

Wales Centre for Public Policy

Managing placement provision for children and young people looked after

International sources review

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Introduction

In 2019 the Wales Centre for Public Policy (WCPP) worked with The Institute of Public Care at Oxford Brookes University (IPC) to undertake a review of international evidence on approaches to managing placement provision for children and young people looked after as part of a major project being carried out by WCPP to consider new approaches to managing placement provision in Wales. The purpose of the project overall was to:

- Consider how approaches in different countries vary.
- Think about the factors which have influenced these approaches.
- Consider whether there are activities, services, and arrangements elsewhere which might be worth exploring further, and whether there are aspects of the Welsh system which warrant further enquiry or testing.

In stage one of the project we described, using published and online sources, how basic commissioning arrangements work in different countries. In stage two we followed this up with a more detailed enquiry through interviews in some of these countries, leading to the completion of a report and this appendix.

This report complements the main report published by WCPP in January 2020. It provides additional details of the arrangements in the different countries we reviewed. It is based largely on grey literature obtained on the internet and as such we are conscious that they contain only partial descriptions and at times possibly controversial views. However, we think that there are important ideas and approaches described – many of which might be worth more detailed and rigorous analysis.

Australia

History

Foster care developed in Australia as the preferred method of care for children who could not be cared for adequately by their parents in the second half of the nineteenth century, beginning in South Australia in 1866. The approach was often referred to as 'boarding out' and was similar to that developed in the UK by women such as Florence Davenport-Hill with children placed in respectable working-class homes supervised by voluntary ladies' committees with this oversight becoming centralised in the variously named state children's departments in the early twentieth century.

These state children's departments were established in almost all Australian states prior to federation of the former separate British colonies into the Commonwealth of Australia in 1901, and child welfare continues to be a state responsibility under the terms of the national constitution.

The history of foster care and adoption has developed within the different state children's departments and, as a result, applies on a state by state basis rather than being provided at a national level.¹

¹ History of Adoption and Fostering in Australia, [Shurlee Swain](https://www.oxfordbibliographies.com/view/document/obo-9780199791231/obo-9780199791231-0102.xml), 2013
<http://www.oxfordbibliographies.com/view/document/obo-9780199791231/obo-9780199791231-0102.xml>

Current practice and policy

In Australia, Out of Home Care (OoHC) is the general term used to describe all types of accommodation provided for children and young people under the age of 18 who are unable to live with their biological parents/primary caregivers. It involves the placement of the child with alternate caregivers on a short- or longer-term basis (such as foster care, kinship care and residential care – see types of care below). Each state and territory government is responsible for the provision of care and support for children in OoHC, including their health care. OoHC can be arranged either informally (without statutory authorities or courts being involved) or formally, following a child protection intervention.² The Australian National Framework³ states that OoHC ‘should be a last resort for keeping children safe, with providing support to families and children so the child can safely remain in their home being the preferred option. Where the home environment is not safe for children and they have to be placed in OoHC, the focus is on providing children with safety, stability and a sense of security.’

Types of care

- **Residential care:** placement is in a residential setting with paid staff.
- **Family group homes:** for children provided by a department or community-sector agency that have live-in, non-salaried carers who are reimbursed and/or subsidised for the provision of care.
- **Home-based care:** placement in the home of a carer who is reimbursed for expenses for the care of the child. There are four categories of home-based care:
 - relative or kinship care
 - foster care
 - third-party parental care arrangements
 - and other home-based, OoHC
- **Independent living:** including private and lead tenant households.
- **Other:** placements that do not fit into the above categories - may include boarding schools, hospitals, hotels/motels, and the defence forces.

Whilst foster care remains the primary form of OoHC, there is a strong emphasis on trying to keep children with their families wherever possible, and, in the event that children are placed in care, every effort being made to reunite children with their families.

Data and numbers

During 2017-18, 55,300 children nationally were in OoHC (approximately 1% of children aged 0–17).⁴ As a snapshot, as at 30 June 2018, 51% were in relative/kinship care, 39% were in foster care, and 6% were in residential care.

² Australian Government Children in Care (Child Family Community Australia) Resource Sheet September 2018 <https://aifs.gov.au/cfca/publications/children-care>

³ National Framework [National Framework for Protecting Australia's Children 2009–2020](https://www.dss.gov.au/our-responsibilities/families-and-children/publications-articles/protecting-children-is-everyones-business), Council of Australian Governments [COAG], 2009 <https://www.dss.gov.au/our-responsibilities/families-and-children/publications-articles/protecting-children-is-everyones-business>

⁴ Australian Government, Child protection Australia 2017–18, March 2019 <https://www.aihw.gov.au/reports/child-protection/child-protection-australia-2017-18/contents/children-receiving-child-protection-services/children-in-out-of-home-care>

How is provision commissioned, procured and managed?

At a national level, policy is set through approaches such as the National Standards for Out-of-Home Care⁵ which were developed to improve outcomes. These are then expected to be followed by the states and territories when discharging their responsibilities. At state or territory level, there are different arrangements for the securing and provision of OoHC.

For example, in South Australia, the Department of Child Protection manages a licensing process for Foster Care Agencies (FCAs) and Residential Facility Providers, and also monitors compliance against the criteria and standards set (as well as the National Standards, South Australia also has its own standards). In addition, any organisation used by the state in the provision of services is subject to the state procurement and contracting guidelines and rules⁶.

If individuals wish to become foster carers, the state bodies will share with them the details of different licensed FCAs for them to contact, rather than being engaged direct by the state.⁷

Similarly, in Victoria, there is a requirement for Community Service Organisations (CSOs) providing OoHC to be approved, as well as for them to perform a Disqualified Carer Check prior to employing or engaging any carers, or approving foster carers, using the Victorian Carer Register.⁸ Some states also used lead or 'peak' non-government agencies to assist with the recruitment and assessment of potential foster carers as part of their processes^{9 10}.

Who are the providers / What is the market?

Though the precise detail varies between states, in general, the arrangements for OoHC share several similarities which are:

- The state government manages the care system, providing licensing, monitoring and funding arrangements, whilst retaining case management responsibility for the children ('service users'); some states also provide direct fostering services from their relevant department (i.e. a 'mixed economy' of state-run services and foster care agencies).
- Anyone wishing to become a foster carer must first lodge an application either with the relevant state government department, or through an independent fostering agency, with each state being responsible for licensing these organisations.
- Depending on the state, the services are provided direct and/or by these fostering agencies (or 'non-governmental organisations' NGOs) who are required to meet the licensing and other standards of that state and comply with the monitoring arrangements in their employment of carers and provision of services across the

⁵ Australian Government, An outline of National Standards for out-of-home care (2011)

<https://www.dss.gov.au/our-responsibilities/families-and-children/publications-articles/an-outline-of-national-standards-for-out-of-home-care-2011>

⁶ South Australia Department for Child Protection <https://www.childprotection.sa.gov.au/service-providers>

⁷ South Australia Department for Child Protection <https://www.childprotection.sa.gov.au/children-care>

⁸ Victoria State Department for Children, Youth and Families <https://providers.dhhs.vic.gov.au/out-home-care>

⁹ Queensland Government, How to become a foster carer <https://www.qld.gov.au/community/caring-child/foster-kinship-care/foster-kinship-care-become-a-carer/foster-kinship-care-how-to-become-a-carer>

¹⁰ New South Wales Government, Family and Community Services <https://www.facs.nsw.gov.au/providers/funded/peak-bodies>

range of types of care from family-based and kinship care through to residential care.

- External service providers are expected to perform against a laid down set of service deliverables and performance measures.
- The state government also funds networks and other arrangements to help support and sustain the system in terms of its capability, capacity, training, research, and provision of information and advice.
- Whilst most children come into care following a court order, there are also arrangements for 'voluntary care' where the parents agree to their child living in OoHC arrangements.

For example, in the state of Queensland, the child protection service delivery framework requires that the state department retains responsibility for the case management for children and young people, while NGOs and government partners deliver casework and support for according to the agreed case plans. In recent years, the state government has expanded the funding of child protection services from NGOs for a range of reasons including 'efficiency, effectiveness, and economy; and to reduce the stigma attached to government intervention in the lives of children and families to the maximum extent possible'.¹¹ To support and sustain the system it funds 'partner peak bodies and representative networks ... to provide capability building, research and advice, and dissemination of information'.¹²

To help secure sufficient capacity within the system the state government also issues specific 'frontline service procurement' opportunities for provision of OoHC. Young people typically leave care at age 18, though some states provide additional support until age 21.¹³

Challenges

Nationally, the key challenges in Australia in providing OoHC are placement stability and transitioning from care. It is also important to note that Australia also has specific policies and approaches aimed at tackling the apparent over-representation of children from indigenous backgrounds within the care system.

Canada

History

Since the nineteenth century Canada has been introducing social reforms directed at improving children's health, welfare, and education including the state taking responsibility for child protection. The separate provinces created child welfare agencies with the authority to care for children and to remove any child from parents who were unable to do so – in which case these children were made 'temporary or permanent

¹¹ Queensland Government Department of Child Safety, Youth and Women, Child Protection (Placement Services) Investment Specification October 2018 <https://www.csyw.qld.gov.au/resources/dcsyw/about-us/funding-grants/specifications/investment-spec-cp-placements.pdf>

¹² Queensland Government Department of Child Safety, Youth and Women, Our Community Partners <https://www.csyw.qld.gov.au/about-us/partners/child-family/our-community-partners>

¹³ Victoria Government Leaving Care <https://services.dhhs.vic.gov.au/leaving-care>

wards of the state'. A new profession of social workers managed these agencies and had the task of finding suitable homes for their 'wards' in orphanages or foster families.¹⁴

Current practice and policy

Foster children in Canada are still known as 'permanent wards' (or 'crown wards' in Ontario), a ward being a child who is the legal responsibility of the government and is placed under the protection of a legal guardian. Wards remain under the care of the government until they 'age out of care'. This age is typically 19, although this can vary depending on the province as each has different regulations for the wards in their care.

The foster care system in Canada involves a child being placed into a ward, group home (residential child care community, treatment centre, etc.) or private home of a caregiver, referred to as a 'foster parent' or with a family member – both of whom must be approved by the state. The placement of the child is normally arranged through the government or a social service agency. The institution, group home or foster parent is compensated for expenses unless the home is that of a family member.

The state, via the family court and child protective services agency, acts in loco parentis for the child and has responsibility for all legal decisions while the foster parent is responsible for the day-to-day care.¹⁵ Cases are filed through the social services departments of individual provinces with the vast majority of cases (estimated at 92%) resulting in the child remaining at home and not being put in an out-of-home placement.

Care arrangements are typically referred to as 'out of home care', and care leavers are known as young people who have 'aged out of care'. This is typically at age 19, and the degree of support available after leaving care varies between provinces and can be very limited. For example, in Ontario, young people 'transitioning from care may be eligible to receive financial supports ... up to the age of 21 – these supports are intended to help eligible youth meet their goals in transitioning to adulthood.' Other potential supports include young people aged 18-21 being able to stay with their caregivers whilst completing education, and those aged 21-24 being potentially eligible for some health care benefits.¹⁶ In British Columbia, access to similar benefits were recently increased to age 27.¹⁷

As an example, in Alberta, the law requires that the least intrusive intervention possible is used following the assessment, meaning that family support is frequently provided in the first instance (unless there is an immediate risk of harm). Entry into care can be voluntary or via a court order. Using a consistent approach across the workforce (currently 'Signs of Safety') the department has recently developed a number of philosophical beliefs that form their 'Foundations of Caregiver Support' and underpins their new practice framework, with the main goals of care being: reunification; adoption/permanent guardianship; remaining in care/post-guardianship support. The ultimate aim for all children is achieving a permanent home with a long-term relationship

¹⁴ History of Adoption and Fostering in Canada, Tarah Brookfield, January 2018,

<http://www.oxfordbibliographies.com/view/document/obo-9780199791231/obo-9780199791231-0157.xml>

¹⁵ Wikipedia, Foster Care in Canada https://en.wikipedia.org/wiki/Foster_care_in_Canada

¹⁶ Ontario Ministry of Children, Community and Social Affairs, Children's Aid

<http://www.children.gov.on.ca/htdocs/English/childrensaid/leavingcare.aspx>

¹⁷ Global News Canada March 2018 <https://globalnews.ca/news/4114481/new-rules-for-b-c-youth-aging-out-of-government-care-go-into-effect-april-1>

with primary carers, which retains connections to any specific cultural factors and, where possible, a legal/cultural bond with the birth family.

Types of care

There are several different types of out-of-home placements or care arrangements:

- **Informal kinship:** informal arrangement within extended family (e.g. grandparent).
- **Kinship foster care:** formal arrangement within extended family (e.g. grandparent).
- **Family foster care (non-kinship):** family-based care (family structure).
- **Group home placement:** group living, 24-hour staff on duty.
- **Residential/secure treatment:** commonly referred to as 'lock up', these homes are for children that need extra therapeutic treatment.

Data and numbers

Census data from 2011 counted 47,885 children in care. The majority of foster children – 29,590, or about 62% – were aged 14 and under. In 2013, there were an estimated 62,428 children in out-of-home care across Canada. Because child welfare services fall under the jurisdiction of provincial and territorial authorities, each of these has different legislation relating to child protection interventions. This makes it difficult to compare rates of children in care across provinces, although data is available at that level.

How is provision commissioned, procured and managed?

Arrangements in Canada vary between provinces. For example, in Ontario, child protection services are provided by what are known as 'children's aid societies' (CAS), that operate under the terms of the Ontario Child, Youth and Family Services Act 2018. The ministry provides funding to, and monitors, the CAS, develops policies to support child welfare programmes, and licenses children's residential and foster care.

CAS have a wide range of responsibilities, including 'investigating reports or evidence of abuse or neglect of under 18s, and for taking steps to protect children. They also look after children who come under their care or supervision, counsel and support families, and place children for adoption'. The 49 CAS must comply with the Ontario Child Protection Standards which require consistency of service to all children, youth and their families. Each society is an independent, non-profit organisation run by a board of directors elected from the local community, or a First Nation operating under the Indian Act in the case of the 11 CAS that are specifically for indigenous families.¹⁸

The OACAS (Ontario Association of Children's Aid Societies) 'provides advocacy and government relations, public education, training, information and knowledge management' on behalf of its members, who comprise 48 organisations that are recognised (mandated) to provide services on behalf of the Ontario Government.¹⁹ Prospective foster families are expected to contact CAS as part of the process of being assessed as a possible foster carer, with CAS being the provider of family-based foster care as well as residential children's homes.

The provincial government manages a system of funding opportunities for specific provisions, as well as monitoring the system, and CAS are expected to report against

¹⁸ Ontario Ministry of Children, Community and Social Affairs, About Children's Aid Societies <http://www.children.gov.on.ca/htdocs/English/professionals/childwelfare/societies/index.aspx>

¹⁹ Ontario Association of Children's Aid Societies <http://www.oacas.org/who-we-are>

some key performance indicators, with the 2018 Act marking a significant tightening up of the system in terms of regulation and placing more emphasis on children's needs, voice and rights. The ministry also commissioned a report into children's care in 2016 which made a series of recommendations for improvement²⁰.

In Alberta, all non-state 'external' care is procured in some way, with all care being licensed using the same approach (including any state provided care) except for kinship care where suitability is assessed by case workers. Care is monitored routinely: all external agencies have the quality and outcomes from their care assessed by contract specialists and reviewers, with a review of accreditation every three-to-four years. State-provided foster care placements are assessed by care workers, with the individual child's progress assessed by case workers.

Formal inspection of any care is not routinely carried out, but the Office of the Child and Youth Advocate may investigate individual cases especially if there is any specific incident (including death) involving a child in care. There are also staff working independently of the case workers who may produce reports on the wider system and on individual cases which lead to actions (and whilst not statutory, these are always acted upon).

Other provinces also made changes in recent years after a wide range of concerns over the standards and outcomes for children in the care system. In general, similar arrangements apply in terms of provision and also of support for those working independently of, or indirectly for, the provincial governments.²¹

Who are the providers / What is the market?

The providers of care vary between provinces. This can be through foster carers 'registered' direct with the provincial government children's department or via a fostering agency working to that department.

Residential children's homes (sometimes referred to as 'group homes') are typically licensed by the relevant department of the provincial government and run by private and/or not for profit organisations, with children being placed there through a variety of means including direct by parents, or via the courts, CAS, or other agencies acting on behalf of the provincial government. In Ontario for example, the Ministry directly funds some residential services, some via a transfer payment, and some indirectly through placing agencies such as CAS through contracts with private operators.

In Alberta, the non-state sector is significant, typically providing approximately 20% of kinship care placements, 40% of foster care, 50% of therapeutic/treatment-based care, and 100% of all group care (children's homes). The effectiveness of this latter sector was being reviewed during 2019 to assess impact on outcomes, with a view to re-tendering with a more explicit specification requiring providers to demonstrate how they will address the specific issues pertaining to an individual child in their care.

²⁰ Because Young People Matter Report of the Residential Services Review Panel, 2016
<http://cwrp.ca/sites/default/files/publications/en/residential-services-review-panel-report2016.pdf>

²¹ Alberta Ministry of Children's Services <https://www.alberta.ca/child-guardianship-foster-care-kinship-care.aspx>

The external providers tend to be members of ALIGN, a body that represents them and which is used for discussing practice and other issues with the state authorities, including how best to implement any practice or policy changes.

Key challenges

Key challenges include a lack of data and information at a national level, and a variation in the definitions used at a provincial level, making assessment of the scale of issues and the impact of changes difficult to assess.

It is also important to note that as in Australia, Canada also has specific policies and approaches aimed at tackling the apparent over-representation of children from indigenous backgrounds within the care system.

