to perform, mentally and physically fit for the purposes of the work that the individual is to perform, and providing the required information such as a criminal record certificate, references and employment history.

The registered person is responsible for ensuring that each employee completes an appropriate induction and is subject to the satisfactory completion of a period of probation. The registered person must provide each employee with a job description outlining the employee's responsibilities. The registered person will have to ensure that all employees undertake appropriate continuing professional development, receive practice-related supervision by a person with appropriate experience, and have their performance and fitness to perform their roles appraised at least once every year.

## **Disciplinary Procedures**

The registered person will have a duty to operate a disciplinary procedure which provides for the suspension from work of an employee if necessary in the interests of the safety or welfare of young people and that the failure on the part of an employee to report an incident of abuse, or suspected abuse, whether past or present, in relation to a young person to the appropriate person (such as a registered person, Ofsted, the local authority or the police) is a ground on which disciplinary proceedings may be instituted.

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

As a general rule, the number and detail of changes proposed in these standards and the short time available for implementation is likely to be very onerous for providers as they are all new and will all be expected to be implemented at the same time. Small providers in particular may struggle to implement everything that is needed within the timescales available. We suggest a proportionate approach that focuses on ensuring minimal standards of service and the essentials for protecting young people as a start, and a grace period where there is evidence that the standards are being worked towards. Staff recruitment and gaining qualifications will take time, so a grace period will be required (see also specific responses on the challenges of staff recruitment in a tight market with limited commissioned funding). Providers embrace the need for accountability and regulation but there is a need for more time to work through the practicalities of implementation. In some cases, it will only be occasional that 16 or 17-year olds live in providers' schemes, and in some cases that will be shortly before the young person turns 18, so there needs to be a recognition that the standards should be proportionate to the level of protection actually required if the service is to remain financially viable.



Otherwise schemes may be forced to refuse these types of placements. We are concerned about the lack of preparation time for local authorities alongside providers and the (funding) pressures already burdening local authorities. Providers could also be subject to multiple standards, including commissioning standards, Ofsted standards and the Regulator of Social Housing (RSH) standards, existing DLUHC National Statement of Expectations for Supported Housing, and the proposed regime within the Supported Housing Regulatory Oversight Bill). The Ofsted standards should reflect the fact that some providers are already regulated elsewhere and are meeting commissioning standards. Being accountable under several regimes to meet slightly different requirements is a big administrative burden, taking resources away from customer-facing work. The systems should work together as far as possible. There's a risk there that instead well-run services will be lost and local authorities will have to place more young people elsewhere. Perhaps there could be some passporting of RSH-registered Providers so that areas RSH has considered do not need to be re-examined by Ofsted to become an Ofsted-registered Provider.

Guidance should be provided on how services are expected to check 'fitness' and 'good character'. Is there a standard approach? How far does this extend beyond existing DBS requirements? Is this expected to be all staff from the start or just new staff?

Housing associations are not-for-profit charities and invest any income they have back into services for their residents. They operate on very tight margins (in some cases no margins), not least given the rising cost of materials and fuel. For the staffing requirements to be met, adequate commissioning must be provided – so that staff numbers and training can be of a high enough level. Funding is used to pay staff.

It is very challenging to recruit and retain staff in supported housing given the lack of commissioned funding and therefore the ability of providers to pay staff a wage commensurate with their responsibilities, which leads to staff being lost to sectors such as retail and hospitality that can pay higher wages for less responsibility. This will be especially true if additional qualifications are required but pay cannot reflect this increase in qualification level. The increased responsibilities on staff and potential increase in staffing levels will need to be reflected in pay awards or it will be difficult to recruit and retain staff and meet the staffing requirements.

There is an indication of which specific qualifications are needed for registered service managers (a management qualification equivalent to Level 5) and how much experience they need (having worked for at least one year in



a role requiring the supervision and management of staff working in youth services) but there is no guidance on the specific skills/experience/qualification of leadership staff/other staff. The training required will represent an extra cost. Existing staff may need to be retrained. There's also a risk of having to dismiss/demote/redeploy experienced staff who do not meet inflexible requirements.

It is unclear who should register as a provider – it is understood that the intention was the local authority in most cases but the way the guidance is worded is that many support providers will need to register. Currently it is unclear what the requirements are for the accommodation and/or support provider (who may be two separate organisations but are not always). We recommend that the organisation managing the property and providing the support should be the registered provider (not necessarily the property owner). There are instances for example where the accommodation is managed by a managing agent on behalf of the landlord, or where a property is leased from a head landlord. It is more difficult where housing management is provided by one organisation and support by another which is commissioned directly by the LA. In these cases the landlord can't take responsibility for support services it has no control over. This is an issue that needs to be clarified.

## **Policies for the protection of young people**

The registered person will be required to prepare and implement child protection policies intended to safeguard young people accommodated in the service from abuse or neglect. All providers will be required to have each of these policies in place.

### **Safeguarding policy**

This policy must describe the measures which may be necessary to protect young people following an allegation of abuse or neglect and describe how and to whom staff are to report, without delay, any concern about abuse or neglect of a young person.

The policy must outline the procedure to be followed in the event of an allegation of abuse or neglect, detailing arrangements around:

- Communicating and cooperating with any local authority which are, or may be, making a child protection enquiry in relation to a young person in the service;

- Promptly referring an allegation about current or ongoing abuse or neglect in relation to a young person to the placing/accommodating authority and, if different, the local authority in whose area the setting is located;
- Promptly referring an allegation about past abuse or neglect in relation to a young person to the placing/accommodating authority and, if different, the local authority in whose area the alleged abuse or neglect occurred;
- How and to whom staff are to report, without delay, any concern about abuse or neglect of a child;
- What measures may be necessary to protect young people following an allegation of abuse or neglect; and
- Keeping records of an allegation of abuse or neglect, and the action taken in response.

The registered person will be responsible for providing a written statement which sets out the agreed protocol with regard to any incidents of inappropriate, violent or potentially criminal behaviour at the setting, ensuring the safeguarding and protection of all young people and staff, which must be measured and proportionate so as not to cause unnecessary criminalisation.

## **Missing child policy**

The registered person will be required to prepare and implement a missing child policy that sets out the steps taken, and to be taken, to prevent young people from going missing, as well as the procedures to be followed, and the roles and responsibilities of persons working at the setting, in relation to a young person who is, or has gone, missing.

