



# Notification of private fostering arrangements

## *The Children's Society response*

### Introduction

The Children's Society is a leading charity committed to improving the lives of thousands of children and young people every year. We work across the country with the most disadvantaged children through our specialist services and children's centres. Our direct work with vulnerable groups including disabled children, children in or leaving care, refugee, migrant and trafficked children, means that we can place the voices of children at the centre of our work.

In 2014/15 we worked with over 34,000 vulnerable children and young people. We welcome the opportunity to respond to this consultation regarding the proposals of changes to the Notifications of Private Fostering Arrangements in England. The Children's Society's response will focus on two elements of concern with removing the arrangements – firstly the ability to monitor any proposed impact of the two child limit to child tax credits, as proposed in the Welfare Reform and Work Bill, on the number of private fostering arrangements and secondly the ability to understand and provide support for separated migrant children living in private fostering arrangements.

### **1. Do you use the private fostering published statistics (PF1) and to what extent? Please give a brief overview of examples where the statistics have played a part in your work and particularly when helping target children most at risk**

1.1. The Children's Society has used these statistics in our work on separated migrant children including those who may be victims of abuse and exploitation, including human trafficking. Most recently we used these statistics to estimate the scale of children in private fostering arrangements that are out of scope of legal aid in our recent report [Cut Off From Justice](#).

### **2. How would your work be affected if the current private fostering statistical publication was to cease?**

2.1. The Children's Society would be unable to monitor the impact of any proposed changes in the Welfare Reform and Work Bill on private fostering arrangements should the annual monitoring return cease and be amalgamated into the child in need census. This is also an important source of information on separated migrant children, for which there is already a real dearth of information available. This data also helps to contribute to our assessment of need when considering service delivery in particular localities.

### **3. Do you agree with the proposal outlined above that will help with better identification of types of private fostering arrangements that are of most concern? Any other suggestions you may wish to make on this data collection?**

3.1. The Children's Society has significant concerns should the statistical return on private fostering cease and be amalgamated into the child in need census. Limiting the scope of data collected to only those children who are identified by local authorities to be 'in need' would severely limit the number of potentially vulnerable children about which data was collected. A privately fostered child will only be a 'child in need' when he or she is:

- (a) unlikely to achieve or maintain, or to have the opportunity of achieving or maintaining, a reasonable standard of health or development without the provision for him of services by a local authority under the Care Act
- (b) his health or development is likely to be significantly impaired, or further impaired, without the provision for him of such services; or
- (c) he is disabled

and is identified as such.

3.2. We would suggest instead that there are specific improvements that are needed to be made to the existing statistical return in order to improve its usefulness. This should be the approach taken by the government, rather than removing the return in its entirety.

3.3. This is particularly worrying for older teenagers as evidence suggests that they are often perceived as being more 'resilient' and able to cope with maltreatment, which is not necessarily supported by evidence<sup>1</sup>. Instead our experience and research suggests that a significant proportion of children are not assessed as being 'in need' despite being homeless and estranged from their families. The problems with monitoring and assessment are also detailed in our research on separated children at risk<sup>2</sup> and child victims of human trafficking and modern slavery<sup>3</sup>. We would argue that continuing to collect data about all children in private fostering arrangements, as well as extending the duty to monitor PFAs for 16 and 17 year olds, is vital in keeping vulnerable children safe.

3.4. Our recent report '[Getting the House in Order](#)' assessed the support available to 16 and 17 year olds when they present as homeless to their local authority. The report found that an estimated 12,000 young people aged 16 and 17 present to their local authority as homeless every year and of these 6,000 are not formally assessed at all and are sent home with no support. Of those that are formally assessed 2,800 are sent home without any support. These estimated 8,800 young people may find themselves living in private fostering arrangements that should be monitored and reported on by the local authority.

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<sup>1</sup> [https://www.childrenssociety.org.uk/sites/default/files/tcs/research\\_docs/Safeguarding%20Young%20People%20-%20Responding%20to%20Young%20People%20aged%2011%20to%2017%20who%20are%20maltreated\\_0.pdf](https://www.childrenssociety.org.uk/sites/default/files/tcs/research_docs/Safeguarding%20Young%20People%20-%20Responding%20to%20Young%20People%20aged%2011%20to%2017%20who%20are%20maltreated_0.pdf)

<sup>2</sup> Wirtz, L. (2009) Hidden Children: Separated children at risk: [https://www.childrenssociety.org.uk/sites/default/files/tcs/research\\_docs/Hidden\\_children\\_full\\_report.pdf](https://www.childrenssociety.org.uk/sites/default/files/tcs/research_docs/Hidden_children_full_report.pdf)