Denmark

History

Some elements of fostering and 'out of home care' for children in Denmark can be traced back to the early Middle Ages, when various religious Orders cared for abandoned children and orphans. In the later Middle Ages, the Roman Catholic Church took on this responsibility for the care of orphans until the Reformation when it was discontinued.

In 1803 a poverty law was passed, resulting in orphans being placed mainly with paid foster carers. Although there was a central inspectorate, funding was negotiated locally with children often at risk of being placed with the 'lowest bidder'. Nevertheless, the mid-nineteenth century in Denmark saw a growing level of concern regarding the care for children in need, and a call to address the variable range of policies for helping these children. An important feature of these historical developments was the change from foster care provided as a charitable activity, to a demand-led service managed by local municipalities in which carers received payment for their work, and this formed the basis for the professional service that continues today.²²

Denmark is a signatory to the UN Convention on the Rights of the Child. The period from 1980 has been characterised by increased decentralisation of decision-making and financial responsibility from the state and regional authorities to local municipalities, with financial pressure to avoid placing children in out-of-home care owing to it being a high-cost service (especially residential care).

Current practice and policy

Overall guidelines governing the placement of children and young people into care are laid down by the Danish Parliament, with the local authorities having the responsibility to ensure an adequate number of places, to approve the carers and institutions involved and to fund and manage the actual placements. There are a range of placement options for placing a child / young person including foster care, residential care centres, private residential care centres, boarding schools, and own accommodation (more below), and young people can remain in care until age of 18 and receive leaving care support up to the age of 23.

²² When family becomes the job: fostering practice in Denmark, Kjeldsen and Kjeldsen, 2010
<https://www.thefreelibrary.com/When+family+becomes+the+job%3A+fostering+practice+in+Denmark.-a0256684964>

A fundamental principle of Danish policy is that everyone should have equity of access to education and training. As a result, many residential care centres, private residential care centres, and day-care centres have been allowed to set up schools meaning that a significant proportion of the children and young people of compulsory education age placed in care at these centres are educated in on-site schools.²³

Danish policy developments in the last 20 years has seen an increased emphasis on 'measurable goals, early intervention, increased family responsibility, and increased specialisation'. At the same time, general Danish policy supports a high level of expenditure on universal services that support parents in caring for their children. Coupled with the historically high level of confidence in the ability of residential and foster care services to assist families struggling with difficulties especially in the teenage years.²⁴

It is policy that proposed interventions are discussed with the child's family, but where this is not possible, the plan and its aims and objectives are required to be explained to whoever holds 'custody' of the child – the custody holder can be either the mother, father, or other named person. Custody can be shared between parents if they are married or have signed an agreement to joint custody.

The Parental Responsibility Act 2007 prioritises shared custody and 'responsibility' for children depending on the status of the relationship between the parents at birth. Whoever holds custody, their main responsibility is to 'ensure the child's welfare and decide on personal matters in relation to the child's interests and needs', on the premise that 'the child has the right to care and security'.

This emphasis on early intervention means that entry into care often occurs quite late in children's lives when compared with other countries. It is worth noting also that it is policy for family support to be used whatever the age of the child/young person, and that it may continue even if after the child is taken into care. There is also a tendency for older children to receive more services.

Where concerns are identified, professionals employed by the municipality are required to assess the child's needs and circumstances in a comprehensive way – including 'the child's development and behaviour, school and educational history, physical and mental health, leisure activities, friendships, and the quality of family and other significant relationships', with this process to be completed within four months of the referral. Any decision regarding provision of services must be made with the agreement of the custody holder and also the young person if they are age 15 or older.

When there is an obvious risk of harm to a child or adolescent, it is possible to remove them to a residential or foster home without consent of the custody holder, though in

²³ Final report of the YiPPEE project WP12: Young people from a public care background: pathways to further and higher education in five European countries, Jackson and Cameron, 2011
http://www.kineo.nu/skolfam/moodle/pluginfile.php/35/mod_resource/content/1/Final%20Report%20of%20the%20YiPPEE%20Project%20-%20WP12%20Mar11.pdf

²⁴ Cumulative incidence of entry into out-of-home care: Changes over time in Denmark and England, Ubbesun, Gilbert, Thobun, Child Abuse & Neglect, 2015
<https://www.sciencedirect.com/science/article/pii/S0145213414003342>

practice this rarely occurs. The most common setting for children in care is a foster family, and this tendency has been typical since the late 1990s.

The process for approving foster carers varies in the different local municipalities, but typically involves potential foster carers being assessed across many aspects of their lives and aspirations, with one initial requirement being that 'the whole family completely agrees with the decision to look after a child'. The methods used as part of the assessment can include interviews, informal conversations, observation, and analysis of family background.

Foster families also have to attend a seminar offered by the local municipality as part of the approval process. It covers a range of issues including the care and upbringing of children, with a 'special emphasis on the specific needs of those separated from home', and the potential for 'collaboration with the child's parents, including how the child-parent relationship can be supported'. This is to help reduce the risk of placement breakdown. Throughout this process, there remains an expectation that all decisions concerning the child 'must be made in agreement with the social worker and the child's birth family'. For example, foster carers alone cannot make decisions on things such as choice of school or frequency of contact with birth relatives, with all responsibility for major decisions resting with the social worker – who also decides when the placement should end.

The social worker is also wholly responsible for matching the child and new family, and even where differences of opinion occur, the foster family's preference becomes secondary to the final decision of the social worker – a situation justified by the thoroughness of the assessment process. A review visit takes place at least once per year, and if professionals working for the municipality decide that the relationships in the family are no longer acceptable, 'It is their responsibility to ensure that the child moves to a residential home or new family'. Whilst it is expected that the review will be conducted by the same social worker each time, in reality, social workers change their jobs meaning that the foster family and child may well see different professionals during this process.

Once foster care applicants are approved, they acquire the status of 'professional' parents. Increasing use of the term 'professional' in relation to foster carers has been the subject of controversial debate in the way that it potentially detracts from the 'parental surrogacy' role that they perform, but on the other hand it acknowledges the important role and the fact that they are remunerated for it. Despite the attempts to reduce placement breakdown, this can still occur particularly with children placed into care when they are older. This can sometimes be owing to the birth parents removing their consent to the arrangement, though steps can be taken within the law to strengthen the child's relationship with carers when this happens, such as the municipal council being able to decide that the child or young person should stay in the placement for a further six months before going home.

The continued role of the birth parents in decision-making can create a paradox whereby foster carers are reluctant to develop too close an emotional tie to the child, despite this being likely to help the placement be more successful (Ibid 23). Residential care in Denmark accounts for a significant number of out-of-home placements, with many institutions using social pedagogical principles in their work with young people. This is coupled with a tendency for the staff to be formally trained in this work, which

researchers believe contributes to improved outcomes for these young people when compared to those in residential care in other countries.²⁵

Although adoption remains rare in Denmark (partly owing to the continued role and responsibility that birth parents retain under law), the last decade has seen Denmark consistently reinforce its legislation allowing for the forced separation of children from their biological parents. From 2009 to 2015 for example, local authorities could only obtain adoption without the parents' consent if they could prove that these would 'never' be able to take care of their child. Under this system, only 13 children were forcibly adopted that year.

In October 2015, the government relaxed the rules in a controversial move that allows for forced adoption when it is considered only 'likely' that biological parents will never be able to bring up their children properly, and there are current proposals being considered to allow municipalities further flexibility in carrying out these 'forced adoptions'.^{26 27}

Types of care

- **Foster care:** this can take the form of kinship care (also known as family network foster care), ordinary foster care, and municipal foster care.
- **Residential care:** this can take the form of children's homes, group care, and residential schools.

Data and numbers

Historically in Denmark approximately 15,000 children and young people have been placed in care, amounting to around 1% of the relevant population – a figure that has been fairly constant over the last 100 years. The majority of children in care in Denmark are placed on a voluntary basis, with more males than females placed in care.

The smallest group of children placed in care are 0-3 year olds. These account for 6% of the total care population. The largest group of placements (41%) consists of 15-17 year olds. Young children are more likely to be placed in foster care and older children in residential care centres. The majority of young people are placed in residential settings. (Ibid 24)

Denmark has historically had a relatively high proportion of children in care and looks after a similarly high proportion of these children in a residential setting when compared with other countries.²⁸ It is also noteworthy that the initial placement is often briefly residential before moving on to foster care when compared with other countries.

²⁵ The Guardian We lost the focus on emotional warmth <https://www.theguardian.com/society/2009/apr/21/child-care-europe>

²⁶ Lifesite news Denmark wants to speed up forced adoption process to take kids from birth parents <https://www.lifesitenews.com/news/denmark-wants-to-speed-up-forced-adoption-process-to-take-kids-from-birth-parents>

²⁷ CPH Post online 2016 <http://cphpost.dk/news/children-in-care-not-getting-adequate-help.html>

²⁸ An exploration of the differential usage of residential childcare across national boundaries, Ainsworth and Thoburn, 2013 <https://onlinelibrary.wiley.com/doi/abs/10.1111/ijsw.12025>

How is provision commissioned, procured and managed?

Each municipality varies in the way that it manages the local provisions for the children in its care, but in general, the process followed is as described above. Further investigation is needed to determine more detail in this area.

Who are the providers/What is the market?

The market for providing care is a mixed one, with the municipalities providing some foster care and residential care direct, but with the majority of placements made with independent providers.

Key challenges

Denmark has a comparatively high proportion of children receiving intervention and care (though this has been gradually declining in recent years) with concerns over the affordability of this demand, as well as the need to recruit more foster carers in response to the demand for this type of care.

Germany

History

Over the last 40-50 years, the residential care system in Germany has undergone a process of increasing professionalisation. This followed concerns being raised regarding the quality of care being provided in the 1950s and 1960s when 'large residential homes were still common, mostly run by the churches, with unqualified staff, poor conditions in terms of food and schooling, and very strict rules'. At the end of the 1960s, major changes resulted in the organisation of residential care.

These changes included greater specialisation, decentralisation, and regionalisation and 'led to smaller groups, family-oriented care and differentiation of various group-home settings'. The education and training of staff working in the residential group homes was also substantially improved and consequently aligned with 'the theoretical framework of social pedagogy, which led to more innovative concepts and methods'. At the same time, the amendment of the Child and Youth Services Act in 1990 supported the idea of providing many different options for child care as alternatives to residential care. The idea of 'child and youth services' (*Erziehungshilfen*) was introduced along with different types of residential and foster care and various forms of community-based and in-home family support services.

These child and youth services are now considered core fields of social pedagogy with education in its broadest sense being a core factor, encompassing all elements of living and learning as 'one unified process of developmental change and growth'. ('Social pedagogy' in Germany includes 'both the profession and the academic discipline and is only approximately equivalent to the term 'social work' used in the UK').²⁹

Current practice and policy

Germany is a federal republic and has 16 *Länder* (States) and more than 320 urban and rural authority districts (town councils), Germany has a mix of social legislation at the

²⁹ *Different sizes, similar challenges: Out of home care for youth in Germany and the Netherlands*, Harder et al, Psychosocial Intervention, 2013
https://www.researchgate.net/publication/266389547_Different_sizes_similar_challenges_Out-of-home_care_for_youth_in_Germany_and_the_Netherlands

federal level and variations within the municipalities, the latter being seen as responsible for implementing welfare services at the local level. The basic federal legal framework for care for children and young in need is the Social Code, *Sozialgesetzbuch* (SGB) VIII, (also known as the Child and Youth Services Act) 1990/1991.

This framework relates to all young people aged up to 21 (in exceptional cases until the age of 27) and includes ‘the child’s right to assistance in their upbringing and education. The implementation of the state’s policy is carried out by the statutory local services for child and youth care and education, and this is usually put into practice by the communal Child and Youth Welfare Office’.

The term ‘childraising support’ is a key concept in the Act and covers a wide range of potential measures. Guardians caring for the child, usually the parents, legal guardian or carer, are entitled to childraising support ‘if there is no guarantee that the child or young person will be raised in his or her best interests and support is necessary for his or her development. It should be noted that childraising support for a child or young person does not presuppose any endangerment of the best interests of the child but is instead understood as a preventive form of support used to avoid a case being brought before the family court’.

The type and extent of the support provided in a specific case is based on the individual needs and decisions form part of what is known as ‘support planning’. This plan is developed by the youth welfare department along with as many stakeholders as possible, including guardians caring for the child, plus the child or young person, teachers and doctors. The ‘contract’ subsequently agreed among the stakeholders is then regularly checked during the support period for suitability and necessity, and/or whether it needs to be amended.

Childraising support is wide-ranging and also ‘includes non-residential support (childraising advice, social group work, youth counselling, home-based family support, intensive individual socio-pedagogical support), semi-residential support (childraising in group out-of-school care), inclusion assistance for children and young people with learning disabilities, as well as residential support (foster care, and residential care)’. The young person becoming independent as they make the transition to adulthood, (including by entry into vocational training and/or employment), is seen as crucially important. Those young people who are considered to be socially disadvantaged, including many in care, also benefit from additional support such as basic job-seekers’ benefits and employment promotion. Various legal guidelines also ensure that employable young people receive some additional ‘basic social services and pedagogically orientated assistance’.³⁰

In Germany, the child welfare system is considered to be ‘family-service oriented, meaning that the mode of intervention is therapeutic and focused on needs assessment. The state-parent relationship is conceived of as a partnership in which the state seeks to strengthen family relationships and voluntary out-of-home placement’. The child and youth services reflect this in the way that they work to ensure the participation of young people and their parents in decision-making processes.

³⁰ National Report – An effective response to care leavers’ professional integration March 2016
<http://www.abeona-project.com/wp-content/uploads/2016/07/National-report-Germany.pdf>

Children's residential care and fostering in Germany may also be known as 'out-of-home children's social care services', or 'out-of-home care' (Fremdunterbringung).

The child and youth service system in Germany can in general 'be classified into three categories: a) community-based, in-home family support services (ambulant care), b) day groups for children who return to their parents' home for the night, and c) alternative care, such as residential and foster care. With the exception of foster care, the child and youth services system is quite professionalised, with about one third (34%) of the staff having graduated from either college or university. In addition, 87% of staff working in youth welfare offices are also graduates, while other staff have usually completed at least three years' vocational training'.

Residential group care also features a wide range of categories, including 'family-oriented care and differentiation into various group home settings such as therapeutic intensive residential groups, parent model residential groups (usually staff-supported), children's villages, as well as supervised individual residences for older youth and young adults. In particular, the concept of parent model residential groups, which is based on the idea that a couple (one of them being a professional) raises a group of children, shows that the differentiation blurs the lines between residential and foster care'.

Secure care placements have also been used infrequently, with some concerns being expressed over what are considered to be bad conditions in some facilities and the question of how secure care fits with the social-pedagogical concept (Ibid 31).

The residential care sector has progressed steadily over the last several decades in terms of its concepts and methods, whilst the foster care sector has more recently started this process. Being a foster carer has traditionally been voluntary, with foster families working directly with the youth welfare service, and the differentiation between 'traditional' foster care families, kinship care and 'professional' foster families (*Erziehungsstellen*), as well as short- and long-term placements is a recent phenomenon. A 'professional' foster family has a qualified social worker, teacher or social pedagogue as at least one of the foster parents (sometimes both), with younger children with special needs often placed in this kind of setting.

Foster parents are offered training, counselling, and workshops by the local youth welfare services, and also in some regions by not-for-profit voluntary organisations. This is also sometimes offered to the children to help them cope with their situation. So, in contrast with other countries such as Denmark that promote kinship care, Germany tends to pursue a path of professionalisation in the foster care sector.

A briefing on the German child protection system in 2016³¹ identified that 'transitions between different types of support not always being smooth'. This has resulted in the '...development of what are known as 'flexible types of child and youth services' that are oriented to the social environment of individual children or young people and their parents. The goal of this social pedagogical concept is to customise the different types of child and youth services more precisely to the needs of the child or young person. In this context, 'flexible' means that young people and their families do not have to adjust to the various types of intervention, but instead the intervention must adjust to the needs

³¹ Briefing on the German Child Protection System September 2016

<https://welfarestatefutures.files.wordpress.com/2016/11/hester-whitepaper-german-child-protection-system-aug2016.pdf>

of children, young people and their families, promoting a personalised approach to service provision rather than a 'one size fits all' mentality.' In this way, the young person's social networks and connections, including friends, schools and other relevant organisations to which the young person is linked, are intended to be maintained.

A child may be taken into care with the voluntary agreement of the parents if it is agreed to be in the child's best interests (including when there is no risk of specific abuse). In cases where an emergency placement is required, a short term foster care placement may be used (most commonly for younger children, with residential care settings being more commonly used in the case of adolescents). In any event, the foster carers (or staff in a home) are expected to provide support and help for children or adolescents and either prepare them to return to their family, to become a member of a new family, or for independent living.

Where parents agree with the placement of their child with a foster family: 'they remain the legal guardian of their child, but the foster parents are allowed to make decisions in everyday situations. If a child is placed in foster care on a voluntary basis the parents can end the placement at any time, though the Jugendamt – local child and youth welfare agencies, of which there are about 580 Jugendämter in total across all cities and districts that work and support families on a local level – is obligated to consider if the child is in danger in their original family before they return' (Ibid 31)

Some institutions and organisations work closely with the *Jugendamt* to provide more specialist and specialised care and support, including counselling and therapy for parents and children, as well as training and development, supervision and counselling for professionals (especially those working in child protection).

Types of care

There are several different types of out-of-home placements or care arrangements.

Foster care can take various forms (these are not mutually exclusive, and some of these may be voluntary):

- **Short-term foster care:** for a short period in response to specific difficulties in the home (*Kurzzeitpflege*).
- **Emergency foster care:** when the child is felt to be at risk (*Bereitschaftspflege*).
- **Regular full-time foster care:** formally organised with family-based care (*Vollzeitpflege*) (this may also be for children with special needs).
- **Kinship foster care:** (with authorisation): formal arrangement within extended family, e.g. grandparent (*Verwandtenpflege*).
- **Informal foster care:** mostly kinship foster care without authorisation – i.e. organised informally within an extended family.
- **Professional foster care:** where at least one of the foster parents is a qualified child care professional.