Before implementing or making an amendment to the missing child policy which the registered person considers to be substantive, the registered person must consult, and take into account the views of any person, body or organisation that the registered person considers to be relevant in relation to the support, protection or safeguarding of a particular young person in all the circumstances) and have regard to any relevant local authority or police protocols on missing children.

Records should be kept of the date and circumstances of all incidents where a young person goes missing from the setting, including any information relating to the young person's whereabouts during the period of absence.

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

As a general rule, the number and detail of changes proposed in these standards and the short time available for implementation is likely to be very onerous for providers as they are all new and will all be expected to be implemented at the same time. Small providers in particular may struggle to implement everything that is needed within the timescales available. We suggest a proportionate approach that focuses on ensuring minimal standards of service and the essentials for protecting young people as a start, and a grace period where there is evidence that the standards are being worked towards. Staff recruitment and gaining qualifications will take time, so a grace period will be required (see also specific responses on the challenges of staff recruitment in a tight market with limited commissioned funding).

Providers embrace the need for accountability and regulation but there is a need for more time to work through the practicalities of implementation. In some cases, it will only be occasional that 16 or 17-year olds live in providers' schemes, and in some cases that will be shortly before the young person turns 18, so there needs to be a recognition that the standards should be proportionate to the level of protection actually required if the service is to remain financially viable. Otherwise schemes may be forced to refuse these types of placements. We are concerned about the lack of preparation time for local authorities alongside providers and the (funding) pressures already burdening local authorities. Providers could also be subject to multiple standards, including commissioning standards, Ofsted standards and the Regulator of Social Housing (RSH) standards, existing DLUHC National Statement of Expectations for Supported Housing, and the proposed regime within the Supported Housing Regulatory Oversight Bill). The Ofsted standards should reflect the fact that some providers are already regulated elsewhere and are meeting commissioning standards. Being accountable under several regimes to meet slightly different requirements is a big administrative burden, taking resources away from customer-facing work. The systems should work together as far as possible. There's a risk there that instead well-run services will be lost and local authorities will have to place more young people elsewhere. Perhaps there could be some passporting of RSH-registered Providers so that areas RSH has considered do not need to be re-examined by Ofsted to become an Ofsted-registered Provider.

For the staffing requirements to be met, adequate commissioning must be provided – so that staff numbers and training can be of a high enough level.

It is very challenging to recruit and retain staff in supported housing given the lack of commissioned funding and therefore the ability of providers to pay staff a wage commensurate with their responsibilities, which leads to staff being lost to sectors such as retail and hospitality that can pay higher wages for less responsibility. This will be especially true if additional qualifications are required but pay cannot reflect this increase in qualification level. The increased responsibilities on staff and potential increase in staffing levels will need to be reflected in pay awards or it will be difficult to recruit and retain staff and meet the staffing requirements.

There is an indication of which specific qualifications are needed for registered service managers (a management qualification equivalent to Level 5) and how much experience they need (having worked for at least one year in a role requiring the supervision and management of staff working in youth services) but there is no guidance on the specific skills/experience/qualification of leadership staff/other staff. The training required will represent an extra cost. Existing staff may need to be retrained.

## Behaviour management policy

The registered person will be required to prepare and implement a behaviour management policy which sets out how appropriate behaviour is to be promoted in the service and the policy on restraint measures, which may, under highly limited and tightly defined circumstances, be used in relation to young people in the service. This policy should outline the service's approach to preventative and/or de-escalation methods and effective conflict management as well as the service's emergency protocols to keep young people safe.

## Restraint

We do not expect the use of restraint to be necessary in supported accommodation given the high levels of responsibility and autonomy of the young people accommodated in this provision, but should it be used, we would expect staff to have undergone training in safe restraint practices.

The registered person must ensure that within 24 hours of the use of a measure of restraint in relation to a young person in the setting, a record is made which includes:

- The name of the young person, details of the young person's behaviour leading to the use of the measure;

- The date, time and location of the use of the measure.
- A description of the measure and its duration.
- Details of any methods used or steps taken to avoid the need to use the measure, the name of the person who used the measure (“the user”) and of any other person present when the measure was used.
- The effectiveness and any consequences of the use of the measure and a description of any injury to the young person or any other person.
- Any medical treatment administered, as a result of the measure.

The registered person must ensure that within 48 hours of the use of a measure of restraint in relation to a young person, the registered service manager, or a person who is authorised by the registered service manager to do so (“the authorised person”) has spoken to the user about the measure to learn from the incident and has signed the record to confirm it is accurate.

The registered person must ensure that within 5 days of the use of a measure of restraint in relation to a young person, the registered service manager or the authorised person adds to the record confirmation that they have spoken to the young person about the measure to agree the accuracy of the record and identify support needs.

## Records

The registered person will be responsible for securely maintaining and updating records for each young person in the service and retaining the records for at least 15 years from the date of the last entry. If a setting closes, the registered provider must transfer each young person’s case records which are held in relation to the closing setting to another setting within the service. If the registered provider will cease to be the registered provider of the service, the registered provider must transfer each young person’s case records which are held to the young person’s placing/accommodating authority.

The registered person must ensure that the following items, which may be kept in electronic form, are held:

- The statement of purpose.
- The young person’s guide.
- The protection policies (including the safeguarding and missing child policy).
- The behaviour management policy.

- Records of the use of measures of restraint.
- Young persons' case records.
- The procedure for considering complaints.
- Records of complaints.
- The independent person's reports.
- The personal adviser's reports.
- Quality of support reviews.
- Annual reviews of the appropriateness and suitability of the location of each of the service's settings.
- Personal details in relation to the young person (name, date of birth, sex, religion, ethnicity, previous address, moving on address, financial information, the statutory provision under which the young person is provided with accommodation).
- Contact details of certain persons in relation to the young person.
- Information relating to the support, protection or safety of the young person.
- Any plans or reports in relation to the young person (such as an EHC plan or support plan prepared by the placing/accommodating authority including the date and result of any review of this plan).
- Health matters in relation to the young person.
- Register of young people including information on, for example, the young person's admission to the service.
- Staff information records.
- A record of all notifications, which should include details of the matter, the other persons, bodies or organisations (if any) who have been notified, and any actions taken by the registered person as a result of the matter.