<sup>3</sup> Franklin, A. and Doyle, L. (2013) Still at Risk: A review of support for trafficked children. The Children's Society and the Refugee Council: <http://www.childrenssociety.org.uk/what-we-do/resources-and-publications/publications-library/still-risk-full-report>

3.5. Not only would such monitoring allow for an understanding of the true scale of 16 and 17 year olds living outside their family home but it would also help to ensure that the correct safeguarding procedures are in place to help protect this vulnerable group. Of particular concern for the proposed change to only monitor children in need in private fostering arrangements is the fact of the 12,000 16 and 17 year olds presenting as homeless every year only 400 are found to be in need of help and support under Section 17 of the Children Act. 1,000 become looked after children and 1,800 are housed with minimal or no support. The remaining 8,800 have presented as homeless to their local authority but have not become either a looked after child or a child in need and therefore should they live in private fostering arrangements they would not be captured in the proposed return but may still be at significant risk.

3.6. Whilst it is welcomed that there will be additional statistical information available on private fostering under the publication *Characteristics of children in need* this should not replace the broader statistical return on the number of private fostering arrangements. Growing up in a family which is not your own can have a significant impact on children and young people but this child may not meet the thresholds for a child in need and therefore will be unable to receive support under Section 17 of the Children Act. Therefore, it is crucial that private fostering arrangements for children beyond those that are 'in need' continue to be reported on and collated centrally.

3.7. The Children's Society have two specific concerns with removing the data return for all private fostering arrangements; the first concerning the impact of proposed changes in the Welfare Reform and Work Bill and the second regarding monitoring the number of separated migrant children living in private fostering arrangements.

### **3.8. Impact of the Welfare Reform and Work Bill**

3.9. The Children's Society has significant concerns that under proposals in the Welfare Reform and Work Bill private fostering arrangements will reduce as families may be unable to claim for child tax credits above the second child. This would affect care by a family member or friend under circumstances where they are entitled to receive tax credits.

3.10. In 2014/15 there were 1,560 children reported as being under private fostering arrangements and many of these children will be joining families with children of their own, potentially taking the total number of children in the household over the Government's proposed two-child limit for child tax credits and the child element of universal credit. These families will have more than two children in order to care for a loved one. We are calling for exemptions to the two-child cap for particular groups including kinship carers, step families and those in private fostering arrangements. Without this exemption an unintended consequence of the two child limit is likely to be that fewer family and friend carers step in to provide support in difficult family circumstances if there is no additional financial support made available through tax credits. This could increase the number of children that may then need support from the local authority through a care placement, which would not be in the child's best interests and would come at a considerable cost to the state.

3.11. The two-child limit would also apply for families who are privately fostering a separated migrant child when the child has received leave to remain and is entitled to receive support such as child benefit and child tax credit. Without monitoring the number of children living in private fostering it is difficult to know the scale of this issue.

3.12. Under private fostering arrangements parental responsibility stays with the parent. However private foster carers can claim child benefit and child tax credit, if not being paid to the parent, although financial responsibility to maintain the child remains with the holders of parental responsibility. As every circumstance will be unique and it is difficult to generalise the amount of engagement parents will have with the foster carer it is vital that private foster carers will be able to claim child tax credit for more than two children should they be providing care and support for someone else's child. Without monitoring the number of private foster carer placements the Department for Education, Department for Work and Pensions, and charities will be unable to monitor long term trends on the impact of welfare reform changes on private fostering.

### 3.13. **Separated migrant children**

3.14. It is difficult to determine the numbers of separated migrant children living in private foster care arrangements, partly because the majority of these arrangements exist unknown to child protection authorities<sup>4</sup>. Various estimates do exist that can give us some baseline indication. Official statistics show that 1,610 children were reported as being cared for and accommodated in private foster care arrangements as of March 2014 and that 2,880 new, private fostering arrangements began during the year ending March 2014<sup>5</sup>.

3.15. The difference between these official numbers and the reality is illustrated by the British Association of Adoption and Fostering who suggest figures of between 15,000 to 20,000 children in private foster care at any one time – a number that is still widely circulated within policy and practice literature<sup>6</sup>. Whilst these numbers relate to the total number of children in private foster care and not solely to separated migrant children, Crawley (2012) suggests that a sizeable number of children in private foster care will indeed be subject to immigration control<sup>7</sup>. This is supported by the DfE statistics which show that only 38 % of children in private foster care arrangements are UK born, that this number has been declining, and that the majority of children reported to be in new arrangements in 2013 were born overseas – a trend that continued into 2014<sup>8</sup>. If we apply this percentage to the estimates of children living in private foster care offered by BAAF (above), then we can estimate that between 9,300 and 12,400 migrant children may well be living in private foster care arrangements<sup>9</sup>.