Residential care also takes different forms:

- **'Congregate housing in a home':** where children and young people live in a home which often forms part of a larger setting

- **‘Units providing intensive therapy based on curative education’**: where a highly structured therapeutic environment is provided for those that need it
- **‘Family-like forms of residential care’**: these may take the form of children's villages or much smaller settings including professional foster families
- **‘Assisted individual residential care’**: a type of supported living, where young people are provided with flexible levels of support according to their individual needs
- **‘Independent living groups’**: where a group of young adults live together in rented accommodation having moved on from another type of care, and where they show, and can develop, higher degrees of independence being supported by social pedagogues. (Ibid 31)

Data and numbers

Children's residential care and fostering in Germany typically has 50% of children and young people in out-of-home care living in forms of residential care, and 50% in foster families. It has been suggested (Ibid 30) that: *there are three main reasons for admission to the alternative care system: a) inadequate care and support of the young person, b) precarious life situation of the birth family, and c) individual problems of the young person, such as antisocial behaviour, developmental delay, or schooling problems.*

In 2011, these reasons for admission were found to amount to 40%, 34% and 26% respectively, resulting in approximately 61,000 children being placed with foster families (approximately 13,000 of these in kinship care), and an estimated 40,000 children living in informal kinship care arrangements. This equated to 112 per 10,000 of the population of young people under the age of 21 living in out-of-home care. Young people were found to be more likely to be placed in alternative care, (those aged 14-18 showing the highest rate at 136 young people per 10,000); whereas younger children and their families were more likely to receive community-based, in-home family support services (known as ambulant care).

Adoptions are rarely used as a form of alternative care in Germany, (similarly to Denmark), as in most cases, the child's birth parents retain part of the right of custody. In 2011, only 4,060 children were adopted with more 50% of these by relatives or step-parents. The period between 2000 to 2010 saw an increase of 27.4% in foster care placements for young people compared with only 1.4% for residential care placements possibly due to the growing public discourse on child protection issues that resulted in the amendment of the Child and Youth Services Act in 2012. This trend of decreasing use of residential care in comparison to foster care suggests that foster care has become more popular.

Numbers of children in out-of-home care (OoHC) and newly placed in adoption families between 2000 and 2010

OoHC: Residential vs foster care	2000 (%)	2010 (%)
Residential care	95,070 (62.2%)	93,785 (56.0%)
Foster care	57,862 (37.8%)	73,692 (44.0%)

Total OoHC	152,932	167,477
Rate OoHC per 10,000 children	83	/

Foster care: Kinship and non-kinship care

Kinship care	11,383	16,181
Non-kinship care	46,479	57,511
Total foster care	57,862	73,692

Adoption

National Adoption	4,482	3041
Children without German citizenship	1,891	980
Total adoption	6,373	4,021

Data in these tables re supplied by the Centre for Statistics on Child and Youth Welfare, University of Dortmund. (Ibid 31)

How is provision commissioned, procured and managed?

Germany's Social Code, *Sozialgesetzbuch* (SGB) VIII, (also known as the Child and Youth Services Act 1990/1991) specifically mentions the range of agencies that may provide services including the possibility of these being private bodies. Whoever is the provider of services, the Child and Youth Welfare Office retains overall responsibility for the care management process. The federal structure of Germany means that laws regarding child protections are passed at both the federal government and the state government (*Bundesländer*) levels.

Federal law overrides state law and setting the overall legal context for child protection, including parental rights and data protection. The states have responsibility to decide on organisational structures and procedures, with their child and youth welfare services being organised by the municipalities, which in turn determine the structure and support offered by the *Jugendamt*.

The services available range across family support, foster care, and residential care, and whilst these can be provided direct by the *Jugendämter*, it is common for them to be provided by child and youth welfare organisations that are run by non-governmental organisations (often referred to as *freie Träger* - 'free carriers' – independent providers that are typically not-for-profit). The *Jugendämter* provide the funding for services to the *freie Träger* whilst retaining responsibility for ensuring that the needs of children and families are met, and they expected only to provide themselves if the service in question is not available from the *freie Träger*,

The decision about which organisations are recognised as *freie Träger* is made at state level, and provision of services in child or youth welfare is required to be provided at a professional standard and consistent with the German constitution, and any organisation that has met the requirements for at least three years, including religious

groups governed by public law as well as federal welfare service organisations have a right to be recognised as *freier Träger*. (Ibid 31).

The same range of residential and non-residential provision is made available for older young people, along with specific arrangements for individuals and small groups in assisted living schemes (with social worker support), and other help such as counselling, and this is especially true for young people from disadvantaged backgrounds engaged in further education.

Who are the providers/What is the market?

The different types of residential children's social care (as defined in Section 34 of the SGB VIII) are described in the 'Types of Care' section above and are characterised by being based on specific approaches designed to help with the differing needs of children and young people across the range of provision (from the smaller homes to the larger institutions such as congregate housing for under-age mothers and their children or Children's Villages). There are a range of potential providers as described above, and it is interesting to note that the expectation of SGB VIII to offer young adults (Section 41) 'continued personality development leading to independent living' means that young people and young adults can continue to receive care up to age 21, and in exceptional cases even up to age 27, whether in assisted living, or in receiving counselling, financial support or therapy. However, this depends on their 'individual situation', which can be controversial in practice due to its ambiguity under law.

Key challenges

Historically, Germany has cared for larger proportions of children in residential care than other European countries, and this is felt not to achieve optimum outcomes for children.³² This can also contribute to significant levels of placement breakdown.

New Zealand

History

The 'Encyclopaedia of New Zealand'³³ describes the history of care of children, starting with the early nineteenth century, when minors (under-18s) 'living in New Zealand were not given special rights in law, as they were not distinguished from adults. This position changed later in the century as minors were seen as a vulnerable group in need of protection'. The idea of children having rights developed later in the century and reflected the growing belief that children had a right to protection. These changes can be summarised as follows:

- '1867, the Neglected and Criminal Children Act 1867 permitted provincial councils to provide care and custody of children who were neglected or orphaned. In 1893, the New Zealand Society for the Protection of Women and Children was established – a voluntary organisation that aimed to protect children from neglect and abuse.

³² German Residential Care: Doing Extremely Well in Doing the Wrong Thing, Shrodter, Conference Paper, 2014

https://www.researchgate.net/publication/265162609_German_Residential_Care_Doing_Extremely_Well_in_Doing_the_Wrong_Thing

³³ Te Ara – The Encyclopaedia of New Zealand <https://teara.govt.nz/en/childrens-homes-and-fostering/print>

- 1925, the Reform Government of New Zealand passed the Child Welfare Act. This Act established the Child Welfare Division, which was responsible for 'deprived and delinquent children'. The Guardianship Act 1968 defined and regulated the authority of parents as guardians. More importantly, it gave children paramount welfare status above other considerations, including parents' rights'.

Important though the above are, the most significant development was the Oranga Tamariki Act 1989 or Children's and Young People's Well-being Act 1989 (titled the Children, Young Persons, and Their Families Act 1989 prior to 14 July 2017).

This specifically provided for the care and protection of children as well as youth justice. Considered to be ground-breaking legislation at the time, 'the Act introduced the Family Group Conference (FGC) as a means of making decisions about a child or young person that did not involve a court hearing'. The Act also set out the process governing the removal of children from their parents' care where there was evidence that they had been, or were at risk of, abuse with 'the best interests of the child the first consideration'.

The Act also established a Commissioner for Children, and 'introduced major changes to the way decisions were made about children and young people who were victims of abuse and neglect or who broke the law and determined how the state intervenes to protect children from abuse and neglect'. A fundamental principle in the Act is the way in which it seeks to include children and families in decision making from the beginning and throughout the process, this being reflected in the use of FGCs as the preferred method of operation, and in the involvement of the family in meeting the needs of children and young people including an expectation that families would provide for their members and solutions were to be sought within the family. In 1993, New Zealand also ratified the United Nations Convention on the Rights of Children (UNCRC).

The Law also allows for the courts to make a range of orders including 'child protection orders (when children are at risk of abuse or neglect) to parenting orders, which determine who will provide day-to-day care of a child'. Such orders can involve removing children from their parents and placing them into the care of other people, such as grandparents. After a number of scandals emerged in the early part of the twenty-first century, the government launched a royal commission to investigate cases of historic abuse of people in state care. This commission is due to issue its final report in 2023.

Current practice and policy

The Children's Act 2014 made further significant changes to protect vulnerable children and 'help them thrive, achieve and belong'. The legislation included:

- One new stand-alone Act, the Children's Act 2014.
- Amendments to the Children, Young Persons, and Their Families Act 1989.

This 2014 Act 'made the heads of six government departments accountable for protecting and improving the lives of vulnerable children'. As a result, the NZ Police and the Ministries of Health, Education, Justice, Social Development, and Oranga Tamariki had new, legislated responsibilities and adopted new child protection policies as standard along with the Ministry of Business, Innovation and Employment (Housing), District Health Boards and school boards of trustees.

In 2015 the Minister for Social Development establishing an expert panel ‘to review and develop a plan for the modernisation of the CYF’ to address ‘issues and poor outcomes for many of New Zealand’s children and young people’. Whilst the initial push for the review was financial, there was soon a ‘recognition that for real change to be implemented, the whole system needed to be taken into consideration, questioning the fundamental structures and functions of the care and protection system as well as the culture in which it was delivered’. The panel researched how other countries met the needs of children in their care, and produced ‘three core priorities’ for the new agency, namely:

- ‘To prevent children from becoming vulnerable and for them to remain safely within their birth family and community. If vulnerability is present it needs to be recognised early and families need to quickly receive the right support and services.
- The service listens to and learns from the voices of the children who are experiencing and have experienced life in care. The service needs to be responsive to the child’s needs and aspirations.
- The indicators of success will be improved life outcomes which manifest as meaningful difference in children’s lives’.

It also developed six priority objectives for a revised child-centred system:

- ‘Ensuring children have the earliest opportunity for a loving and stable family.
- Addressing the full range of needs for each child.
- Preventing victimisation of children.
- Helping children to heal and recover.
- Supporting children to become flourishing adults.
- Helping children take responsibility for their own actions and live crime free lives’.

This all led to what was then a fragmented system being replaced by a single department – the Ministry for Children (Maori name Oranga Tamariki, meaning young people’s welfare). This department was set up as a ‘social investment’ department, rather than a social welfare department, and ‘covered services for all vulnerable children not just those in need of statutory care and protection’. The department is expected to work effectively with the wider sector partners and the community, including families, and this is reflected in its values.³⁴

The need for these changes was reinforced by a significant study published in 2018 that found that ‘notifications and substantiated child maltreatment were more common in New Zealand than was generally recognised’. Based on a study of a large cohort of children born in 1998 it found that: ‘Almost 1 in 4 children had been subject to at least one report to Child Protective Services at age 17 (23.5%), and 9.7% had been a victim of substantiated abuse or neglect. It also found that 3.1% had experienced out-of-home placements by age 17, with boys being more affected than girls’.

³⁴ Expert Panel Final Report: Investing in New Zealand’s Children and their Families: Research briefing and fact sheet prepared by Who Cares? Scotland October 2016 http://www.parliament.scot/S5_Education/Inquiries/WCSAdditionalInfo20161026.pdf

This reinforced the need for change.³⁵ Regulations for national standards of care were also approved in 2018 and took effect on 1 July 2019 setting out the standards that applied both for children and young people in the care or custody of Oranga Tamariki, 'and also to organisations that have a child or young person in their care or custody under the Oranga Tamariki Act'.³⁶ The regulations also established actions to be taken to ensure that children and young people receive an appropriate standard of care, and have six parts:

- 'Needs assessments, plans, and visits to children and young people.
- Support for children including general support, whānau (extended family) connections, culture and identity, play, health, education and making a complaint.
- Caregiver and care placement assessment and support.
- Supporting children and young persons to express their views and contribute to their care experience.
- Supporting children and young persons during care transitions.
- Monitoring and reporting on compliance with these regulations'.

Also included was a 'Statement of Rights for children and young people'³⁷ and there is some evidence already that the changed system is more effective in achieving some of its key objectives including placement stability, continuity of care, and achieving permanency.³⁸

In practice, this has led to the production (in July 2019) of national Care Standards for children and young people that apply throughout the 'journey' from the period prior to any decision to enter care through to leaving care at age 25. This has a 'wide reach' and places clear expectations on all agencies and partners within the system, with a heavy emphasis to identify support for the family and child from within existing family and social networks in the first instance and involving these people in the decision-making. The threshold for bringing a child into care is therefore relatively high, owing to the expectation and assumption that lots of effort has already been made to prevent entry into care being necessary.

Families and the child are heavily included in all stages of decision-making, with routine and regular use of Family Group Conferencing as a key approach, all with the primary goal of achieving re-unification in the first instance, and permanence through another route if necessary (using kinship networks wherever possible and possibly involving a Guardianship order). The 'voice' of the child as well as their cultural heritage also plays a significant part in any process.

Kinship care is favoured (which can include the wider social network of neighbours and friends), and all foster carers (including kinship carers) are assessed to determine their

³⁵Cumulative Prevalence of Maltreatment Among New Zealand Children, 1998–2015, Rouland and Vaithianathan, *American Journal of Public Health*, April 2018
<https://www.theguardian.com/world/2018/mar/08/study-one-in-four-new-zealand-children-reported-welfare-agencies>

³⁶ Oranga Tamariki National Care Standards

<http://legislation.govt.nz/regulation/public/2018/0111/latest/LMS56030.html?src=qs>

³⁷ New Zealand Family Violence Clearing House <https://nzfvc.org.nz/news/national-standards-regulations-children-care-approved>

³⁸ Focus on stability: A cohort of young children in statutory care in Aotearoa New Zealand, Connolly et al, *International Social Work*, 2017 <https://journals.sagepub.com/doi/pdf/10.1177/0020872814554855>

fitness to provide care. All children in care have reviews and reporting on the suitability of their placements on a regular basis (six-monthly for under-7s; annually monthly for over-7s). The needs of foster and other carers are also assessed separately, with a view to ensuring and checking a match with the child's needs and plan.

Types of care

The Oranga Tamariki summarise the types of care that they provide and support as:

- **'Emergency care:** This happens when a young person or child is placed in care at very short notice because there are immediate and serious concerns for their safety and there is nowhere else that's safe to go. Emergency care is for a short time while other arrangements are made.
- **Respite care:** This is when foster carers or residential carers look after a child for a weekend or a short period of time to give the child or young person's parents or caregivers a break.
- **Transitional care:** This is when the state is working with a child's family and deciding what the plan is for the child or young person. It might last for up to six months.
- **Family home care:** This is when two adult caregivers care for up to six children or young people in a home environment. Carers live rent-free in a home owned by the state and receive an allowance for the children in their care. Children move in and out of the home depending on what's happening for them.
- **Permanent care:** This happens when a decision is made by the Family Court that a child cannot be cared for by their own family and the state secures an alternative permanent caregiver for them. Permanent care, or Home for Life as it's sometimes known, involves a formal legal process.
- **Adoption:** The state works with birth parents who may be considering placing their child for adoption, and families wanting to adopt a child. It helps birth parents to find the right family for their child. It encourages an ongoing connection with the child's birth family and their culture and helps adopted people and birth parents to access information about an adoption'.³⁹
- **Residential homes:** Although residential institutions are no longer seen in New Zealand as appropriate for most children needing care outside the family home, there are still state and charitable homes for children and adolescents. They are known as residential homes or residences. (Ibid 45)

Data and numbers

The information below gives a snapshot of the number of children and young people in the different types of placement across New Zealand between 2013 and 2017.

Placement Type	June 2013	June 2014	June 2015	June 2016	June 2017
Non Family/Whānau Placement	1,298	1,269	1,182	1,281	1,368

³⁹ Oranga Tamariki Types of Caregiving <https://www.orangatamariki.govt.nz/caring-for-someone/types-of-caregiving>

Placement Type	June 2013	June 2014	June 2015	June 2016	June 2017
Family/Whānau Placement	1,698	1,999	2,193	2,303	2,515
Child and Family Support Services ¹	521	536	502	507	541
CYF Family Home Placement	103	114	133	154	116
Residential Placement	47	34	29	35	29
Other Supported Accommodation	177	177	124	114	147
Distinct children and young people	3,844	4,129	4,163	4,394	4,716

Note: Excludes placement types - 'Independent Living', 'Remain Home' and 'Return Home'.

Child, Youth and Family (known as Oranga Tamariki since 2018) had around 3,500 approved caregivers in 2017, who were either family/whānau members or non-family/whānau providing a range of care options. The information below gives the number of different types of caregivers between 2013 and 2017 across New Zealand.

Type of Caregiver	June 2013	June 2014	June 2015	June 2016	June 2017
Non Family/Whānau Caregivers ¹	1,633	1,581	1,465	1,408	1,450
Family/Whānau Caregivers ²	1,801	1,933	2,011	2,073	2,222
Total Approved Caregivers	3,434	3,514	3,476	3,481	3,672

1. Non Family/Whānau caregivers include emergency approved caregivers.

2. Family/Whānau caregivers are only approved to care for specific children and young people.⁴⁰

A more recent snapshot of data during summer 2019 confirmed that there were approximately 6,000 children within the care system (around 0.5% of the child/young person population). Of these, around 50% (3,000) were in kinship care arrangements, 23% (1,400) in state organised foster care, 17% (1,000) in family home care, 10% (600) in independent sector foster care/group homes, and around 1% (60) in bespoke arrangements.