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

The standards say that “There is no expectation that the registered person will review the service against every part of the Quality Standards every six months – the registered person should use their professional judgement to decide which factors to focus on.” It would be preferable if this were specified so that services can know whether they are meeting the required standards.

The list of records does not appear to match what is in the consultation. There is information in this list which providers would not expect to have routine access to –



providers hold these appropriately if they have them, but wouldn't seek to hold disproportionate information that is not about their work with the young person and should be held within the local authority. 15 years is longer than current retention policies for most information – it needs to be clear whether this is rooted in legislation.

## Complaints and representations

The registered person will be responsible for establishing a procedure for considering complaints made by or on behalf of young people. The procedure must ensure that no person who is the subject of a complaint takes any part in its consideration or investigation, except at the informal resolution stage if the registered person considers it appropriate. The registered person must ensure that no young person is subject to any reprisal for making a complaint or representation.

The registered person must ensure that a record is made of any complaint, the action taken in response, and the outcome of any investigation and if requested, must supply to Ofsted a statement containing a summary of any complaints made during the preceding twelve months and the action that was taken in response to each complaint.

### **Do you agree that the proposed practices around complaints and representations are proportionate and will ensure young people are kept safe and their needs are met?**

As a general rule, the number and detail of changes proposed in these standards and the short time available for implementation is likely to be very onerous for providers as they are all new and will all be expected to be implemented at the same time. Small providers in particular may struggle to implement everything that is needed within the timescales available. We suggest a proportionate approach that focuses on ensuring minimal standards of service and the essentials for protecting young people as a start, and a grace period where there is evidence that the standards are being worked towards. Staff recruitment and gaining qualifications will take time, so a grace period will be required (see also specific responses on the challenges of staff recruitment in a tight market with limited commissioned funding). Providers embrace the need for accountability and regulation but there is a need for more time to work through the practicalities of implementation. In some cases, it will only be occasional that 16 or 17-year olds live in providers' schemes, and in some cases that will be shortly before the young person turns 18, so there needs to be a



recognition that the standards should be proportionate to the level of protection actually required if the service is to remain financially viable. Otherwise schemes may be forced to refuse these types of placements. We are concerned about the lack of preparation time for local authorities alongside providers and the (funding) pressures already burdening local authorities. Providers could also be subject to multiple standards, including commissioning standards, Ofsted standards and the Regulator of Social Housing (RSH) standards, existing DLUHC National Statement of Expectations for Supported Housing, and the proposed regime within the Supported Housing Regulatory Oversight Bill). The Ofsted standards should reflect the fact that some providers are already regulated elsewhere and are meeting commissioning standards. Being accountable under several regimes to meet slightly different requirements is a big administrative burden, taking resources away from customer-facing work. The systems should work together as far as possible. There's a risk there that instead well-run services will be lost and local authorities will have to place more young people elsewhere. Perhaps there could be some passporting of RSH-registered Providers so that areas RSH has considered do not need to be re-examined by Ofsted to become an Ofsted-registered Provider.

## Notifications

### Notification of a death

If a child dies, the registered person must without delay notify Ofsted, the placing/accommodating authority, the Secretary of State, the local authority where the setting is located, the clinical commissioning group where the setting is located and each other relevant person.

### Notification of a safeguarding referral

If there is a referral of a person working in the service, as a safeguarding duty, the registered person must without delay notify Ofsted, the placing authority and each other relevant person.

### Notification of a serious incident

The registered person must also notify Ofsted and each other relevant person without delay if:

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- A young person is involved in or subject to, or is suspected of being involved in or subject to, sexual exploitation.
- An incident requiring police involvement occurs in relation to a young person which the registered person considers to be serious.
- There is an allegation of abuse against the service or a person working there.
- A child protection enquiry involving a young person is instigated or concludes (in which case, the notification must include the outcome of the child protection enquiry).
- There is any other incident relating to a young person which the registered person considers to be serious.

All notifications must be in writing and include details of the matter, the other persons, bodies or organisations (if any) who or which have been notified, and any actions taken by the registered person as a result of the matter.

## **Notification with respect to supported accommodation being arranged, or ceased for the young person**

Where a decision has not been made between the placing/accommodating local authority and the provider, the registered person must notify, without delay, the placing/accommodating authority of supported accommodation being arranged for, or ceased for a young person. The registered person must also notify, without delay, the local authority for the area in which a supported accommodation setting is located of every young person being accommodated into the service and every young person being ceased to be accommodated at the setting. This notification in writing must state the young person's name and date of birth, whether the young person is provided with accommodation under s.20 or s.22A of the CA 1989 or s.23B(8)(b) CA 1989 with respect to care leavers, whether the young person is subject to a care order or an interim care order under s.31 or s.38 respectively of the CA 1989, the contact details for the young person's placing or accommodating authority and the independent reviewing officer appointed for a looked-after child's case or a care leaver's personal adviser, and whether the young person has an EHC plan.

## **Notification of offences**

If a registered provider (if a person, or if it is an organisation or partnership, any director of that organisation or partnership), registered service manager, nominated

individual (if one is nominated), is convicted of a criminal offence, whether in England and Wales or elsewhere, that person must without delay give notice in writing to Ofsted including information on the date and place of the conviction, the offence, and the penalty imposed for the offence.

## **Notice of absence**

If the registered service manager, who is in day-to-day charge of a supported accommodation setting, proposes to be absent from the setting for a continuous period of 28 days or more, the registered person must give notice in writing to Ofsted of the proposed absence. Except in the case of an emergency or unforeseen absence, this notice must be given no later than one month before the proposed absence commences, or within such shorter period as may be agreed with Ofsted. This notice must specify with respect to the proposed absence its length or expected length, the reason for it, the arrangements which have been made for running the setting during the absence, the address, name and qualifications of the person who will be responsible for the setting during the absence; and, in the case of the absence of the registered service manager, the arrangements that have been, or are proposed to be, made for appointing another registered service manager to manage the service during the absence, including the proposed date by which the appointment is to be made.

If the absence arises as a result of an emergency or is unforeseen, the registered person must give notice of the absence within one week of the beginning of the absence and specifying the matters in the above paragraph.

The registered person must notify Ofsted of the return to duty of the registered service manager no later than 7 days after the date of that person's return.