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<sup>4</sup> Children, Schools and Family Committee (2009) Looked After Children. Third Report of Session. 2008-2009. Vol .11. House of Commons

<sup>5</sup> Department for Education (2014) Statistical First Release of Notifications of Private Fostering Arrangements In England: Year Ending 31 March 2014.

<sup>6</sup> Philpot T (2001) A Very Private Practice: An investigation into private fostering. London: BAAF

<sup>7</sup> Crawley, H (2012) Working with Children and Young People Subject to Immigration Control: Guidelines for Best Practice. Second Edition.

<sup>8</sup> Department for Education (2014) Statistical First Release Notifications of Private Fostering Arrangements In England. Year Ending 31st March, 2014

<sup>9</sup> Connolly, H. (2015) Cut Off From Justice: The impact of excluding separated migrant children from legal aid: <http://www.childrenssociety.org.uk/what-we-do/resources-and-publications/cut-off-from-justice-the-impact-of-excluding-separated-migrant>

Although many of these children are likely to be 16 and 17 years old, and therefore are not required to be monitored, this figure does suggest that there is a significant proportion of children in private fostering arrangements who are not being monitored.

- 3.16. Our recent research<sup>10</sup> on the impact that excluding separated migrant children from legal aid in their non-asylum immigration cases under the Legal Aid Sentencing and Punishment of Offenders Act 2012 (LASPO) is leaving children's immigration cases unresolved. Without legal aid their cases are not being progressed, leaving many with an unresolved immigration status. This has significant implications for them, particularly as they approach adulthood, leaving them at risk of destitution and legal limbo, or at risk of return to a country that they have no lasting connections to and support to rely on. This is particularly problematic for children who have little contact with social services such as children in private fostering arrangements and whose carers may not be aware of how important it is to resolve a child's immigration status early on. Although many private fostering arrangements will be caring and nurturing towards separated children, in some cases carers may be neglectful or even deliberately using the child's lack of status as a way to exert control for purposes of exploitation.

### **Case Study of Florence**

Florence lived in the UK as an undocumented child for many years. She arrived in the UK as a very young child with her mother allegedly to visit a family friend. Her mother left her in the care of the 'friend' who was a stranger to Florence and told her that she would return to collect her. She never did. The woman she had been left with was disabled and Florence was responsible for her physical care and the housework. She was neglected, was often without food, and at times locked out of the house with nowhere else to go. An 'uncle' would regularly visit the house. He was a known criminal with a volatile personality and Florence would often be witness to physical arguments between the man and woman. Florence became very ill as a result of the violence, neglect, and all the responsibilities she felt she had towards the care of the woman and her home.

Florence sometimes went to school, and her teachers, upon noticing her underweight and careworn appearance, made a referral to social services. Social services sat on the referral for years, not doing very much with it, only occasionally visiting Florence and not doing anything about her undocumented status. The woman that Florence lived with was also undocumented and she had made an arrangement with friends with status to pretend they were Florence's carers. Florence would have to go to their house whenever social services wanted to visit and was also forced into the pretence of calling them 'mum' and 'dad' and doing as she was told. When Florence was 16, the woman decided that she did not want her around anymore. She was left homeless but with the support of an advocacy organisation, became a looked after child. During all this time, Florence had always assumed that her stay in the UK was unproblematic and did not know that she was undocumented.

- 3.17. The above case study illustrates the point that many separated migrant children who have been placed out of scope of legal aid support are increasingly becoming invisible to legal and advice services that can assist them to regularise their status, as well as to

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<sup>10</sup> Ibid

welfare services that are supposed to have an interest in securing status for children as a way of protecting their best interests.

- 3.18. Without an understanding of the number of separated migrant children living in private fostering arrangements identifying the scale of children missing out on vital services, such as legal aid for example, is extremely challenging. Therefore, we would recommend that within the monitoring return for private fostering arrangements local authorities should collect information on the number of separated migrant children and their immigration status and their nationality, to make sure there is a better understanding of these children's circumstances.

## **Recommendations**

- 1. The annual Notification of Private Fostering Arrangements in England should be retained.**
- 2. The annual Notification of Private Fostering Arrangements in England should include number of children in private fostering arrangements by immigration status and nationality.**
- 3. The annual Notification of Private Fostering Arrangement in England should be extended to monitor PFAs for 16 and 17 year olds.**

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