How is provision commissioned, procured and managed?

The Ministry provides funding for providers of care who can bid for opportunities via an online procurement portal, funding services that 'comply with our priorities'. Any providers contracted by the Oranga Tamariki are required to have already acquired accreditation via the Ministry of Social Development, so that government and clients are

⁴⁰ Ministry of Social Development, Statistics, Kids in Care <https://www.msd.govt.nz/about-msd-and-our-work/publications-resources/statistics/cyf/kids-in-care.html>

assured they have the capability and capacity to deliver social services on an ongoing basis at the required quality.

The Social Services Accreditation process assesses organisations against a set of standards based on the type of services they deliver, with the intention ‘that government agencies and the provider’s clients can be confident in the services that are delivered’.⁴¹ All contracts and funding awards are also expected to comply with the government ‘Code of Funding Practice’ which sets out best practice and also complies with other government guidelines set by the Treasury and Office of the Auditor General – all of which is suggestive of a clear set of checks and balances in the use of public funds.⁴²

‘Service providers will also be issued with an Outcome Agreement, which will require that the services are delivered in accordance with service specifications developed by the Ministry, and which will form part of that Outcome Agreement’.⁴³ In addition, there is widespread use of ‘Results Based Accountability’⁴⁴ in the assessing of the effectiveness of services.⁴⁵

Foster carers may be recruited and trained direct by the Ministry, or by approved fostering agencies – some operating nationwide and others more localised. Some of these non-government organisations are also funded to provide training (initial or ongoing) and support to foster carers.⁴⁶

There is a long history in New Zealand of there being a strong altruistic element in the provision of care, and any arrangements to ‘commission’ or ‘procure’ care are designed to try to maintain that tradition. In practice, this is reflected by the balance of care being provided by the state (at around 90%), with the non-state agencies operating under the same terms and policies as those of the state. As a result, ‘commissioning’ in New Zealand in this sector reflects the strategic arrangement of the system in order for the state to discharge its functions and achieve their objectives and outcomes, rather than care being ‘bought’. The commissioning cycle is therefore used to help secure good outcomes for children by supporting the development of informal mechanisms and capacity-building, as well as in more formal contracting as described above.

Monitoring of the system as a whole is undertaken by the Office of the Independent Monitor, (working alongside the Children’s Commissioner and Ombudsman) though this is a new development and the precise role is still to be finalised.

Who are the providers/What is the market?

Providers of foster care range from kinship (whānau) care to other forms of foster care (see above). Some carers are engaged direct by the Ministry, and others via approved non-governmental/not-for-profit organisations who meet required standards.

⁴¹ Ministry of Social Development Social Services Accreditation <https://www.msd.govt.nz/what-we-can-do/providers/social-services-accreditation/index.html>

⁴² Oranga Tamariki Information for Providers, Funding <https://www.orangatamariki.govt.nz/working-with-children/information-for-providers>

⁴³ Oranga Tamariki Information for Providers, Service Specifications <https://www.orangatamariki.govt.nz/working-with-children/information-for-providers/service-guidelines>

⁴⁴ Fiscal Policy Studies Institute – What is RBA? <https://resultsaccountability.com/about/what-is-results-based-accountability>

⁴⁵ Ministry of Business, Innovation and Employment – Social Services Procurement <https://www.procurement.govt.nz/procurement/specialised-procurement/social-services-procurement/developing-a-social-services-procurement-plan/how-to-measure-outcomes-and-outputs>

⁴⁶ Fostering Kids New Zealand <http://fosteringkids.org.nz>

As noted above, the majority of care is provided or organised by the state bodies. Where the independent sector does provide, this is mostly in the form of charities and other not-for-profit organisations, most of whom have a long tradition in the sector (for example the Open Home children's village foundation). There is very little growth taking place in foster care agencies, with 90% of funding in the sector going to charities/not-for-profit bodies.

It is worth noting that the 'edge of care' family support sector remains relatively under-developed, and where this does exist it is mostly provider-led. This is a sector currently under development, and its relationship to the balance of care generally is being considered carefully.

Key challenges

Considerable recent change has been undertaken in terms of legislation and state organisation in relation to the care of children, and the impact of this is still to be fully assessed. This was partly in response to scandals regarding allegations of abuse of children in state care for which there is an ongoing enquiry.

It is important to note that, like Australia and Canada, New Zealand also has specific policies and approaches aimed at tackling the apparent over-representation of children from indigenous backgrounds within the care system, and whilst this is an important topic, it is not of specific interest in the context of this report.

Norway

History

It was with the Child Welfare Act of 1953 that the principles of the modern welfare state were implemented for marginalised children and young people in Norway.

This legislation was replaced by the current Child Welfare Act in 1992/3, with the intention to reduce the emphasis on the 'control' aspect of child protection work and increase the emphasis on support. This has changed Norwegian child welfare work considerably during the last couple of decades.

Current practice and policy

The Norwegian Government website describes how its child welfare responsibilities are divided between the Ministry of Children and Equality, the Directorate for Children, Youth and Family Affairs and five regional offices, and the county governors. 'The Ministry has the overriding responsibility for child welfare and has the administrative responsibility for the Child Welfare Services Act (1992) and oversees that the Act, regulations and other provisions are correctly applied; that experiences gained from application of the Act are evaluated; and for issuing guidelines and instructions, initiating research in the field, developing general child welfare policy and providing information about child welfare'. The Ministry does not act as an appeals body and does not manage individual cases.

Bufetat is the Norwegian name for the 'five regional offices under the central authority of the Directorate for Children, Youth and Family Affairs'. These regional child welfare authorities have responsibility for: 'assisting the child welfare services in municipalities with placement of children outside their home, assisting the local authorities in the

recruitment of foster homes and placing children in such homes, and for giving foster homes training and guidance. Each of the regional offices is also responsible for establishing and operating institutions and for approving private and municipal institutions'. The next level involves the county governor who supervises the child welfare activities in each municipality, by ensuring that 'the local authorities carry out their duties in compliance with the Act' and 'ensures that the municipalities receive advice and guidance'. The county governor is also responsible for supervising the child welfare institutions and as well as other central government services in the municipality and acts as 'the appeals body for individual decisions' that are reached under Child Welfare Services Act. The Norwegian Board of Health Supervision has 'the overriding responsibility for the supervision exercised by the county governor in the child welfare field'. The county social welfare board is a state body and serves as a tribunal. Decisions made by the board are intended to be impartial and include care orders and forced intervention in the case of young people with serious behavioural difficulties. There are 12 such boards, each comprising a chairperson who is a lawyer, two expert members, and two lay members, with decisions reached being brought before the district courts.⁴⁷

Whilst both the local and central government authorities have duties in the child welfare field, the Norwegian Child Welfare Services (*Barnevernet*, literally 'child protection') are 'the public agencies responsible for child welfare in Norway at municipality level', and are supported and overseen by the different governmental bodies at the state as well as the county level as explained above.

The Child Welfare Services' statutory obligation is 'to ensure that children and youth who live in conditions that may be detrimental to their health and development receive the necessary assistance and care at the right time' and 'to help ensure children and youth grow up in a secure environment'. (Ibid 47)

It is estimated that 'roughly 3% of all children in Norway receive some sort of measure from the Child Welfare Services, most of them in the form of relief measures for the child and their parents (such as counselling, advice, external support contacts, access to day care, etc.). In about one quarter of the cases, the children are placed outside their homes (mainly in foster families or institutions) after care orders'. (Ibid 54)

One result of the changes in the law was 'considerable growth in the number of children receiving some kind of service from the child welfare system in Norway, almost exclusively in relation to voluntary services for families, in order to keep the family together and improve the parents' capabilities of care' meaning that a growing number of children and young people 'receive help in their families while still living at home instead of being placed outside their homes'. This can be interpreted as meaning that the Norwegian child welfare system has contributed to a more general level of welfare rather than addressing the effects of dysfunctional and harmful care of children and young people, with the unintended consequence that this 'may lead to fewer resources being used in cases where children and young people are at greater risk'.

Foster care has been the first choice in Norway for children placed outside their homes since the Child Welfare Act of 1953. This is the case across all age groups but with a

⁴⁷ Norwegian Government Website: Division of Responsibility in the Child Welfare Service
<https://www.regjeringen.no/en/topics/families-and-children/child-welfare/allocation-of-responsibilities-related-to-c1/id2353984>

tendency for the vast majority of those aged 13 or over to find themselves in residential care (with an overall move away from residential care in favour of foster care since the 1980s).

The system requires that 'children are entitled to participate in decisions involving their personal welfare and have the right to state their views in accordance with their age and level of maturity'. This particularly applies in cases where there are 'administrative and legal proceedings that will strongly affect the children's day-to-day lives'.

Removing a child from the home without parental consent is 'a measure of last resort in cases of (or justifiable suspicion of) serious neglect, maltreatment, violence, abuse, trafficking, etc'. In such cases, a decision from the County Social Welfare Board is required based on a recommendation from the municipal authorities. In urgent cases (i.e. imminent danger for the physical or mental health of the child), the municipal welfare services are able (and expected) to issue a provisional care order on their own account, which expire after six weeks unless they are confirmed by the County Social Welfare Board. Whilst decisions taken by the County Board may only be overturned by the courts, it is the municipal Child Welfare Services that have responsibility for monitoring the development of children who have been placed in care.

The emphasis on 'preserving the family' in Norwegian policy means that out-of-home placements often take place relatively late in childhood. For example, 'among foster children born between 1990 and 1992, more than 70% were six years or older at the time of their first out-of-home placement which indicates a higher age at first out-of-home placement than in, for example, the USA' and reflects the sometimes lengthy duration interventions in the home - families having 'received voluntary interventions for a mean of three years before placement out of home. A possible side-effect to these practices might be prolonged exposure to detrimental care conditions for the child involved'. (Ibid 47)

Norwegian practices and policies give preference to foster family placements, and Residential Youth Care (RYC) placements are seen as a last resort – at the end of 2015, 11,500 children were living in foster families whereas 1,841 children and young people had been placed in RYC in the same time period. Adoption is rare and even a long-term placement tends to remain a foster relationship.⁴⁸

Norwegian child welfare has a long history of aftercare services dating back to the legislation of 1896, and whilst its presence in the legislation has varied since then, more recently there has been a clearer focus on the transition from care to adulthood. 'There is a duty to ask the young person if they need services after 18. If they agree, a plan for such services should be written. The services can last until the young person is 23. If the child welfare service decides not to provide services to a young person after they turn 18, it is mandatory for the service to give the grounds for the decision'. The legislation is framed on the basis that 'the decision not to offer after care services should be taken in the best interest of the child/young person'. However, research suggests that a number of young people do not receive satisfactory after care services. (Ibid 48)

⁴⁸ Children placed in alternate care in Norway: A review of mental health needs and current official measures to meet them, Lehman et al, International Journal of Social Welfare, 2018
<https://onlinelibrary.wiley.com/doi/pdf/10.1111/ijsw.12323>

Recent changes to the Child Welfare Act have mandated a requirement to try kinship care at first, with these carers being regulated and recompensed in the same way as non-kinship foster carers.

Types of care

The Directorate of Youth and Family Affairs website describes the various types of care in Norway as:

'Foster Homes

Foster homes are one of several placement alternatives at the disposal of child welfare services, and the vast majority of under-12s are placed in foster care. A foster home is a private residence in which a child who is unable to live with their parents receives temporary care and accommodation. Sometimes it is the parents who, in conjunction with child welfare services, decide that a child shall be placed in foster care. In other cases, it is the County Social Welfare Board that takes the decision on the recommendation of the local child welfare services.

The foster parents provide the day-to-day care of the child on behalf of child welfare services, which is responsible for following up with the child and the foster home, and for providing necessary support measures.

Residential Child Care

In addition to foster homes with a family, there are various kinds of residential childcare institutions in Norway, most of them catering for over-12s:

- **Emergency placement and assessment institutions** are designed for children and young people who need help and assistance at short notice. Placements result from a variety of crisis situations. Emergency placement and assessment institutions offer a short-term solution while efforts are made to determine what would be in the young person's best long-term interests.
- **Youth care homes** accept young people aged 12-18. Some offer short-term placements, while others are designed for long-term residence. The latter often have separate bedsits or houses where young people live for the last phase of their stay. Residential childcare institutions continue to provide follow-up support to young people once they have left the care system.
- **Residential care** can be provided by local authorities as well as private, not-for-profit organisations that have been approved by the *Bufetat* (the regional Children's, Youth and Family Affairs agency), which offers places at residential childcare institutions'.⁴⁹

Data and numbers

According to figures provided by Statistics Norway, 39,612 children received measures from the Norwegian child welfare services at the end of 2017. Of these, 1,199 were cared for in a 'children's institution' either publicly owned (46%) or privately owned (54%). In addition, 11,812 were in foster care of some sort:

- Foster homes outside family and close network: 7,457 (63%).
- Foster homes of family and close network: 3,027 (26%).

⁴⁹ Directorate for Children, Youth and Family Affairs website
https://bufdir.no/en/English_start_page/The_Norwegian_Child_Welfare_Services

- Emergency shelter homes: 674 (6%).
- Public family homes: 641 (5%).
- Foster homes under Child Welfare Act: 8 (0.06%).
- Other foster care: 5 (0.04%)⁵⁰

The data above shows the clear typical tendency that around 90% of children in out-of-home-care in Norway are in foster care.

How is provision commissioned, procured and managed?

Foster homes are subject to a range of arrangements for supervision that are the responsibility of the municipality in which the foster home is located (transferred from child welfare services following an amendment of the Child Welfare Act in 2014). The purpose of the supervision is 'to ensure that the child receives proper care and that the conditions for the placement are complied with'. This change in the law in 2014 gave municipalities a 'greater and more comprehensive responsibility for the supervision' (ensuring that it 'fully conforms with professional standards, statutes, and rules') as well as more flexibility over how the supervision would be administered and who was to carry it out on its behalf.

The Government website confirms that: 'Approximately 90% of all foster homes are municipal foster homes, where the foster parents have an agreement with the municipality responsible for care of the child and receive remuneration for doing so. The foster home agreement regulates the relationship between the foster parents and the child welfare service and relates to placement of a specific child'.⁵¹

As well as the usual foster placements, emergency foster homes 'are homes with special competence for looking after children and young people in acute situations', and *Familiehjem* (family homes) have 'special competence for looking after children and young people with special needs'. 'These homes often function as an alternative to placement in institutions, and it is necessary that at least one of the parents is occupied full-time with work in the home and has no other employment'.

These homes typically enter into a five-year contract with the central government child welfare authorities at regional level (*Bufetat*), which also arranges remuneration. This 'continuous contract' means that it also applies when there are no children placed in the home. In addition, a foster home agreement is entered into between the foster parents and the municipality in connection with placement of a specific child.

The Foster Care Service engaged by the municipality (which can be a private, not-for-profit body) is 'responsible for recruiting and allocating foster homes, and for providing foster parents with the necessary training and general guidance'. These Foster Care Service providers support the local child welfare services with placement, follow-up, and conclusion of foster care, with the child welfare services retaining responsibility for review of the child and the foster home, and for ensuring that the necessary support is in place.

⁵⁰ Statistics Norway website: <https://www.ssb.no/en/barneverng>

⁵¹ Norwegian Government Website: Foster Home and foster home agreement <https://www.regjeringen.no/en/topics/families-and-children/child-welfare/fosterhjem-og-fosterhjemsavtalen/id630511>

The municipality must also ensure that 'persons charged with carrying out supervision on behalf of the municipality are given the necessary training and guidance'.⁵²

There is currently a trial taking place whereby three municipalities are having more responsibility for the system at all levels delegated to them including for institutional and residential care, partly to help try to tackle the risk of placement breakdown (which is a major issue).

Who are the providers/What is the market?

Providers of foster care and residential services may be state/municipality run or run by private/not-for-profit bodies according to the regulations, overseen by the child welfare services of the municipality.

The contracting of independent/private sector organisations in residential care is typically run at a regional and national level. These providers are approved and regulated by state bodies at different levels, with municipalities funding the placements of individual children.

Key challenges

The developments in the Norwegian approach to child welfare have led to the state's involvement with a significant proportion of the child population. This has led to large-scale demand for services and support, and to considerable national and international criticism on two main issues.

On the one hand, the state has been criticised for 'detecting too few cases of parental neglect and helping children too late' (i.e., for having too high a threshold for acting), whilst on the other hand, it has been 'criticised for taking over custody too easily (i.e., for having too low a threshold for taking action)'. By 2017, the European Court of Human Rights had agreed to hear eight separate cases against Norway for the activity of its child welfare agency since December 2015.⁵³ There have also been some recent scandals regarding the 'profits' alleged to have been made by private organisations from the provision of residential children's homes.⁵⁴

Republic of Ireland

History

There has been a long tradition of fostering in Ireland. An essay on the historical background to foster care in Ireland describes how, under the Health Act (1953), 'health boards were empowered to allow for a major shift towards foster care. The arrangements that were introduced in Boarding of Children's Regulations in 1954

⁵² Norwegian Government website: Supervision of foster homes
<https://www.regjeringen.no/en/topics/families-and-children/child-welfare/fosterhjem-og-fosterhjemsavtalen/tilsyn-i-fosterhjem/id2339664>

⁵³ Wikipedia Norwegian Child Welfare Services
https://en.wikipedia.org/wiki/Norwegian_Child_Welfare_Services

⁵⁴ The Nordic Page: Private Child Welfare Service Is More Profitable Than Oil Industry in Norway, September 2017 <https://www.tnp.no/norway/economy/private-child-welfare-service-profitable-oil-industry-norway>

VG Magazine: The King of Foster Homes, June 2017 <https://www.vg.no/nyheter/innenriks/i/jW6qq/the-king-of-foster-homes>

included provisions around being boarded out, placement in an approved school, or, if over 14, placed in employment'.⁵⁵

The Child Care Act 1991 required the 'health board having a statutory duty to identify children who are not receiving adequate care and protection. The welfare of the child becomes paramount and where appropriate the board considers the wishes of the child based on their age and maturity'.