## **Appointment of liquidators**

Any person appointed to act as liquidator must have regard for the welfare of the young people accommodated in the setting while the liquidation procedure takes place. The liquidator must notify Ofsted of their appointment, the reasons for their appointment and ensure that if there is not a registered service manager in place, an individual is appointed to manage the day-to-day operation of the undertaking. Within 28 days, the appointed person must notify Ofsted of their intentions regarding the future operation of the service.

## Death of a registered person

If a registered person dies and there is another registered person, they must notify Ofsted of the death in writing without delay. If there is only one registered person and that person dies, that person's personal representatives must notify Ofsted of the death in writing without delay and must, within 28 days, notify Ofsted of their intentions regarding the future running of the service.

The personal representatives of a deceased registered provider may carry on the service without being registered in respect of it for a period not exceeding 28 days or for a period determined in writing by Ofsted not exceeding one year. The personal representatives must have regard to young people's welfare when acting in relation to the operation of the service and its future.

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

As a general rule, the number and detail of changes proposed in these standards and the short time available for implementation is likely to be very onerous for providers as they are all new and will all be expected to be implemented at the same time. Small providers in particular may struggle to implement everything that is needed within the timescales available. We suggest a proportionate approach that focuses on ensuring minimal standards of service and the essentials for protecting young people as a start, and a grace period where there is evidence that the standards are being worked towards. Staff recruitment and gaining qualifications will take time, so a grace period will be required (see also specific responses on the challenges of staff recruitment in a tight market with limited commissioned funding). Providers embrace the need for accountability and regulation but there is a need for more time to work through the practicalities of implementation. In some cases, it will only be occasional that 16 or 17-year olds lives in providers' schemes, and in some cases that will be shortly before the young person turns 18, so there needs to be a recognition that the standards should be proportionate to the level of protection actually required if the service is to remain financially viable. Otherwise schemes may be forced to refuse these types of placements. We are concerned about the lack of preparation time for local authorities alongside providers and the (funding) pressures already burdening local authorities.

There is a requirement to notify the local authority where providers are based, and the local authority where a young person has come from, of various information when accommodation is arranged or ceased. Providers can only reasonably provide this information if they are told by the young person that they are looked after/leaving care, and if they disclose the details listed.

## **Business continuity and contingency planning**

It is important that the registered person has a full business continuity plan that covers failure across all areas including staffing, buildings, emergency scenarios, and so on. The business continuity plan must reference how the provider plans to maintain stability for the young people accommodated in the service in the event of disruption to the service.

The registered person must ensure that the employment of any person on a temporary basis at a setting does not prevent young people from receiving continuity of support as is reasonable to meet their needs. The registered person must produce a contingency plan policy for the young people in their accommodation in the event of its closure, either through choice or via cancellation or suspension of registration. The registered person will be required to provide this policy to Ofsted if requested. This will need to be shared with the local authority arranging the accommodation for the young person, to enable the local authority to check the suitability of this contingency plan before determining the suitability of the placement.

### **Do you agree that the proposed business continuity requirements are proportionate and will ensure young people are kept safe and their needs met?**

Length of commissioning arrangements is outside the accommodation provider's control and depends on local authority decisions and funding arrangements from central government. The contingency plan must include funding from the local authority and must therefore be drawn up with the local authority, not submitted to the local authority for approval. There can be no contingency plan if there is no commissioned funding for a service to continue.

It is useful to cross reference the financial regulation of RSH-registered providers, rather than duplicating it. Perhaps there could be some passporting of RSH-

registered Providers so that areas RSH has considered do not need to be re-examined by Ofsted to become an Ofsted-registered Provider.

## Ofsted registration, inspection and enforcement and provider accountability

### Background

Currently, supported accommodation is not registered and inspected by Ofsted. Through our initial consultation in 2020, over 70% of respondents thought Ofsted should oversee a quality and inspection regime. In December 2021, we announced that we would introduce national standards for supported accommodation and that Ofsted would register and inspect providers against the national standards.

The regulation of this provision will mean that, for the first time, all provision offering care and support to looked after children and care leavers aged 16 and 17 will be registered and inspected by Ofsted. For young people, this will ensure greater quality and consistency in provision, ending the post-code lottery of provision and levelling up outcomes for children across the country. We will not tolerate poor provision that fails to meet the needs of some of our most vulnerable children. In order to improve quality, we will be implementing mandatory Quality Standards that all providers will have to follow. Ofsted will inspect against these standards, ensuring providers are delivering good outcomes for young people accommodated.

We have already confirmed that Ofsted will register supported accommodation at provider-level. We believe that this approach is and proportionate for this provision, and will allow for flexibility and provider innovation to meet the diverse needs of the young people they accommodate, while ensuring Ofsted have robust powers to take action against providers where provision is poor.

This section of the consultation seeks your views on our proposals for the core features of the Ofsted regime. This includes:

- The roles and responsibilities of the ‘registered provider’ and ‘registered service manager’.
- The fitness and capacity of the registered provider and registered service manager.
- Notifications of new settings.
- Ofsted enforcement powers, offenses, and tribunals.



- Ofsted inspections and fees.

## Who will be required to register?

Each organisation, partnership or person wanting to provide supported accommodation will be required to register a supported accommodation undertaking with Ofsted, as set out in the Care Standards Act 2000 (Extension of the Application of Part 2 to Supported Accommodation) (England) Regulations 2022. The organisation, partnership or individual carrying on that undertaking will be the registered provider. The registered provider will be responsible for some of the requirements for supported accommodation undertakings including, but not limited to, the financial requirements, the workforce plan and the appointment of the registered service manager. Further details on the requirements of the registered provider are set out in the section below.

Each registered provider must have one registered service manager who is accountable to Ofsted for all elements of service delivery. The registered service manager will be recruited by the registered provider but will apply to Ofsted for their own personal registration and will have management responsibility for operations and quality of provision of all settings/addresses falling under that registration. The registered service manager is responsible and accountable for overseeing the management of all the provider's settings. The registered service manager may appoint other individuals to manage the day-to-day operations within different settings, but these people will not be required to register with Ofsted. Each registered provider registration must be accompanied by an application for the registered service manager.

We use the term 'registered person' as a collective term for both the registered provider and the registered service manager.

Given that each registered provider will be permitted to only have a single registered service manager, we think it will be important that providers consider how the registered service manager can effectively oversee the provision of support and accommodation in all the service's settings. This will mean that large providers who operate multiple settings nationally will need to consider the most sensible approach to setting a realistic span of control for the registered service manager. The registered service manager's span of control should be determined by the registered provider and should be reasonable, appropriate, and not excessive so that they have



the capacity and capability to ensure a quality service is delivered in all settings and is compliant with the Quality Standards and the Regulations.

We will not be setting a specific benchmark or limits on the number of settings or young people a registered service manager can oversee but Ofsted will consider spans of control as part of their inspection framework.

If the registered provider is an organisation, they will need to nominate an individual to represent the organisation and be a point of contact for Ofsted. Where the registered provider is also the sole proprietor of the organisation, they will be required to register as the registered service manager, subject to meeting the suitability criteria and other requirements.

We are proposing that each supported accommodation undertaking will be only permitted to have one registered service manager. Providers can have a management system in place which has a number of non-registered managers to evidence effective management and control. Should a provider wish to have more than one registered service manager they will need to submit a separate registered provider application for what will then be a separate supported accommodation undertaking.

### **To what extent do you agree that the proposed roles and responsibilities of the ‘registered provider’ and ‘registered service manager’ will ensure a proportionate level of oversight in supported accommodation?**

As a general rule, the number and detail of changes proposed in these standards and the short time available for implementation is likely to be very onerous for providers as they are all new and will all be expected to be implemented at the same time. Small providers in particular may struggle to implement everything that is needed within the timescales available. We suggest a proportionate approach that focuses on ensuring minimal standards of service and the essentials for protecting young people as a start, and a grace period where there is evidence that the standards are being worked towards. Staff recruitment and gaining qualifications will take time, so a grace period will be required (see also specific responses on the challenges of staff recruitment in a tight market with limited commissioned funding). Providers embrace the need for accountability and regulation but there is a need for more time to work through the practicalities of implementation. In some cases, it will only be occasional that 16 or 17-year olds lives in providers’ schemes, and in some cases that will be shortly before the young person turns 18, so there needs to be a recognition that the standards should be proportionate to the level of protection

actually required if the service is to remain financially viable. Otherwise schemes may be forced to refuse these types of placements. We are concerned about the lack of preparation time for local authorities alongside providers and the (funding) pressures already burdening local authorities.

It is unclear who should register as a provider – it is understood that the intention was the local authority in most cases but the way the guidance is worded is that many support providers will need to register. Currently it is unclear what the requirements are for the accommodation and/or support provider (who may be two separate organisations but are not always). We recommend that the organisation managing the property and providing the support should be the registered provider (not necessarily the property owner). There are instances for example where the accommodation is managed by a managing agent on behalf of the landlord, or where a property is leased from a head landlord. It is more difficult where housing management is provided by one organisation and support by another which is commissioned directly by the LA. In these cases the landlord can't take responsibility for support services it has no control over. This is an issue that needs to be clarified.

If Ofsted will consider spans of control as part of their inspection framework then Ofsted should set a specific benchmark or limits on the number of settings or young people a registered service manager can oversee, so that providers have certainty of their responsibilities rather than being unsure until an inspection takes place and potentially having to recruit more staff that were not budgeted for and therefore not paid for in the commissioned contract(s).

### **Do you agree with the proposal to limit the number of registered service managers in each supported accommodation undertaking to one?**

It would be useful to have multiple registered service managers for larger providers. We acknowledge the advice that some large services that operate nationally may consider registering their services by geography as distinct registered providers to ensure the registered service manager can have effective oversight of all the settings, ensuring compliance with the Regulations and quality standards. It would be more useful to advise registering separately services where there are a large number of service users (with a limit to be determined). This would of course entail extra cost to providers and would need to be covered by the commissioned funding/in the business plan or the rent for the accommodation. If these costs are not covered and only one registered service manager can be appointed to cover a large

area, this could lead to challenges for large providers, leading to an artificially created divide between large and small providers.

We are also concerned that one organisation, split into a number of different undertakings, could have several different Ofsted ratings.

We understand the need for clear accountability and oversight and see how having one registered service manager for an undertaking can provide this. However, we think that organisations should be able to register more than one registered service manager, even if up to a specified limit.

## **Appointment and fitness of registered persons**

In registering providers and service managers, Ofsted will require information to judge their fitness for registration. The information required in respect of registered persons in supported accommodation that will be required in order to enable Ofsted to grant/refuse registration includes:

- Proof of identity including a recent photograph.
- Two written references, including a reference from the person's most recent employer.
- If a person has previously worked in a position involving work with children or vulnerable adults, verification so far as reasonably practicable of the reason why the employment or position ended.
- An enhanced DBS check.
- Documentary evidence of any qualifications which the person considers relevant for the position.
- A full employment history, together with a satisfactory explanation of any gaps in employment, in writing.

Registered persons must be of integrity and good character, mentally and physically fit to carry on or manage the service.

The registered provider must be financially fit to carry on the supported accommodation undertaking. The registered provider must carry on the service in such manner as is likely to ensure that the service will be financially viable for the purpose of achieving the aims and objectives set out in the statement of purpose. The statement of purpose is a document which sets out what the service offers and how it can meet the needs of prospective young people who

may be accommodated. Further details can be found at section 2.41 in the Guide to Supported Accommodation Regulations including Quality Standards.

The registered person must provide Ofsted with the following information, which Ofsted may need for the purpose of considering the financial viability of the service:

- The annual accounts of all settings certified by an accountant.
- Information as to the financing, and financial resources, of the settings and the registered provider.
- Where the registered provider is a company, a list of any of its associated companies.
- And a certificate of insurance for the registered person in respect of liability which may be incurred by the registered person in relation to each setting in respect of damage, death, injury, public liability or other loss.

Registered persons must have the skills needed to exercise their role and responsibilities and undertake continuing professional development as is necessary to ensure that they as an individual have the skills needed for carrying on or managing the supported accommodation undertaking.

## **Information required about the provider at registration**

A registered person must submit a new application for each supported accommodation undertaking they wish to carry on or manage. On application, the registered provider will be required to notify Ofsted of all the settings they intend to operate from. The information required on settings at the time of application will be the addresses of settings, the sex of the young person(s) being accommodated, the age range and the category that the provision falls within (further details on categories are set out below). A provider does not have to submit a new application in respect of additional settings under an existing supported accommodation undertaking but must inform Ofsted of any new setting(s) including the aforementioned information, within 72 hours of accommodating a young person. Ofsted will keep an internal list of settings for each supported accommodation undertaking on the register. This list of settings will not be kept on the register or on the certificates of registration. Local Authorities will be made aware of settings operated by providers in their area via local Ofsted monthly reporting, similar to the process which exists for children's homes.