The Child Care (Placement of Children with Relatives) Regulations were added in 1995 as section 39 of the Child Care Act 1991 and give responsibility to the Minister for Health and Children for regulations regarding foster care - these regulations being specifically about children who have been placed with a relative. The UN Convention on the Rights of the Child was ratified in Ireland in 1992. The Children Act 2001 provided a regulatory function for the health board in relation to foster care.

And in the Thirty-first Amendment of the Constitution (Children) Act 2012 amended the Constitution of Ireland by 'inserting clauses relating to children's rights and the right and duty of the state to take child protection measures'.⁵⁶

Current practice and policy

Following the Child and Family Agency Act 2013, the Irish Child and Family Agency (Tusla) became a separate legal entity and is now the dedicated state agency responsible for 'improving wellbeing and outcomes for children', representing a 'comprehensive reform of child protection, early intervention and family support services in Ireland'.⁵⁷ Tusla has a very broad remit, including 'to maintain and develop the services needed in order to deliver these supports to children and families and provide certain services for the psychological welfare of children and their families', which includes the 'commissioning' and provision of 'a range of universal and targeted services', including Alternative Care and Adoption Services. Foster care is very much seen as the 'main form of alternative care for children in need of care and protection and is the preferred option for children who cannot live with their parents'.

The Department for Children and Youth Affairs website says that: 'At the end of September 2018, there were 6,072 children in care. 92% of these children were cared for in foster placements, either by relative foster parents or by approved foster families.' The majority of children are in the care of general foster carers, compared to foster care with relatives. Children may enter foster care in one of two ways: 'voluntarily (when a parent or family member asks Tusla for assistance) or by a court order (when a judge deems it in the best interest of the child to be placed in the care of Tusla)'. Foster care may be provided direct by Tusla or by voluntary or private fostering agencies. According to figures from September 2018, there were 3,827 foster carers on the Panel of Approved Foster Carers in Ireland.⁵⁸

⁵⁵ Historical Background Of Foster Care In Ireland Social Work, UK Essays, November 2018 <https://www.ukessays.com/essays/social-work/historical-background-of-foster-care-in-ireland-social-work-essay.php>

⁵⁶ Wikipedia, Thirty-first Amendment to the Constitution of Ireland https://en.wikipedia.org/wiki/Thirty-first_Amendment_of_the_Constitution_of_Ireland

⁵⁷ Child and Family Agency Tusla website <https://www.tusla.ie/about>

⁵⁸ Department of Children and Youth Affairs website <https://www.dcy.a.gov.ie/docs/EN/Children-in-Care-Foster-Care/2591.htm>

The website goes on to describe the two main types of foster care as being 'relative' and 'general' foster care.

'Relative foster care is when a child cannot live with their parents and Tusla seek a suitable relative or person known to the child to provide care. Wherever possible, Tusla considers 'relative care' in the first instance to lessen disruption to the child's life. Relative foster carers go through an assessment and approval process in a similar way to general foster carers. A small number of children in care are placed abroad with relatives who live outside the country if the case or situation requires it'. As at end September 2018, relative foster carers looked after 26% of children in care.

Secondly, General foster care is when... '... Tusla cannot find a suitable relative or person known to the child to provide relative care, they will place a child in general foster care. A general foster carer is a person approved by Tusla, who completes a process of assessment and is placed on the panel of approved foster carers. Many of the children in foster care have been with their foster families for most of their lives. Others have shorter placements, for example, if placed in care in an emergency while a care plan is being developed'.

As at end September 2018, general foster care accounted for 66% of children in care. Despite foster care being seen as the preferred option, this is not always possible to arrange, meaning that approximately 5% of the children and young people taken into the care of the Child and Family Agency are placed with Children's Residential Services.

The failure to find a foster care placement is often because the child/young person exhibits behaviour that is too challenging to be managed safely in a family environment, often due to their experience of family problems, neglect or some other form of abuse. Some young people actively choose a placement in Residential Care because they do not wish to be placed with any family but their own; and some may be placed in Residential Care on a temporary basis while social workers and families and others determine where their needs can best be met.

'Over 90% of the 142 Children's Residential Centres are community-based, which means they look like and are situated in the same houses, estates, and communities in which everybody lives. For the most part, Children's Residential Centres are also supported by the same range of health services that are available to the rest of the population such as GPs, speech and language therapists, physiotherapists, psychologists, etc'. Where these services differ, however, is by being staffed on a 24-hour basis by a range of professionals, with extra support from other external agencies.⁵⁹

Types of care

There are several types of **foster care** that can be provided by both general and relative foster carers and these are also detailed on the department website as well as elsewhere:

⁵⁹ Tusla website: Residential Care <https://www.tusla.ie/services/alternative-care/residential-care>

- **‘Short term foster care** provides temporary care for a child separated from their birth family. The child may, after a period, move back to their family or to a long-term foster family.
- **Long-term foster care** is needed for children who are unlikely to be able to live with their birth family, and who for a variety of reasons cannot be adopted. Many children in long-term care become so much a part of their foster family that they continue to live with them until their independence, as do the birth children of the foster family. However, a child may still move back to their birth family from a long-term placement.
- **Emergency care** is where a child comes into care very quickly and is placed with foster or ‘emergency carers’. This could be because an existing placement breaks down and a child needs to be moved quickly and is placed with emergency carers.
- **Respite care** is defined in the National Standards for Foster Care as ‘short term care provided to a child to support the child, his or her parent(s) or foster carers by providing a break for the child and his or her primary caregivers.’ Respite can play an invaluable role in preventing placement breakdown. Respite care is not a ‘right’ for the foster carer and must form part of the child’s care plan.
- **Day foster care** is a form of support for parents which endeavours to, where it is assessed as safe to do so, maintain a child at home with birth parents through the provision of alternative care during the day. The child is not separated from their family, as they go home each evening, yet benefit from the additional care offered in the foster home. There is minimal disruption to family life, while the parents can obtain practical help, advice, and support from the foster carers.
- **Parent & child foster care:** In some situations, where it is judged to be in the best interest of the mother or the baby, a young mother and her baby may be placed in foster care. Note: in parent and child placements the baby/child may not be in foster care but will reside in the foster home with his/her mother who is in care.
- **Special foster care** is a provision for children and young people whose behaviour is such that it poses a real and substantial risk to their health, safety, development or welfare. Special foster care is provided by carers who are specifically trained and skilled to care for children with high level needs’.⁶⁰

There is also a range of different types of **residential care** provided via Tusla:

- **‘Residential Centres** (community-based houses).
- **Special Care** is for children and young people aged 12-17 who act in a manner that puts themselves or others at risk. There are four Special Care Centres in Ireland and these are referred to as ‘Units’ and are purpose-built. Young people referred to Special Care Services are very vulnerable and sometimes display challenging behaviour, with psychological and sociological profiles requiring complex support, and having high numbers of previous placements which have broken down. Placements in Special Care are time-limited and intensively supported with on-site education and vocational training, a psychology service and detailed programmes of care and intervention aimed at supporting resident children and young people’s return to the Child and Family Agency’s community based Centres, foster care, or home as soon as this can be achieved. These units are provided direct by Tusla.

⁶⁰ Irish Foster Care Association booklet http://www.ifca.ie/files/1014/2653/7805/IFCA_Info_Booklet.pdf

- **Specialist care:** A very small number of children and young people each year are placed abroad to ensure their exceptional needs can be met. This happens for a number of reasons but in the main it is because the children and young people concerned need very specialist interventions; secure mental health assessment and treatments; or longer periods of detention than is currently possible within the Irish system'.⁶¹

Data and numbers

The Tusla Annual Review of 2017 found that 'there were 910 admissions to care, at least 13% fewer than 2016.⁶² Thirty per cent (271) of admissions were repeat admissions (i.e. second or subsequent admissions to care). The remaining admissions (639) were first-time admissions. The most common age at admission was under one, accounting for 16% (149) of all admissions, followed by 1-3 year olds and 15-16 year olds'.

The 'most common reason for admission was welfare concerns, accounting for 45% (409) of admissions, followed by neglect (38%; 348), a similar pattern to 2016 (Figure 25). Eighty-eight per cent (801) of admissions were to foster care and, of these, 18% (166) were to foster care with relatives, a similar pattern to 2016. Over half of all admissions were voluntary admissions. The remainder followed an application to the court of which the highest number (192; 21%) were admissions under an interim care order. About one in six admissions (17%; 150) was under an emergency care order'.

At the end of December 2017, there were 6,116 children in the care of Tusla. The number of children in care had dropped for the second consecutive year and was down 4% (268) on 2015. The number of children in care equated to about 51 per 10,000 children under 18 years, which compared with other UK countries as follows: (Tusla Annual Review 2017).

Children care rate per 10,000 child population

Jurisdiction	Rate / 10,000
Ireland (Dec 2017)	51
Northern Ireland (March 2017)	69
England (March 2017)	62
Wales (March 2017)	95
Scotland (July 2017)	108

How is provision commissioned, procured and managed?

When Tusla was created on 1 January 2014 the Child and Family Agency became an independent legal entity, and its website explains how It brought together a range of pre-existing bodies including HSE Children and Family Services, the Family Support Agency and the National Educational Welfare Board as well as 'incorporating some psychological services and a range of services responding to domestic, sexual and

⁶¹ Tusla website: Special Care <https://www.tusla.ie/services/alternative-care/special-care>

⁶² Tusla Annual Review on the Adequacy of Child Care and Family Support Services Available 2017 https://www.tusla.ie/uploads/content/Review_of_Adequacy_Report_2017-Final.pdf

gender-based violence, to become the dedicated state agency responsible for improving wellbeing and outcomes for children’.

The Agency operates under the Child and Family Agency Act 2013. The Agency is charged with ‘supporting and promoting the development, welfare, and protection of children’, and in supporting families through a variety of means, including by the provision of services as well as their commissioning. The services include a range of universal and targeted services:

- ‘Child protection and welfare services;
- Educational welfare services;
- Psychological services;
- Alternative care;
- Family and locally-based community supports;
- Early years services;
- Domestic, sexual and gender-based violence services’. (Ibid 67)

In the field of alternative care, foster care is closely regulated in terms of assessment, training, and registration of carers (relative/kinship carers as well as ‘general’ carers), including those contracted with private/voluntary foster care providers.

Inspection of the system is carried out by the Health Information and Quality Authority (HIQA) and uses national standards, producing inspection reports that are published on the HIQA website. In addition, the Irish Foster Care Association (IFCA) works with Tusla ‘to promote foster care as the best alternative for children who cannot live with their own families’. It is a separate company acting as ‘the representative body for foster care in Ireland’, and offers support and information to its members, keeping them up to date with regard to changes in foster care practice.

IFCA has also developed training programmes for training prospective foster carers and for the in-service training of active fostering families, social workers, child care workers, and other Tusla personnel. (Ibid 69). In residential care, the centres may be provided by Tusla direct or by voluntary and private (for profit) organisations, except in the case of the three Special Care Units which are provided by the state.

The Tusla website has details of the ways in which the quality of care is checked and maintained, with requirements for placing a child in a children’s residential centre and for the running of these centres being laid out in the Child Care (Placement of Children in Residential Care) Regulations 1995, with all Children’s Residential settings being subject to statutory inspection.

HIQA inspects and registers statutory (Child and Family Agency) children’s residential centres, and the Child and Family Agency inspect and register voluntary and private children’s residential centres. All such centres must complete a registration process and be inspected before they can operate. As well as the Regulations laid down in 1995, National Standards for Children’s Residential Centres (2001) also help determine the

standards for Inspectors to form judgments about the quality of services provided in these centres.⁶³

The Childcare Amendment Act 2015 led to changes for the after care arrangements in Ireland, meaning that 'Tusla is now responsible for the delivery of programmes which enable young people to adequately prepare for leaving care and in ensuring consistency of support to these young people/young adults in aftercare from aged 18-21. This may be extended if a young adult is in full-time education or accredited training to the age of 23'.⁶⁴

Tusla has a commissioning strategy, guidance and a range of other supporting materials that sit alongside its business plans.⁶⁵ These set out a clear framework regarding commissioning of services along with a procurement portal. However, the precise relationship with the provision of foster care and residential care is unclear. The business plan for 2017⁶⁶ referred to the development of a procurement framework for foster care services, though it is hard to find progress on this specific proposal in the 2018 plan.⁶⁷

Who are the providers/What is the market?

Foster services are provided by Tusla through its regional offices and teams and also by voluntary and private foster care agencies. These provide the range of types of foster care, including short- and long-term placements, emergency placements, parent and child placements and supported living. Some also provide transitional support for young people moving from residential care to foster care families. The process is the same in terms of assessment of potential carers.

Residential care is also provided by a mix of state-run (Tusla) homes and voluntary/private bodies. All must meet the relevant regulations and be successful in applying to be registered, as well as undergo inspections by Tusla (if non-state) or HIQA (for Tusla homes).

Key challenges

In recent years, concerns have been expressed about the capacity of Tusla to meet need for care, and the increased costs associated with the use of private care providers.⁶⁸

⁶³ Tusla website: Quality of Care <https://www.tusla.ie/services/alternative-care/residential-care/quality-of-care>

⁶⁴ Tusla website: National Policy for After Care https://www.tusla.ie/uploads/content/4248-TUSLA_National_Policy_for_Aftercare_v2.pdf

⁶⁵ Tusla website: Commissioning <https://www.tusla.ie/about/commissioning>

⁶⁶ Tusla website: Business Plan 2017 [https://www.tusla.ie/uploads/content/Tusla - Child and Family Agency Business Plan 2017.pdf](https://www.tusla.ie/uploads/content/Tusla_-_Child_and_Family_Agency_Business_Plan_2017.pdf)

⁶⁷ Tusla website: Business Plan 2018 https://www.tusla.ie/uploads/content/Tusla_Business_Plan_2018.pdf

⁶⁸ The Journal, November 2017 <https://www.thejournal.ie/childrens-committee-foster-care-3686553-Nov2017>

Sweden

History

Contrary to other European countries, Sweden has a long tradition of favouring foster homes over institutional care for orphaned children. Primary legislation is the 1982 Social Services Act (SoL), and because this includes children, there is no special Children Act. This Act stipulates the guidelines for municipalities concerning their social services obligations, including for children.

According to section 12 in the Act, the social welfare committees in each of the municipalities 'have responsibility to ensure that children and young people grow up in secure and beneficial conditions' and provide children and young people with the protection and support they need. The best interests of the child are seen as of great importance, and there is an expectation to work in cooperation with the family, and to take account of the child's own opinion according to age and maturity.⁶⁹

Since the 1980s, the field of residential care for children saw major changes in the form of privatisation. From being almost entirely dominated by the public sector in the early 1980s, the latter part of the '80s saw an influx of private (for-profit) providers and by the mid-1990s these had come to dominate the field with around two thirds of the market share.

This followed a great deal of criticism of the public sector for being ineffective and unaffordable, with market-oriented strategies and reforms seen as the answer. The 1982 Act saw a deregulation of the residential care field that enabled for-profit actors to enter and in 1994 the Public Procurement Act came into force, which meant that the public sector had to comply with EU competition policy.

At the same time, there was a decentralisation of financial responsibility from central government and regional level to the municipalities. The Act also 'widened the definition of residential care resulting in care facilities with very different modes of operation being defined as Residential Care Units', including foster homes with several placed children. At the same time 'family like' residential units were established.

Subsequently, there has been a move towards evidence-based practice with an increased focus on standardised interventions. In recent years, there has been a greater establishment of large companies including care corporations around 2010. Since the mid-1970s, 'domestic adoptions have been rare in Sweden and foster care has become the main form of long-term substitute care for young children who cannot be reunited with their birth parents'.⁷⁰

Current practice and policy

There are three levels of government in Sweden - at national, regional and local levels. Regionally Sweden is divided into 21 counties and political tasks at this level are undertaken by the county councils, whose decision-makers are directly elected by the

⁶⁹ Child and Family Welfare in Sweden, Andersson, Partnerships for Children and Families Project, 2002 <https://scholars.wlu.ca/cgi/viewcontent.cgi?referer=https://www.google.com/&httpsredir=1&article=1012&context=pcfp>

⁷⁰ Can adoption at an early age protect children at risk from depression in adulthood? A Swedish national cohort study, Hjern et al, BMJ Paediatrics Open, 2018 <https://bmjpaedsopen.bmj.com/content/bmjpo/2/1/e000353.full.pdf>

people of the county, and by the 'county administrative boards', which are government bodies in the counties. At the local level, there are 290 municipalities, each of which has an elected assembly, the municipal council, which takes decisions on municipal matters.

There has been an increase in the regulatory power for the state in the last 20 years, partly in response to some criticism regarding high levels of profit by providers, uncertainty about the quality of care, and some 'care scandals'. For example, the 2000s saw the establishment of a national state inspectorate (the Health and Social Care Inspectorate, IVO) which supervises and inspects care provision, as well as issuing permits for providers.⁷¹

Sweden is similar to Denmark in that most birth parents have joint 'custody' of their child, (if they are married) and in general this continues even after a divorce. Parents who are not married can decide whether custody will be joint, otherwise the mother has sole custody. When a child is placed in foster care, the custody of the child is *not* transferred to the foster parents, meaning that 'cooperation between the birth family and the foster family is necessary for decisions that involve the child's needs, especially in cases of voluntary care'.