## Do you agree that the proposals around the fitness and capacity of the registered provider and/or registered service manager are the right ones?

With reference to the requirement that “the registered provider must be financially fit to carry on the supported accommodation undertaking”, it is useful to cross reference the financial regulation of RSH-registered providers, rather than duplicating it. Perhaps there could be some passporting of RSH-registered Providers so that areas RSH has considered do not need to be re-examined by Ofsted to become an Ofsted-registered Provider.

Local Authorities should not need to be made aware of settings operated by providers in their area via local Ofsted monthly reporting, similar to the process which exists for children’s homes, because the settings should be commissioned by the local authority and young people referred to them by the local authority.

### Categories of supported accommodation provision

The table below sets out the proposed categories of supported accommodation and a broad description of what they provide. We have developed these categories with Ofsted using input from extensive consultation with local authorities and providers. Providers will be required to say which category or categories they are applying for at the point of registration. If a provider is applying to run more than one category of supported accommodation, the registered service manager will need to have the skills and experience to oversee the management of each category. Providers will need to apply for a variation of their condition of registration if they wish to provide supported accommodation under a new category.

Ofsted will use conditions on each registration to prohibit providers from operating accommodation which does not fall into the category/categories of registration. It will then be an offence for providers to operate accommodation which does not fall into the category/categories of registration and Ofsted will be able to take enforcement action against the provider.

Category	Description
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<p><b>Single occupancy</b></p>	<p>Includes bedsits under a licence agreement and self-contained flats (one setting may include several self-contained flats)</p> <p>This category does not include provision that is not designed for anything other than solo occupancy (1)</p>
<p><b>Shared accommodation/group living</b> (ring-fenced provision for looked-after children and care leavers) (2)</p>	<p>Shared accommodation</p> <p>Young people have their own bedroom, and may have their own bathroom, and share communal areas (e.g. living room/s, kitchen)</p> <p>Provision may include foyer-type accommodation that combines support with opportunities for education, training and employment</p> <p>This provision may support care leavers aged 18+</p>
<p><b>Shared accommodation/group living</b> (non-ring-fenced provision)</p>	<p>See description for 2 above, plus:</p> <p>In addition to being registered to support looked-after children and care leavers CLs aged 16-17, this provision may also provide accommodation for people aged 18+ and who are not care-experienced</p>
<p><b>Family-based accommodation/supported lodgings</b></p>	<p>Provided by private individuals who offer a room in their family home.</p> <p>Provision is typically co-ordinated by a supported lodgings scheme (the registered provider), which recruits and supports a network of supported lodgings 'hosts'</p>

(1) If a looked after young person or care leaver is living with a partner and/or with their child, this would still be categorised as single occupancy.

(2) Bed and breakfast accommodation should not be used for 16 and 17 year olds, even in an emergency - see [Homelessness Code of Guidance for Local Authorities](#) (DLUHC, updated June 2022) and [Provision of accommodation for 16 and 17 year old young people who may be homeless and/or require accommodation](#), DLUHC and DfE, updated 2018).



## Ofsted enforcement powers

The Quality Standards and Regulations must be complied with by all providers of supported accommodation and Ofsted will inspect providers against these. We must ensure that Ofsted have effective powers to take appropriate action when providers fall short of requirements.

For supported accommodation, Ofsted will have the power to:

- Impose or vary conditions on registration.
- Suspend or cancel registrations.
- Inspect and enter both the offices used for supported accommodation and the premises used for accommodating young people.

## Notification of a new setting

If a provider wishes to deliver supported accommodation from a new setting/address that Ofsted do not have a record of, the registered person must inform Ofsted within 72 hours of accommodating a young person at the setting/address. Providers will need to inform Ofsted of the address of new settings, the sex of the young person(s) being accommodated, the age range and the category of provision.

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

As a general rule, the number and detail of changes proposed in these standards and the short time available for implementation is likely to be very onerous for providers as they are all new and will all be expected to be implemented at the same time. Small providers in particular may struggle to implement everything that is needed within the timescales available. We suggest a proportionate approach that focuses on ensuring minimal standards of service and the essentials for protecting young people as a start, and a grace period where there is evidence that the standards are being worked towards. Staff recruitment and gaining qualifications will take time, so a grace period will be required (see also specific responses on the challenges of staff recruitment in a tight market with limited commissioned funding).



Providers embrace the need for accountability and regulation but there is a need for more time to work through the practicalities of implementation. In some cases, it will only be occasional that 16 or 17-year olds lives in providers' schemes, and in some cases that will be shortly before the young person turns 18, so there needs to be a recognition that the standards should be proportionate to the level of protection actually required if the service is to remain financially viable. Otherwise schemes may be forced to refuse these types of placements. We are concerned about the lack of preparation time for local authorities alongside providers and the (funding) pressures already burdening local authorities.

For the standards to be met, adequate commissioning must also be provided – so that staff numbers and training can be of a high enough level.

The enforcement rules are disproportionate where there may only occasionally be a need for registration (there are services where most residents aren't relevant young people due to age or never having been looked after, and/or an emergency bed only). If there were an exception for emergency placements then this might be different.

## Offence provisions

We are planning to extend the following offence provision sections of the Care Standards Act (2000) to supported accommodation undertakings:

- Section 11: Requirement to register – the offence is committed if any person who carries on or manages supported accommodation undertaking without being registered.
- Section 24. Failure to comply with conditions.
- Section 24A. Offences relating to suspension – the offence is committed if the person carrying on or managing the supported accommodation continues to operate while the registration is suspended.
- Section 26. False descriptions of establishments and agencies.
- Section 27. False statements in applications.

## Tribunal appeal provisions

We are also proposing to extend the tribunal appeal provisions contained in Section 21 of the Care Standards Act 2000 to supported accommodation. The provisions

contained in this section set out when certain Ofsted decisions or orders made by the magistrates' court can be appealed to the Tribunal and the powers of the Tribunal on appeal.

### **Do you agree that the proposed Ofsted enforcement powers, offence provisions and tribunal appeal provisions are appropriate and proportionate for this type of provision?**

As a general rule, the number and detail of changes proposed in these standards and the short time available for implementation is likely to be very onerous for providers as they are all new and will all be expected to be implemented at the same time. Small providers in particular may struggle to implement everything that is needed within the timescales available. We suggest a proportionate approach that focuses on ensuring minimal standards of service and the essentials for protecting young people as a start, and a grace period where there is evidence that the standards are being worked towards. Staff recruitment and gaining qualifications will take time, so a grace period will be required (see also specific responses on the challenges of staff recruitment in a tight market with limited commissioned funding). Providers embrace the need for accountability and regulation but there is a need for more time to work through the practicalities of implementation. In some cases, it will only be occasional that 16 or 17-year olds lives in providers' schemes, and in some cases that will be shortly before the young person turns 18, so there needs to be a recognition that the standards should be proportionate to the level of protection actually required if the service is to remain financially viable. Otherwise schemes may be forced to refuse these types of placements. We are concerned about the lack of preparation time for local authorities alongside providers and the (funding) pressures already burdening local authorities.

For the standards to be met, adequate commissioning must also be provided – so that staff numbers and training can be of a high enough level.

The enforcement rules are disproportionate where there may only occasionally be a need for registration (there are services where most residents aren't relevant young people due to age or never having been looked after, and/or an emergency bed only). If there were an exception for emergency placements then this might be different.

## Frequency of inspections and fees for providers

We are proposing that Ofsted must inspect providers and issue a grading at least once every three years. Ofsted will inspect the supported accommodation undertaking as a whole and visit a representative sample of the provider's settings at inspection to inform the overall rating of the provider. Ofsted will carry out an initial registration visit to ensure that providers are meeting the standards. Ofsted may also carry out monitoring visits where required to ensure the adherence of quality standards. Ofsted will use their discretion to visit and contact providers on a case-by-case basis. This could be, for example, following receipt of a notification, a case of whistleblowing or a serious incident. Ofsted will consult on their approach to grading providers and their inspection framework before the regulations are laid in early 2023.

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

For the standards to be met, adequate commissioning must also be provided – so that staff numbers and training can be of a high enough level.

### **To what extent do you agree with the proposed new registration, variation and annual fees for providers of supported accommodation?**

We propose that Ofsted will charge registration, variation and annual fees to carry out their regulatory work for supported accommodation providers. These fees will be made via amendments to Her Majesty's Chief Inspector of Education, Children's Services and Skills (Fees and Frequency of Inspections) Regulations 2015. We have developed the proposed fee structure based on Ofsted's experience and knowledge of the costs of delivering their regulatory functions in respect of other types of children's social care providers, for example, children's homes.

We propose that Ofsted will charge fees set at the following rates. The fees charged will be different in the first year of the new regime (FY2023-24) when compared to year two (FY2024-25) to reflect the fact that all providers will be registering for the first time and inspections will not commence until April 2024. Ofsted will not charge annual fees or Registered Service Manager fees in the first year – providers will be charged a single fee at the point of registration covering all of these activities.

We propose that Ofsted will charge higher provider registration fees for large providers operating 10 or more settings when compared to small providers operating fewer than 10 settings. This reflects our expectation that larger providers are likely to be more geographically spread than smaller providers.

Fee type	FY2023-24 fee (£)	FY2024-25 fee (£)
Provider registration (small provider)	4,500	4,500
Provider registration (large provider)	5,500	5,500
Annual fee (small provider)	0	2,700
Annual fee (large provider)	0	3,000
Registered Service Manager registration	0	910
Minor variation	176	176
Variation requiring visit	910	910

## How would the new fees affect you as a provider?

We are not a provider.

Our members have fed back to us that these fees are too high and may lead to quality providers stepping back from this kind of accommodation. While a large provider may be able to absorb these costs, we are concerned that many smaller providers (especially those needing more than one registration) may not. We appreciate that oversight and regulation of this provision will cost money but we think there could be different rates and fees for providers depending on their organisational status, e.g. for charities, registered social landlords and for-profit providers.

The level of fees is disproportionate where there may only occasionally be a need for registration (there are services where most residents aren't relevant young people due to age or never having been looked after, and/or an emergency bed only).

We are also concerned that many of these costs will be passed on to local authorities where services are commissioned, or 'rolled in' to housing costs, increasing rents and service charges for young people and pushing further costs to local authority children's services. This is linked to a wider lack of funding for supported accommodation and a reduction in local authority grants over the last decade, which has led to costs increasingly being passed on via housing costs. They can be passed on in rent or in service charges for tenants.

It would also be good to see exactly where these costs are linked to, and to have assurance that these are improving standards and the quality of services for young people.

## Transitional arrangements

Providers will be required to submit a complete application to Ofsted by 30 September 2023 and Ofsted will be in a position to provide the most support to those who submit early applications after registration opens in Spring 2023. From October 2023, it will be an offence to carry on or manage supported accommodation without being registered.

We are proposing there be transitional arrangements to allow providers who submit a complete application for registration of supported accommodation before 30 September 2023 to be able to continue to accommodate young people until Ofsted make a final decision on the registration application. A 'complete application' will mean an application including all the required information/documents both for the registered provider application and accompanying application for registered service manager. These applications must also be accompanied by the relevant fee(s) to be deemed complete.

This transition period will last:

- Until the registration is granted (either conditionally or subject to conditions agreed in writing between the provider and Ofsted).
- Where the registration is granted but subject to non-agreed conditions until 28 days have passed or until any appeal is determined.
- Where the registration is refused until the decision notice is served.
- In the first year of registration Ofsted will carry out pilot inspections from September 2023, before inspections begin in full in April 2024.