In placements by court order, the social services are more involved in decisions about matters that concern the child, for example school and health issues, as well as contact with birth parents. 'Swedish foster care has long been characterised by a family-oriented perspective, focusing on reunification with the birth family, especially in the first 12 months after entering care. Even though foster care placements are regarded as a temporary solution, many foster care placements last for several years, with foster carers being able under the law to become legal guardians'.

The law also requires that parents and children should be involved in decisions, with age-appropriate methods used for the children. From age 15 a young person must agree with a decision, or else there is a requirement to get a court order to override their view. The decision to continue such care is reconsidered every six months as part of a review of placements by the municipality. This can mean that many children face an insecure future, not knowing if or when they might have to move to another foster home or return to their biological parents. As noted above, adoption is rare in Sweden.

Children's social services are 'integrated with other social services, and the services are organised at the local level in 290 municipalities with decision-making done in a system where laypersons participate. Significant decisions, such as out-of-home placement without consent (which are made under the Care of Young Persons Act (LVU), which supplements the 1982 SoL Act) have to be made by a municipality committee, after a social worker has presented the case to it. The custodians and the child (if older than 15) have the right to be present at this meeting. Studies indicate that the committee seldom decides against the proposals from the social workers'.

After a decision at the local level, the committee can apply to the courts, which may decide that statutory care should be ordered, or for a change of custody for children in foster care. About three quarters of out-of-home placements are voluntary. 'One reason is that Swedish legislation encourages social workers to find solutions based on

⁷¹ Stability and change in the field of residential care for children. On ownership structure, treatment ideas and institutional logic, Lundstrom et al, Nordic Social Work Research, 2018 <http://su.diva-portal.org/smash/get/diva2:1261334/FULLTEXT01.pdf>

voluntariness (although some studies suggest that the parents, and perhaps also the child, might feel ‘forced’ to accept a placement)’.

The possibility of transferring custody from the birth parents to the foster parents has been available in Sweden since 1983. Under the Parental Code, a custody transfer could be applied for if the ‘child has had a stable placement in the foster home and that it is evident that it is best for the child if the existing circumstances are maintained’. When this was first established it was envisaged that it would be used in a restricted way. More recently, there has been a shift towards custody transfers being considered when a child has been placed in a foster home for three years.

Adjustments in the law have made it possible for foster parents to retain economic and practical support from the municipality even after a custody transfer, as otherwise there was concern that foster families would be reluctant to accept custody transfers, and that one reason for the low numbers of court decisions was foster parents not wanting to become custodians. Foster carers are involved in a national programme of basic training and can undertake additional training in specific areas of need. Foster care may be short term (up to six months), and there is a requirement to try kinship care for a ‘family home’ first, then carers provided by the Municipality, and then an independent foster care agency, and the Municipality Board must agree to all placements.

Swedish family law, as well as child and family welfare agencies: ‘also requires the consideration of the best interests of the child, and the Social Service Act 2001 clearly states that this should inform all decisions concerning children and young people. In order to determine the best interests of the child, three parameters are of importance: the risk of harm and abuse, the child’s need to have two parents, and the child’s own view, bearing in mind the child’s age and cognitive development. According to the act, considerations and decisions regarding custody transfers should only be brought when it is the best way forward for the individual child or young person, and therefore an assessment by social services is mandatory’.⁷²

This article goes on to confirm that: ‘The concept of custody transfer gives priority to principles of continuity for the child, meaning that the birth parents’ circumstances and capacities have less significance in the decision. When a child has lived in a foster home for three years, it is argued that this home has become the natural base and caring environment for the child. Even though the situation of the birth parents might change in the future, for example by developing improved parenting skills, becoming sober, or having a more settled life, it is considered better for the child to remain in an environment where they are established’.

The child’s need for stability therefore carries considerable weight in determining how their experience of care progresses. Most children in Sweden who come into contact with social services because of the need of support and/or protection receive some kind of non-institutional support and intervention while still living at home with their families. When children are taken into care, foster care is the clear preferred option as opposed to residential care, and typically about 75% of children in out-of-home care are placed in foster families (though teenagers that have needs requiring complex support or have committed crimes are more likely to be placed in residential care or in special residential

⁷² Transferring custody from birth parents to foster parents – an ambiguous matter, Wisso and Johansson, *Journal of Social Welfare and Family Law*, 2018
<https://www.tandfonline.com/doi/full/10.1080/09649069.2018.1493653>

homes – see below). As noted above, out-of-home care is intended to be a temporary solution. Work towards reunifying the child or young person with the birth family is supported by law which explicitly emphasises the importance of maintained contact between children and their parents and relatives.

The law in Sweden describes leaving care as taking place at the age of 18 (21 where there is a mandatory care order), although in practice young people often remain in care until they have completed their school education, which is typically at age 19, with very few moving to independent living below the age of 18. There are no statutory requirements laid down regarding supporting transition from care to independent living, and where social workers do continue to work with care leavers this is on an individual basis.

Some of the residential provision is 'specifically for those have 'psychosocial problems, substance misuse and criminal behaviour'. These homes are provided by an independent agency known as the National Board of Institutional Care (SiS), and this provides 'care and treatment where voluntary interventions have proved insufficient and care on a compulsory basis is therefore necessary'. Where deemed necessary, social services can apply to the Administrative Court for a compulsory care order, and these treatment facilities also 'have the right to forcibly detain individuals who have been taken into compulsory care'.⁷³

Types of care

Foster care can take the form of kinship care (also known as family network foster care), ordinary foster care, and municipal foster care. It is only since 1999, that kinship care has become more widespread, when the law was amended, requiring social workers to investigate the 'child's own network', including relatives (grandparents, aunts, uncles) and others close to the child (such as teachers, neighbours, child minders), with these becoming known as 'network placements'.

Residential care can take the form of children's homes, group care and residential schools, some of which involve secure arrangements.

Data and numbers

The following figures cover a snapshot of placements in 2011 in Sweden:⁷⁴

- 18,400 children were placed in out-of-home care.
- 13,200 were placed in care on a voluntary basis.
- 4,900 were in care on mandatory measures.
- 300 were placed in emergency care.
- 12,900 of those placed in care were 13-20 years old.
- Foster care is the preferred type of out-of-home placement.
- About 28,300 children and young people received non-institutional measures.

⁷³ The Swedish National Board of Institutional Care website <https://www.stat-inst.se/om-sis/om-webbplatsen/other-languages/the-swedish-national-board-of-institutional-care>

⁷⁴ Out of home care in Norway and Sweden – similar and different, Backe-Hansen, Psychosocial Intervention, 2013

<https://multimedia.elsevier.es/PublicationsMultimediaV1/item/pdf/S1132055913700231?idApp=M6LJZ6W5&text.app=http://psychosocial-intervention.elsevier.es>

How is provision commissioned, procured and managed?

As noted above, the Municipality Board must approve all placements, with foster care being split between kinship carers, municipality provider foster carers, and carers provided by independent foster care agencies. There is currently a national drive to recruit more foster carers to government run bodies to reduce the reliance on the private sector.

The Swedish Association of Local Authorities and Regions acts at a national and regional level, representing all municipalities. This helps develop specifications and supports engagement with the market to try to improve supply of appropriate provision, including using framework contracts and lists that must be used when buying privately provided care. This is particularly useful with residential care, where 50% is run by independent/private organisations.

Most aspects of ensuring the provision of care are the responsibility of the municipality, working within the law and under the guidance of relevant county and central government departments and agencies such as the National Board of Health and Welfare, and the Swedish National Board of Institutional Care. The Health and Social Care Inspectorate (IVO) is the government agency responsible for supervising and inspecting social care staff, services and providers. In the case of the social services activities, the IVO covers:

- 'Municipal social services such as non-institutional care, social service departments (exercise of government authority), home care services, day activities, special housing and housing with special services.
- Services for the care and treatment of children, young people, families, and adult substance misusers that are run by municipalities or private providers, and residential care homes and special residential homes for young people (run by the National Board of Institutional Care) have to be inspected at least once a year.
- Institutions for the care and treatment of young and adult substance misusers that are run by the National Board of Institutional Care.
- The compliance of the municipalities in executing decisions favourable to individuals⁷⁵.

IVO also considers applications for permits for private providers of services under the Social Services Act, taking into account issues of quality and safety.

Who are the providers/What is the market?

As noted above, provision of Out-of-Home Care in Sweden is provided through a mix of foster care (the majority) and residential care (which has a significant presence of approximately 50% private provision including for-profit providers). This includes those who specialise in therapeutic and treatment-type care.

Secure provision for those with specialist needs and/or needs requiring complex interventions (including those where all previous care options have failed) is secured at a national level and is solely provided by state-run bodies.

Key challenges

⁷⁵ Health and Social Care Inspectorate (IVO) website <https://www.ivo.se/om-ivo/other-languages/english/about-ivo/about-supervision/>

Specific challenges include the concerns regarding the role of private providers and the lack of specific provision for young people leaving care, as well as the current concerns regarding the loss of 'custodial rights' of parents as mentioned above and the relatively high numbers of children within the care system itself.

United States

History

The 'History of Foster Care in the United States'⁷⁶ sources the English Poor Law as leading to the 'development and eventual regulation of family foster care in the United States. In 1562, these laws allowed the placement of poor children into indentured service until they came of age'. This approach was adopted to the US and began with placing children into homes. This was developed further in 1853, when Charles Loring Brace 'began the free foster home movement by advertising in the South and West for families willing to provide free homes for these children, whether for charitable reasons or whatever help these children could be to them'. Although these arrangements were often similar to indenture, it soon became 'the foundation for the US foster care movement as it exists today'.

From the early 1900s, oversight was increased, as 'social agencies began to supervise foster parents. Services were also provided to birth families so that the child was able to return home, with foster parents being seen as part of the team trying to provide permanency for children in need of it. Rapid growth in foster care followed a law passed by Congress in 1961 that allowed welfare payments to be made to foster carers (which had previously only been made to children in their own homes), and this helped the funding of foster care in states and localities.

More recently, Adoption and Safe Families Act (ASFA) was passed in 1997, reducing the time children remain in foster care before being made available for adoption. Importantly, the new law 'required state child welfare agencies to identify cases where 'aggravated circumstances' make permanent separation of the child from the birth family the best option for the safety and wellbeing of the child', coupled with 'the imposition of stricter time limits on reunification efforts'.

The Fostering Connections to Success and Increasing Adoptions Act of 2008 extended various benefits and funding to young people who had been fostered between the ages of 18 and 21 and for Native American children in tribal areas. It also strengthened the requirement on states in their treatment of siblings and introduced processes by which financial incentives for guardianship and adoption were made available.⁷⁷

Current practice and policy

Child welfare generally, including fostering and adoption, is the responsibility of each state. The Federal Children's Bureau is a department of the Office of the Administration for Children and Families that oversees this function on behalf of the federal government and provides funding to states and tribes to provide safe foster care placements for children and young people who cannot remain in their homes. Their

⁷⁶ National Foster Parent Association website: History of foster care in the United States
<https://nfpaonline.org/page-1105741>

⁷⁷ Wikipedia: Foster care in the United States
https://en.wikipedia.org/wiki/Foster_care_in_the_United_States

funding also provides assistance to young people 'aging out of foster care' so that they can achieve self-sufficiency.⁷⁸ The Child Welfare Information Gateway website explains that it 'is a service of the national Children's Bureau, and provides access to print and electronic publications, websites, databases, and online learning tools for improving child welfare practice, including resources that can be shared with families'. In so doing, its task is to promote 'the safety, permanency, and wellbeing of children, young people, and families by connecting child welfare, adoption, and related professionals as well as the public to information, resources, and tools covering topics on child welfare, child abuse and neglect, out-of-home care, and adoption, at national, state and county level'.⁷⁹

Across the USA, there is great variation between states and other jurisdictions, but some shared principles apply in that foster parents are approved by each state to provide care for children, and the foster care section of the Children's Bureau website explains that foster carers are expected 'to meet basic standards of safety set by law and regulation; foster parents also receive a reimbursement for the care they provide, with each state providing its own criteria and licensing requirements for foster parents'. Also that local 'child welfare agencies typically offer resource guides and orientation classes for prospective foster parents. In most states, some private foster care agencies also provide child-placing services'.⁸⁰

It is estimated that about 30% of all children in foster care in the US are currently placed with relative foster parents.⁸¹ The Grandfamilies website explains that 'For many years, child welfare agencies largely overlooked relatives as resources for the foster care of children who had been abused or neglected. However, in the 1980s, as the need for foster care exceeded the supply of traditional foster families, child welfare agencies began to turn to relatives. This topic area addresses policies that treat relatives differently from non-relatives providing foster care'.

The same website goes on to explain that the use of relative foster carers has been 'helped by being mandated at federal level whereby, as a prerequisite for receiving funding for child welfare services, (so that) states 'consider giving preference to an adult relative over a non-related caregiver when determining placement for a child, provided that the relative caregiver meets all relevant state child protection standards'. This provision became federal law in 1996, as part of the Personal Responsibility and Work Opportunity Reconciliation Act. Consequently, it is expected that all states currently mandate either through law or policy and practice that child welfare agencies give preference to fit and willing relative caregivers'.⁸² In some jurisdictions, such care may also be provided by close family friends (known as 'fictive kin').

The Child Welfare Information Gateway elaborates on kinship care, explaining that: 'Kinship care may be formal and involve a training and licensure process for the caregivers, monthly payments to help defray the costs of caring for the child, and support services. It may also be informal and involve only an assessment process to

⁷⁸ Children's Bureau website <https://www.acf.hhs.gov/cb/focus-areas/foster-care>

⁷⁹ Child Welfare Information Gateway website <https://www.childwelfare.gov/aboutus>

⁸⁰ Children's Bureau website: How do I become a foster parent? <https://www.acf.hhs.gov/cb/faq/foster-care1>

⁸¹ Grandfamilies.org website: <http://www.grandfamilies.org/Topics/Foster-Care-Licensing>

⁸² Grandfamilies.org website: Foster Care Licensing <http://www.grandfamilies.org/Topics/Foster-Care-Licensing/Foster-Care-Licensing-Summary-Analysis>

ensure the safety and suitability of the home along with supportive services for the child and caregivers'.⁸³

There is also a wide range of different types of residential settings. The Information Gateway explains that: 'Group and residential care arrangements comprise a type of live-in, out-of-home care placement in which staff are trained to work with children and young people whose specific needs are best addressed in a highly structured environment. These placements are intended to be time limited and offer a higher level of structure and supervision than what can be provided in the home'.

Elaborating on the sometimes special needs of young people, the Gateway goes on to acknowledge that 'Residential provision may be operated by public or private agencies and often provide an array of services, including therapeutic services for children and families and educational and medical services for children or young people. Placement in a group or residential care facility should only be considered once community-based services have proven ineffective. Programmes should be evidence-based, trauma-focussed, and should provide ongoing comprehensive assessments for clients in order to determine whether children and young people are making progress toward their goals'.⁸⁴

Whilst federal policy about the use of placement settings for children in care is limited, it is notable that federal law does mandate 'that each child's case plan must include a discussion of how it is designed to achieve a safe placement for the child in the least restrictive (most family-like) setting available and in close proximity to the home of the parent(s) when the case plan goal is reunification'. As a result, case plans 'must also address how the placement is consistent with the best interests and special needs of the child', although states do have flexibility about how, on a case-by-case basis, they ensure that 'the best placement is made and the individual needs of the child are met'.

This can include what is known as 'congregate care' (a highly structured setting such as a group home, institution, residential treatment facility, or maternity home with 24-hour supervision with seven to 12 children (in group homes), or 12 or more children, (in institutions). The average age of entry into congregate care is 14.

In recent years there has been a drop in the number and proportion of children in these settings nationally, and it is considered that they should be used as a temporary placement, for example until young people are considered stabilised and ready for a family-like setting. However, a 2015 report by the Department of Health and Human Services suggested that states were not reducing their use of congregate care. It was also noted that some 'children are placed in these settings because there is a lack of space available in family settings', and that whilst it varies between states, there can be 'anywhere between 5 and 32 per cent of children who are placed in such settings that are not in need of such high surveillance'.⁸⁵

⁸³ Child Welfare Information Gateway website: Kinship care

<https://www.childwelfare.gov/topics/outofhome/kinship>

⁸⁴ Child Welfare Information Gateway website: Group and Residential Care

<https://www.childwelfare.gov/topics/outofhome/group-residential-care>

⁸⁵ A National Look at the Use of Congregate Care in Child Welfare, Children's Bureau, 2015

https://www.acf.hhs.gov/sites/default/files/cb/cbcongregatecare_brief.pdf

The Children's Bureau website clarifies that 'group homes are residences intended to serve as an alternative to family foster homes, and normally house four to 12 children', and are intended to be 'in a setting that offers the potential for the full use of community resources, including employment, health care, education, and recreational opportunities. They are licensed and monitored by state departments of human services, licensing offices, or bureaus, and funding for their operations may come from different sources'. Whilst they need to be licensed, such licensing procedures vary from state to state, meaning that any operator must learn about the requirements and financing options by working with the local state or county child welfare agency.⁸⁶

Types of care

Details vary from state to state but in general they include:

- **Foster care:** general/non-relative foster care: placement with licensed foster carers in a family-home setting.
- **Relative care:** kinship care arrangement where the child is placed with an adult relative (in some jurisdictions close family friends – sometimes known as 'fictive kin').
- **Congregate care:** the names and descriptions of these settings vary between states, but generally fall into two categories as follows:
- **Group homes:** staffed residences normally housing between four and 12 children in a community setting.
- **Childcare institutions:** larger staffed residences, housing 12 or more children.

Within these categories, some may include a specific treatment function, residential treatment facilities or maternity homes (for parents and children).

Data and numbers

As at September 2017 across the US:

- There were 442,995 children in foster care.
- A total of 690,548 spent some time in care during the year 2016/17.
- Whilst 43% spent fewer than 12 months in care, 6% have been in care for more than five years.
- The average age for entering care is eight years.
- 81% were living in family-home settings, while 13% (nearly 54,000) were living in residential care settings.⁸⁷

Whilst there was a decline in the numbers of children in care nationally between 2008 and 2012 (from 750,000 to 630,000), this has increased steadily again since 2013 to the current total.⁸⁸

How is provision commissioned, procured and managed?

⁸⁶ Children's Bureau website: Where can I get information and financial help to open a foster or group home? <https://www.acf.hhs.gov/cb/faq/foster-care2>

⁸⁷ Adoption and Foster Care Analysis and Reporting System (AFCARS) FY 2017 data <https://www.acf.hhs.gov/sites/default/files/cb/afcarsreport25.pdf>

⁸⁸ Children's Bureau: Trends in foster care and adoption <https://www.acf.hhs.gov/cb/resource/trends-in-foster-care-and-adoption>

Provision is organised at a state and county level as explained above, with each jurisdiction using its own laws and regulations in the assessment and licensing of foster carers and residential care providers, through its own child welfare agencies and departments, whilst bearing in mind federal statute which provide guidance and structure for their child welfare policies and practices. Typically, the child welfare agencies in each state/jurisdiction will administer the assessment of children's needs for care, and the placement of children with care agencies. Lists of state and county bodies and other organisations involved in providing care can be found via the Child Welfare Information Gateway along with information on licensing arrangements.⁸⁹ It also includes links to other bodies such as the Child Welfare League of America (CWLA)⁹⁰ which develops standards for foster and residential care and provides a network of support, and AdoptUSKids which also provides education and support to prospective foster carers and adoptive parents.⁹¹

Minnesota, through its Department of Human Services (DHS), provides a range of information to potential foster carers on how to become licensed and runs a directory of approved foster care agencies through which foster carers can then be offered placements. They also make it clear that relative/kinship carers are preferred as the first option (in which case it is possible to seek licensing after the placement starts as long as this is done quickly and in compliance with the state's standards, whilst recognising that reunification is the preferred option. Keeping sibling groups together is also the preferred option unless this is not in the interests of the welfare of the child.

Since 1982, the state has also used MN ADOPT, an independent organisation which provides a network for foster carers and information to prospective adopters.⁹² As with most US jurisdictions, there are three routes into care: 'a voluntary placement occurs when parents or custodians of a child agree to allow the local social service agency to take responsibility for care of a child temporarily; a court-ordered placement occurs because a family is unable or unwilling to meet the safety or specialised needs of a child in their home; and a 72-hour hold occurs when a child is found in surroundings or conditions which endanger their health or welfare (in which case, for a child to remain in care longer than 72 hours, the child welfare agency must have a court-approved placement, or a parent must sign a voluntary agreement)'.

There are three different agencies that have responsibility for placement of a child into out-of-home care: county social services, tribal social services, or the corrections department, depending on the route into the care system, and these may be delegated by a county or tribal court. The relevant agency then provides supervision and case management of placements and coordinates the development of an Out of Home Placement Plan (OHPP) with the child, their family, and care providers 'The OHPP is the case plan that drives the services a child and family receive and outlines all specific provisions that must be met for a child to return home safely. Often, there are certain

⁸⁹ Child Welfare Information Gateway

https://www.childwelfare.gov/organizations/?CWIGFunctionsaction=rols:main.dspList&rolType=Custom&RS_ID=17

<https://www.childwelfare.gov/nfcad>

⁹⁰ Child Welfare League of America <https://www.cwla.org/about-us>

⁹¹ AdoptUSKids <https://www.adoptuskids.org/about-us/who-we-are>

⁹² Minnesota Department of Human Services, Children and Families <https://mn.gov/dhs/people-we-serve/children-and-families/services>

safety requirements that a family must meet or exceed for a child to return home'.⁹³ Children's residential facilities also go through a licensing process run by the DHS.⁹⁴

Key challenges

Despite the various safeguards put in place at a Federal and State level, there is concern that: 'Many of America's child welfare systems are badly broken — and children can suffer serious harm as a result. Some will be separated from their siblings. Others will be bounced from one foster care placement to another, never knowing when their lives will be uprooted next. Too many will be further abused in systems that are supposed to protect them. And instead of being safely reunified with their families — or moved quickly into adoptive homes — many will languish for years in foster homes or institutions.'⁹⁵

It is also important to note that the US has specific policies and approaches aimed at tackling the apparent over-representation of children from indigenous backgrounds within the care system, and whilst this is an important topic, it is not of specific interest in the context of this report.

United Kingdom – England

History

The Family Care website contains a 'History of Foster Care',⁹⁶ and explains that adoption and fostering have existed for a long time in the UK, 'in the sense of people taking other people's children into their homes and looking after them on a permanent or temporary basis. Foster care in the modern sense was first introduced in the UK in 1853 when Reverend John Armistead removed children from a workhouse in Cheshire and placed them with foster families.

Fostering (and adoption) began to be regulated from this time following a series of scandals regarding so-called 'baby farming', which started as a result of the 'great social stigma associated with having a child out of wedlock'. This typically involved unmarried mothers handing over their baby to someone along with a fee of between £5-15 (a substantial sum of money at the time) in the expectation that the child would be rehomed.

The website goes on to explain that: 'By the end of the nineteenth century, some poor law authorities and voluntary organisations were referring to fostering as 'boarding out' and using it as an official alternative to placing neglected children in a workhouse or orphanage. The First World War led to an increase in organised adoption through legitimate adoption societies and child rescue organisations, and pressure grew for adoption to be given legal status'.

⁹³ Minnesota's Out-of-home Care and Permanency Report, 2017

<https://www.leg.state.mn.us/docs/2018/mandated/181111.pdf>

⁹⁴ Minnesota Department of Human Services, Children's Residential Facilities

https://www.dhs.state.mn.us/main/idcplg?IdcService=GET_DYNAMIC_CONVERSION&RevisionSelectionMethod=LatestReleased&dDocName=id_054367#CRF

⁹⁵ Children's Rights website: <https://www.childrensrights.org/newsroom/fact-sheets/foster-care>

⁹⁶ Family Care website, History of Foster Care <https://www.family-care.co.uk/news-and-events/history-foster-care>

The first legal precedent for adoption (and fostering) was established in 1926 with the Adoption of Children Act. From 1930, 'county and borough councils took responsibility for the administration of children's homes and the boarding-out (fostering) scheme, although the voluntary sector continued to provide residential homes'. Since then, there have been many new laws providing for increased regulation in the UK, with some geographical differences between its respective nations. In respect of children's homes, the history has run parallel to the development of foster care. Institutional care remained widespread but fostering became increasingly popular, particularly after the Curtis Committee on the Care of Children recommended the use of fostering in preference to institutional care in 1946.

Current practice and policy

The Fosterline website explains that: 'Fostering currently takes several forms and its use has grown significantly since the use of children's homes has reduced. Most of the law for England relating to safeguarding and promoting the welfare of children and young people looked after and the approval and assessment of foster carers is now contained within the Children Act 1989, Guidance and Regulations Volume 4 Fostering Services, the Care Standards Act 2000, the Adoption and Children Act 2002, the Children Act 2004 and the Children and Young Persons Act 2008. Specific requirements relating to placement planning for children and young people looked after are contained in the Children Act 1989 regulations and guidance Vol 2, care planning, placement, and case review (June 2015) which also contains a section on the delegation of authority to foster carers'.⁹⁷ These are supported by a range of regulations, statutory guidance and other information from the Department for Education (DfE).⁹⁸

The DfE website goes on to clarify that the Children Act 1989 is the primary legislation governing work with children and their families, and contains the following key principles:

- **'The Welfare Principle** – safeguarding and promoting the welfare of children, including protecting the child from harm or abuse. The child's welfare should be the 'paramount' consideration of anybody dealing with a child.
- **Partnership Working** – it is expected that all professionals supporting and working on behalf of children and young people should work in partnership with families. This includes foster carers. Compulsory powers should only be used when this is better for the child than working with the family on a voluntary basis. Promoting and maintaining contact between children and their families should be a priority wherever possible.
- The importance of the child's family is highlighted and the expectation is that, whenever possible, children and young people should be brought up in their own immediate or extended families.
- The wishes of the child and/or their parents – finding out and taking account of the wishes of the child and/or their parents in making decisions about the child's future'.

The importance of taking account of specific key aspects of a child's background is highlighted, including 'the child's religious persuasion, racial origin, cultural and linguistic background, and a child's particular needs as a result of any disability'

⁹⁷ Fosterline website legislation for England <http://www.fosterline.info/legislation-for-england>

⁹⁸ Department for Education website <https://www.gov.uk/topic/schools-colleges-childrens-services/adoption-fostering>

The English local authority in the area where the child's birth family is resident at the time of the child being taken into care is responsible for all children and young people in foster care. This key responsibility remains with that local authority regardless of where the child is placed, i.e. whether in local authority foster care or with an independent fostering provider. It is important to note also that the Children Act 1989 includes a section that 'requires local authorities to take steps that secure, as far as reasonably practical, sufficient accommodation for children and young people looked after within their local authority area (known as 'the sufficiency duty')'.

Whilst the details vary between authorities, there is currently a general tendency to invest in ways to avoid children needing to come into care in the first place (unless there is an immediate risk to the child) using various prevention programmes in what are often referred to as 'edge of care' services. If this is unsuccessful, then reunification after entry into care will be the next priority, followed by seeking permanence via other means (such as adoption, special guardianship orders, 'early permanence carers', or similar) if that proves not possible.

There is also a growing use of 'wrap around' support being provided for individual children where the placement is at risk of breaking down, especially if this has happened before or if the child's needs require complex support – this may be a 'bespoke' package arranged locally or may follow a specific programme (of which there are several) such as the 'Oregon Model'.

Types of care

The DfE refers to eight forms of **foster care**:⁹⁹

- **'Emergency**: When children need somewhere safe to stay for a few nights.
- **Short-term**: Carers look after children for a few weeks or months while plans are made for the child's future.
- **Short breaks**: When children who are disabled, have special needs or have behavioural difficulties regularly stay for a while with a family. This means their parents or usual foster carers can have a break.
- **Remand**: When young people are remanded by a court to be looked after by a specially-trained foster carer.
- **Fostering for adoption**: When babies or small children stay with foster carers who may go on to adopt them.
- **Long-term**: Not all children who need to live away from their birth family permanently want to be adopted, so instead they go into long-term foster care until they're adults.
- **'Family and friends' or 'kinship'**: A child being cared for by the local council goes to live with someone they already know, usually a family member.
- **Specialist therapeutic**: For children and young people with needs requiring very complex support and/or challenging behaviour'.

In addition to the above, Special Guardianship can be used as an alternative to fostering and adoption. This is when 'an order made by the family court places a child or young person to live with someone other than their parent(s) on a long-term basis. The

⁹⁹ Department for Education website <https://www.gov.uk/foster-carers/types-of-foster-care>

person(s) with whom a child is placed will become the child's Special Guardian. This was introduced by the Adoption and Children Act 2002. A Special Guardian will get parental responsibility for the child until the child reaches 18, but unlike adoption, a Special Guardianship Order will not remove parental responsibility from the child's birth parent(s).¹⁰⁰ In addition, there are three types of **homes** which care for children:

- **'Children's homes':** these are most of the homes in England and are defined as any home that does not fall within the other two sub-types below, that is, is not a residential special school registered as a children's home and is not a secure children's home.
- **Residential special school registered as a children's home:** these are residential schools which, owing to the number of days they look after children, must register as children's homes.
- **Secure children's homes'**.¹⁰¹

Data and numbers

A summary of current key information is: (taken from DfE website)¹⁰²

- At 31 March 2018, the number of children looked after by local authorities in England increased, up 4% to 75,420 from 72,590 in 2017. This continues the increases seen in recent years and is equivalent to a rate of 64 per 10,000 in 2018, which is up from 62 per 10,000 in 2017 and 60 per 10,000 in 2016.
- The broad characteristics of children and young people looked after having remained similar to previous years: just over half (56%) are male and 44% are female.
- The largest age group (39%) of children and young people looked after are aged 10-15; 23% are aged 16 and over, 19% are aged 5-9, 13% are aged 1-4 and 6% are aged under 1.
- The majority of children and young people looked after are White (75%), 9% are of mixed race and 7% are Black or Black British.
- Reason for being looked after: 47,530 children are identified as having a primary need of 'abuse or neglect' – the most common reason identified. 11,270 are in need owing to 'family dysfunction' and 5,980 owing to the 'family being in acute stress'. 4,860 are identified as in need owing to 'absent parenting', almost all of whom are unaccompanied asylum-seeking children.
- Most children are looked after under a care order: 55,240 (73%) of children looked after are under a care order, up from 40,090 (58%) in 2014. 14,500 (19%) are looked after under a voluntary agreement, down from a peak of 19,320 (28%) in 2015.
- Most children and young people looked after are accommodated in foster placements. 55,200 (73%) children looked after are in foster placements, an increase from 53,010 in 2017, but similar proportions to previous years. An

¹⁰⁰ Child Law Advice website <https://childlawadvice.org.uk/information-pages/special-guardianship>

¹⁰¹ Ofsted, Children's Social Care in England, 2017-18

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/726715/Children_s_social_care_in_England_2017-18_-_main_findings.pdf

¹⁰² DfE Children looked after in England (including adoption), year ending 31 March 2018

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/757922/Children_looked_after_in_England_2018_Text_revised.pdf

increasing proportion of those children in foster care have been placed with relatives or friends, up steadily from 14% in 2014 to 18% in 2018.

- 11% of children looked after are placed in secure units, children's homes and semi-independent living arrangements and 6% are placed with parents.
- There has continued to be a fall in children placed with prospective adopters. 2,230 children were placed for adoption, down 18% on the 2,710 children placed for adoption at 31 March 2017. This mirrors the decrease seen in all children looked after with a placement order.

How is provision commissioned, procured and managed?

Care and placements for children and young people looked after in England are the responsibility of local authorities, for both foster care and placement in children's homes or other residential accommodation. The provision itself (including the recruitment and management of foster carers as well as the provision of children's homes) may be directly provided and run by the authority and/or be purchased from other organisations. In many authorities, there is a preference for 'in-house' fostering teams to be used first if a match is possible in order to help reduce costs, though this is often not possible owing to capacity issues. Similarly, where authorities run their own children's homes there is also a desire to use these first wherever possible.

There are 152 local authorities with these responsibilities, and where they purchase and 'commission' the care from external bodies they do so via a range of contractual mechanisms including block contracts (guaranteeing a given volume of business over a set period with a specific provider in return for a cheaper price); spot purchasing (when a service is purchased to meet the needs of a specific individual as and when they are needed); and framework agreements (where potential service providers are approved by a local authority against pre-set criteria, operating as a closed system for a period such as four years, and not allowing new entrants – though variations can allow for these details to be flexed), amongst others. Each local authority will often also have joint agency decision making arrangements whereby care and placements may be jointly funded by the local authority social care and education departments as well as by the local NHS.

Authorities may also use various mechanisms to help shape the provision available. For example, market position statements are used by some local authorities to describe the care and support provision available in a local area, how this is likely to change over time and how commissioners may respond to this change – thus informing providers how they may wish to adapt in order to be in an improved position to secure contracts.¹⁰³ Relationships with the 'market' are generally felt to be important, though the degree to which authorities engage or try to manage their local market does vary, sometimes determined by their own capacity and expertise.

Some authorities also work together in various 'consortium' arrangements to try to manage the market, though this is inconsistent across the country. For these to work most effectively, experience suggests that the member authorities do best when they work together to maximise their influence over the providers and wider market, whether

¹⁰³ Community Action Southwark, Commissioning and Contracts Voluntary and Community Sector Key Terms Glossary https://communitysouthwark.org/sites/default/files/images/Commissioning%20-%20VCS%20Key%20Terms%20Glossary_0.pdf

this is to do with price or what is offered. The risk otherwise is that significant activity is still purchased 'off-contract', which is much more expensive.

Ofsted Guidance explains that providers of foster care in England must be registered as an Independent Fostering Agency (IFA) with the inspection body Ofsted (the Office for Standards in Education). 'The key functions of an independent fostering agency are to recruit, assess, approve, train, supervise, support and review foster carers who care for children looked after by local authorities, and it cannot undertake any of these functions before it is registered'.¹⁰⁴ As at 2017, there were 295 IFAs registered¹⁰⁵.

DfE figures show that: 'There were 2,209 children's homes of all types as at 31 March 2018. The large majority of children's homes were run by private providers: 1,561 homes (73%) compared to 1,481 (72%) in 2017. Voluntary organisations ran 145 homes (7%), an increase of three homes from 2017'. The remainder were run by local authorities (Ibid 102). All providers of foster care and children's homes (including local authorities) are inspected by Ofsted, and in the case of local authorities this also includes inspection of their commissioning arrangements.

Authorities will often use Ofsted ratings to help in their selection of provision and will also carry out visits for quality and effectiveness in various ways. Some join together to help spread the workload, especially where children are placed outside local authority areas, thus relying on other authorities to check the establishments in their local area on behalf of a group of authorities. Notwithstanding these sorts of arrangements for the placements as a whole, assessments of the care of individual children and the appropriateness of the placement remain the responsibility of the placing authority to determine through visits and other means, including use of Independent Reviewing Officers (IROs) as well as case workers.

Who are the providers/What is the market?

The DfE Review in 2018 (Ibid 115) found that 'there were 44,320 approved fostering households as at 31 March 2016, less than a 1% fall from the previous year (44,625). Of these, 4,665 were family and friends' households, 1,850 provided short breaks only, and 1,320 were in household of someone connected to the child. There were 14,525 (40%) long-term fostering households approved for two children and 11,475 (31%) approved for three or more children. About 67%, (29,720) fostering households were registered with local authorities and the remaining 14,595 were registered with IFAs'.