## **Do you agree that this is the right approach to ensure that providers can register before it becomes an offence to operate supported accommodation undertaking without being registered and that inspections can be carried out in the first year?**

As a general rule, the number and detail of changes proposed in these standards and the short time available for implementation is likely to be very onerous for providers as they are all new and will all be expected to be implemented at the same time. Small providers in particular may struggle to implement everything that is needed within the timescales available. We suggest a proportionate approach that focuses on ensuring minimal standards of service and the essentials for protecting young people as a start, and a grace period where there is evidence that the standards are being worked towards. Staff recruitment and gaining qualifications will take time, so a grace period will be required (see also specific responses on the challenges of staff recruitment in a tight market with limited commissioned funding). Providers embrace the need for accountability and regulation but there is a need for more time to work through the practicalities of implementation. In some cases, it will only be occasional that 16 or 17-year olds lives in providers' schemes, and in some cases that will be shortly before the young person turns 18, so there needs to be a recognition that the standards should be proportionate to the level of protection actually required if the service is to remain financially viable. Otherwise schemes may be forced to refuse these types of placements. We are concerned about the lack of preparation time for local authorities alongside providers and the (funding) pressures already burdening local authorities. Providers could also be subject to multiple standards, including commissioning standards, Ofsted standards and the Regulator of Social Housing (RSH) standards, existing DLUHC National Statement of Expectations for Supported Housing, and the proposed regime within the Supported Housing Regulatory Oversight Bill). The Ofsted standards should reflect the fact that some providers are already regulated elsewhere and are meeting commissioning standards. Being accountable under several regimes to meet slightly different requirements is a big administrative burden, taking resources away from customer-facing work. The systems should work together as far as possible. There's a risk there that instead well-run services will be lost and local authorities will have to place more young people elsewhere. Perhaps there could be some passporting of RSH-registered Providers so that areas RSH has considered do not need to be re-examined by Ofsted to become an Ofsted-registered Provider.



## Potential unintended consequences

We believe that reform is needed to improve the quality of supported accommodation for looked after children and care leavers aged 16 and 17.

We believe that these reforms will ensure that providers deliver high quality accommodation and support, and that Ofsted has effective levers for taking action where it is not good enough. Ultimately this will ensure that young people get the support they need as they develop their independence in preparation for adult life and leaving the care system.

We know that these reforms bring big changes for providers and local authorities. That is why we will invest over £120million over the next two years to support local authorities to manage the impact of these changes. We will also invest up to £1.3million over the next two years to work with the sector: raising sector awareness of the reforms and supporting providers to implement the national standards, register with Ofsted and prepare for inspection. In addition, we are supporting local authorities to meet their sufficiency duties, by investing £259million to expand the number of places in children's homes and secure children's homes.

We believe that this package of investment will mitigate potential risks, for example that providers withdraw from providing supported accommodation or that they fail to meet the standards. We will continue to work with local authorities, providers and care experienced young people as the reforms are implemented. We are keen to ensure our immediate work and ongoing engagement with the sector, particularly with providers on the ground, is as impactful as possible and supports them to manage any potential unintended consequences.

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

The registration, training, management, policy, reviews and reporting as well as inspection and regulatory risk, will without doubt increase costs significantly. Small providers in particular may struggle to implement everything that is needed within the timescales available. Unless costs are met, providers may choose to move away from accepting 16/17 year olds, therefore reducing choice for young people. Whilst this is not an argument to lower standards, it should be acknowledged that in order

to sustain choice and diversity of provision for care leavers, it is important to acknowledge and address the funding and cost issues through new burdens funding.

It would be very challenging to have one set of rules for 16/17 year olds who are not care leavers and another for those who are. The likelihood is that eventually they would become the same (see the clarification that came with the Southwark judgement around homeless 16/17 year olds).

The standards will only apply to accommodation for 16- and 17-year-olds accommodated under s20 of the Children Act 1989, so there will be a two-tier system for looked-after children and non-looked-after children. Children who do not understand their rights and do not agree to being accommodated under s20 are seen differently – and they will fall through the net and end up in non-commissioned provision.

There will be additional costs of maintaining assets, which could lead to a reduction in supported housing stock over time, unless these costs are met in full. The £120m of investment for local authorities has to include guidance to local authorities to increase contract values to reflect the increased costs incurred by providers, and this funding must be sustained. Local authorities also need more funding to commission accommodation.

Providers may make decision that they can only provide 18+ accommodation to fit in with their viability/budget/business model. Who would then provide accommodation for 16/17 year-olds? There are costs to registering and to preparing to implement the standards, prior to a contract being awarded by a local authority, so even with the proposed additional funding to local authorities, some providers will struggle with the costs involved.

There could be a ghettoisation of young people's services – provision for 16/17 year olds and provision for those 18+ will be forced to separate if mixed services are not financially viable (for example, registration fees could be recouped through the service charge but only for 16/17 year-olds, which would affect the viability of a mixed scheme and give residents unequal service charges). This would harm the transition into adulthood that mixed-age services help 16/17-year-olds with, plus separate provision will mean that young people will be forced to move accommodation when they turn 18 (as well as changing MH worker and PA), which constitutes an upheaval and lack of stability for the young person.

We believe Housing Benefit could only be claimed for non-s20 accommodation, but if the rent in s20 accommodation is covered by Housing Benefit, the new registration costs would be service chargeable. This would push up costs for residents if they were working over 16 hours (presumably evening/weekend work as they will be in full-time education).

There will be two marketplaces. There is a statutory duty to provide s20 accommodation so it will still be provided by someone, and this could be non-commissioned. Providers and councils will either join together and bring the price down and improve quality or there will be a greater divide and costs increasing in one area (provision for 16-17-year-olds).

If a young person approaches a night shelter/nightstop for one night because they have nowhere to stay and council services are closed, the night shelter / young person's nightstop would have to refuse that young person entry as they would not be able to ensure the standards were in place, and people cannot stay in a night shelter for 72 hours (which is the time within which Ofsted have to be informed). There need to be some exemptions for accommodation on an emergency basis, but care should be taken not to create a loophole.

Clarity is also needed around what would be the position if providers 'accidentally' housed a care leaver – housed someone by direct application without children's services involvement and later we found out they were a care leaver.

We support the aims of these reforms in improving standards and oversight for looked-after and care leaver 16 and 17 year olds in independent and semi-independent settings. However, we are concerned that some of the measures may lead to quality, committed providers of accommodation withdrawing from the sector.

In particular we think that the requirement to have one registered service manager per undertaking may mean that larger providers will struggle with effective oversight over several settings, while the proposed costs may mean that smaller providers may find it unviable to provide this kind of accommodation.

Ultimately, we are concerned that these measures run the risk of decreasing quality through necessitating higher cost services which LA's and providers cannot afford.

We feel that the document is written through a care lens rather than a supported housing lens, making it more difficult to develop realistic expectations in terms of service delivery.