The majority of IFAs are run by private (for-profit) organisations including increasing levels of investment from private equity firms. During the same period quoted above, 'the larger independent fostering agencies have grown on average by 7.7% per year owing to a combination of organic growth and through acquisitions of smaller independent fostering agencies. As a result, the growth rate is significantly higher than the overall growth in the numbers of children being fostered, which over an equivalent period has grown annually by only 1%'. By comparison, 'the contribution made by the voluntary/charitable sector in providing fostering is small, providing only about 4% of fostering placements' (Ibid 101).

¹⁰⁴ Ofsted Guidance, Independent fostering agency: do you need to register?

<https://www.gov.uk/government/publications/introduction-to-independent-fostering-agencies>

¹⁰⁵ Foster Care in England: A Review for the Department for Education, Narey and Owers February 2018
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/679320/Foster_Care_in_England_Review.pdf

Ofsted data for 2017–18 show that ‘the number of children’s homes continues to increase. There were 2,209 children’s homes, of all types, on 31 March 2018. This was a net increase of 3% from the same time last year and follows the patterns of previous years. While there has been an increase in the number of homes, we know that pressures still exist in finding the right placements for children. At the same time as the number of children’s homes rise, the number of local authority-run children’s homes continues to fall’.¹⁰⁶

Key challenges

The recent Review of Foster Care in England (Ibid 115) and its supporting documentation reinforced the view that there are fewer foster carers available than are needed, and that recruitment was made more difficult by the fragmented nature of the market and commissioning arrangements between the 152 local authorities. It recommended that authorities should collaborate better together to maximise their efforts and to avoid competing with each other, including at regional or other levels of consortia.

In terms of outcomes, children and young people looked after tend to do less well than their peers who are not looked after in a range of measures,¹⁰⁷ though those in foster care tend to do better than those in residential care (Ibid 115). There has been a steady increase in the numbers of children and young people looked after over the last nine years. At 31 March 2017, there were 72,670 children and young people looked after, an increase of 3% on 2016; and between 2010-11 to 2016-17 the number of looked-after children grew by 10.9%.

United Kingdom – Scotland

History

The Scottish Government website contains a history of residential care¹⁰⁸ which noted that: ‘In 1964, The Kilbrandon Report was the catalyst to prioritising the welfare needs of young people over punitive justice responses. The report also suggested the setup of Social Education Departments which would be responsible for all residential childcare services within their local authority area. The Social Work (Scotland) Act 1968 formalised this responsibility and also outlined the role of the new Children’s Panel in making decisions about the accommodation of young people. In the last 20 years, the development of residential care has been heavily influenced by significant critical inquiry, subsequent review, and legislation’.

In 1992, the Scottish Office published *Another Kind of Home – a review of residential child care* (the Skinner Report) which focussed on a thorough review of current practice, outlined principles for good practice, and led to the setting up of the Centre for Residential Child Care (now SIRCC) as well as informing the development of the Children (Scotland) Act 1995, thereby remaining influential on the sector. In 1997, ‘The Children’s Safeguarding Report’ (The Kent Report) reported on the dangers faced by

¹⁰⁶ Ofsted: developments in children’s social care - The changing picture in the children’s homes sector <https://socialcareinspection.blog.gov.uk/2018/08/22/the-changing-picture-in-the-childrens-homes-sector>

¹⁰⁷ House of Commons Foster Care in England Debate Pack March 2018

<https://researchbriefings.files.parliament.uk/documents/CDP-2018-0064/CDP-2018-0064.pdf>

¹⁰⁸ [Detailed history of residential care - The Scottish Government www.gov.scot > Topics > People > Young-People > protecting > lac > history](http://www.gov.scot/Topics/People/Young-People/protecting/lac/history)

children living away from home and made recommendations related to the necessary safeguards. In 1999, the 'Edinburgh Enquiry' reported on abuse and protection of children in care, investigating complaints of abuse between 1973 and 1987 in Edinburgh's children's homes. In 2001, The Regulation of Care Act (2001) set up the Scottish Commission for the regulation of Care (the Care Commission) and the Scottish Social Services Council for the registration and regulation of care services and social services workers. The act also asked for the publication of Care Standards and Codes of Practice.

In 2005, National Care Standards for care homes for children and young people were published, setting standards for children and young people receiving services described in Section 2(3) of the Regulation of Care (Scotland) Act 2001 ('the Act') as one that 'provides accommodation, together with nursing, personal care or personal support, for persons by reason of their vulnerability or need'. This was followed by a National Residential Childcare Initiative (NRCCI) in 2009 which included a strategic review of residential child care services.

Current practice and policy

Under the Children (Scotland) Act 1995, 'looked after children' are defined as those in the care of their local authority – sometimes referred to as a 'corporate parent'. The Scottish Government website acknowledges that: there are many reasons children may become looked after, including: they face abuse or neglect at home; they have disabilities that require special care; they are unaccompanied minors seeking asylum, or who have been illegally trafficked into the UK; or they have been involved in the youth justice system.¹⁰⁹

To support the system, the Scottish Government provides a range of statutory and other guidance on how local authorities should discharge their responsibilities as corporate parents under the auspices of the Children and Young People (Scotland) Act 2014 and identifies the range of care settings as being residential, kinship care, foster care or looked after at home. There are also arrangements for young people leaving care. Residential care is inspected by the Care Inspectorate against national standards¹¹⁰.

There is also a standard for foster care 'developed to establish a framework for the learning foster carers need to undertake for the foster carer role, and to support a realistic level of standardisation and consistency in the ways learning is provided and used'¹¹¹ as well as other guidance and regulation to support councils with their foster care arrangements.¹¹²

Kinship care is also governed by regulation, with a range of support materials and organisations available.¹¹³ When a child becomes looked after at home this Government guidance clarifies that 'their parents are required to work with the 'corporate parent' – generally the local authority – to ensure that the child is living in a safe and nurturing

¹⁰⁹ The Scottish Government, Policies <https://www.gov.scot/policies/looked-after-children>

¹¹⁰ Care Inspectorate website <https://hub.careinspectorate.com/national-policy-and-legislation/health-and-social-care-standards>

¹¹¹ Scottish Social Services Council, Standard for Foster Care <https://www.sssc.uk.com/knowledgebase/article/KA-01352/en-us>

¹¹² Scottish Government website, Foster Care <https://www.gov.scot/policies/looked-after-children/foster-care>

¹¹³ Scottish Government website, Kinship Care <https://www.gov.scot/policies/looked-after-children/kinship-care>

environment. The corporate parent's duties, including care planning and reviewing, are the same for children looked after at home as for those looked after away from home, with home supervision aiming not only to ensure the wellbeing of the child, but also to strengthen and support the parents' parenting skills'. Support for children leaving care is governed by the Children (Scotland) Act 1995 and subsequent amendments, and sets out that local authorities have a legal duty to:¹¹⁴

- 'Prepare young people for leaving care or ceasing to be looked after.
- Provide advice and assistance to young people who have ceased to be looked after on or after their sixteenth birthday. Local authorities are legally required to provide aftercare support until the care leaver turns 19, and to assess any eligible needs for aftercare support until they turn 26 (or beyond in some cases)'.

The specific duties are set out in the Support and Assistance of Young People Leaving Care (Scotland) Regulations 2003 plus various other guidance and regulation.

The Scottish Government also funds a range of independent bodies to support the various parts of the care system including Inspiring Scotland, Citizen's Advice Scotland, and the Fostering Network, as well as the Centre for Excellence for Children's Care and Protection (CELSIS) which is also supported by the University of Strathclyde, and which is dedicated to improving the care of children and young people looked after, having developed from the Centre for Residential Child Care (CRCC) and the Scottish Institute for Residential Child Care (SIRCC).

Types of care

Most children and young people looked after in Scotland fall into two categories: (Ibid 119)

- **'Looked after at home'**: where the child or young person has been through the Children's Hearings system and is subject to a Supervision Requirement (regular contact with social services) with no condition of residence.
- **Looked after away from home**: where the child or young person is being or has been:
 - Through the Children's Hearings system and is subject to a Supervision Requirement with a condition of residence.
 - Subject to an order made or authorisation or warrant granted by virtue of chapter 2, 3 or 4 of Part 2 of the 1995 Act
 - Provided with accommodation under Section 25 (a voluntary agreement)
 - Placed by a local authority which has made a permanence order under section 80 of the Adoption and Children Act 2007

In these cases, the child or young person is cared for away from their normal place of residence, by foster or kinship carers, by prospective adopters, or in residential care homes, schools or secure units'.

¹¹⁴ Scottish Government website, Children Leaving Care <https://www.gov.scot/policies/looked-after-children/children-leaving-care>

The Government website further clarifies that¹¹⁵ 'Residential care is for young people, usually of secondary school age, living together with other children away from home, providing accommodation, support and, in some cases, education (though in most cases, the child is educated at a school nearby). Young people are placed in residential care on the recommendation of a Children's Hearing Panel or on an emergency, short-term basis to guarantee their safety. Most homes are run by local authorities, but the voluntary and independent sectors also provide a range of residential services, such as residential schools. All residential care establishments are inspected by the Care Inspectorate to ensure they meet national standards'. Whereas: (Ibid 123) '**Kinship care** is when a child is looked after by their extended family or close friends if they cannot remain with their birth parents. Under the Looked After Children (Scotland) Regulations 2009, a kinship carer is defined as 'a person who is related to the child (through blood, marriage or civil partnership) or a person with whom the child has a pre-existing relationship'. Kinship care includes:

- Children and young people looked after who have been placed with kinship carers by the local authority.
- Non-children and young people looked after who live in an informal kinship care arrangement (these children may be subject to an order under Section 11 of the Children (Scotland) Act 1995 or may be living in a completely private arrangement with extended family, with no local authority involvement)

As the Foster Care section of the Scottish Government website explains: (Ibid 122) 'When a child cannot be cared for by their birth parents or by kinship carers (extended family or close friends), they can be cared for by an approved foster family. Any adult can apply to become a foster carer by applying to their local authority or to a voluntary or independent provider registered with the Care Inspectorate'. **Foster care** can be a temporary arrangement that can end when a child returns to their birth parents or is adopted. Other placements can be long term if this is in the best interests of the child. Different types of fostering include:

- '**Short term**: this includes 'respite fostering', when parents or a child are given a break from each other.
- **Emergency**: when a child gets placed with little notice
- **Interim**: when the child plans to go back to live with their parents but they need to spend some time in foster care or while a permanent placement is being found (under 24 months)
- **Longer term**: when a child is looked after for more than 24 months
- **Permanent**: when the child is placed permanently under a 'permanence order'¹¹⁶

The comprehensive nature of the Guidance provided by the Scottish Government continues in relation to Private Foster Care, which it describes as 'an arrangement where a child is cared for by an adult who is not a close relative or an approved foster carer' for a period of more than 28 days, and anyone planning such an arrangement must inform their local authority two weeks before it begins.¹¹⁷

¹¹⁵ Scottish Government website: looked after children <https://www.gov.scot/policies/looked-after-children/residential-care>

¹¹⁶ Scottish Government website: <https://www.mygov.scot/foster-carer/>

¹¹⁷ Scottish Government website: <https://www.mygov.scot/private-foster-carer/>

Being 'looked after at home' is also a specific arrangement put in place when the Children's Hearings system 'imposes a supervision requirement with no condition of residence'. There are two main instances in which this happens:¹¹⁸

- 'As a starting point for planned intervention, where the balance of risk indicates that it is not essential to remove the child from the care of their parents, but that the situation must be monitored
- Where children are returning home after being looked after away from home, where some risks still remain and home supervision aims to help reunite the family

A child looked after at home continues to live at their normal residence (usually the family home) but receives regular visits from social workers to ensure that the objectives of the home supervision order are being met'.

Data and numbers

Some key data points from Scottish Government Statistics Office in 2018 led to the following summary and trend analysis: ¹¹⁹

- 'At 31 July 2018, there were an estimated 14,738 children and young people looked after – a decrease of 159 (1%) from 2017.
- This was the sixth consecutive year the numbers have decreased following a peak of 16,248 in 2012, with the number of children ceasing to be looked after each year being consistently more than the numbers becoming looked after over this period.
- Increasing numbers of children are being looked after away from home in community settings, in particular with foster carers (34% of the total).
- The proportion of children looked after at home has decreased over the last decade, with an estimated 26% in this group in 2018, compared to 43% in 2008.
- Foster care and kinship care are the most common settings for children and young people looked after in 2018.
- Over the last 10 years, children are entering care at an earlier age. In 2008, 32% of children starting episodes of care were under five years of age. By 2018 this had risen to 37%, although this is a decline from a peak of 41% in 2014. A large proportion of the under-five group are the under-one year olds, and the proportion in this youngest group has increased from 10% in 2008 to 16% in 2018.
- Foster care remains the most common type of care for children and young people looked after (34% – Foster care, 28% – Kinship care, 26% – looked after at home, 10% – residential care, 1% – with prospective adopters).
- Numbers of children looked after in residential care settings have been fairly static over recent years at around 10% of the overall total'.

The table below shows the trends in the number of proportion of children being looked after in each type of accommodation:

¹¹⁸ Scottish Government website: <https://www.gov.scot/policies/looked-after-children/children-looked-after-at-home/>

¹¹⁹ Scottish Government Children's Social Work Statistics 2017-2018
<https://www.gov.scot/publications/childrens-social-work-statistics-2017-2018/pages/3>

Number and percentage of children looked after at 31 July, in each type of accommodation

Placement type	Number			Percentage		
	2008	2017	2018	2008	2017	2018
In the community	13,275	13,388	13,219	89%	90%	90%
At home with parents	6,360	3,766	3,818	43%	25%	26%
With Kinship Carers: friends/relatives	2,399	4,138	4,103	16%	28%	28%
With Foster Carers provided by LA	3,579	3,509	3,529	24%	24%	24%
With Foster Carers purchased by LA	664	1,743	1,529	4%	12%	10%
With prospective adopters	237	197	190	2%	1%	1%
In other community	36	35	50	0%	0%	0%
Residential Accommodation	1,613	1,509	1,519	11%	10%	10%
In local authority home	695	619	585	5%	4%	4%
In voluntary home	58	127	122	0%	1%	1%
In residential school	649	375	395	4%	3%	3%
In secure accommodation	93	56	52	1%	0%	0%
Crisis care	35	0	0	0%	0%	0%
In other residential	83	332	365	1%	2%	2%
Total looked after children	14,888	14,897	14,738	100%	100%	100%

How is provision commissioned, procured and managed?

In 2006, a detailed review of Public Sector Procurement in Scotland (the McClelland Report) was published and recommended a number of changes to the way that the public sector works.¹²⁰

One of the outcomes was the setting up in 2008 of Scotland Excel as a public sector shared service organisation, which acts as the Centre of Procurement Expertise for the local government sector, working in partnership with all 32 local authorities in Scotland. It aims to deliver savings and efficiency through collaboration and improved procurement practices.¹²¹ This has included the letting of national (pan-Scotland)

¹²⁰Review of Public Procurement in Scotland Report and Recommendations, McClelland <https://www2.gov.scot/resource/doc/96269/0023302.pdf>

¹²¹ Scotland Excel website <http://www.scotland-excel.org.uk>

framework agreements for residential care and education, secure care and also fostering and continuing care¹²².

This approach does not preclude individual authorities still commissioning services such as foster care using the various approaches outlined previously.¹²³ Other examples of collaboration include the piloting since 2006 in Scotland of various iterations of Public Social Partnerships (PSPs – partnership working at strategic, development and delivery levels, involving collaboration with the public and third sectors to design services appropriate to the needs of service users).¹²⁴ Although this did find some traction in some authorities¹²⁵, the most recent report is inconclusive about its long-term future as an approach.

The Scottish Government also now requires local authorities and other public sector bodies to work together in developing Strategic Commissioning Plans for which there is guidance¹²⁶ as well as in Community Planning Partnerships for which there is specific guidance on how to work together for children and young people looked after.^{127 128}

The Scottish Government announced the Independent Care Review in October 2016. A 'root and branch' review of the Scottish care system (on what works and why, and what does not work) it is independent from the Government. It is due to report in the spring/summer of 2020 and is expected to impact significantly on the system and also the ways in which care is sourced and commissioned. Local authorities are responsible for the care provided to the children for whom they are responsible in terms of overseeing and managing placements, whilst all providers come under the inspection regime of the Care Inspectorate.

Who are the providers/What is the market?

As in England, the provision of foster care is from a mix of 'in-house' provision by foster carers managed by local authorities, and Independent Fostering Agencies (IFAs), some of which are not-for-profit/charitable organisations, though the vast majority are placed with local authority foster carers (3,529 compared with 1,529 with other foster carers in 2018).

Residential care is also provided via a mix of local authority and independent providers, again with the majority being placed in local authority homes (585 against 122 in 2018),

¹²² Scotland Excel Contract Register <http://www.scotland-excel.org.uk/home/Contractregister/Contract-register.aspx>

¹²³ Public Contracts Scotland website https://www.publiccontractsscotland.gov.uk/search/search_mainpage.aspx

¹²⁴ Scottish Government Strategic Public Social Partnership Model: report 2018 <https://www.gov.scot/publications/report-date-strategic-public-social-partnership-psp-model-scotland/pages/1>

¹²⁵ Commissioning foster care services in Falkirk Council: a Public Social Partnership Approach, 2013 <https://www.iriss.org.uk/resources/reports/commissioning-foster-care-services-falkirk-council-public-social-partnership-approach>

¹²⁶ Scottish Government Strategic Commissioning Plans Guidance <https://www.gov.scot/publications/strategic-commissioning-plans-guidance/pages/1>

¹²⁷ Scottish Government Improving Public Services <https://www.gov.scot/policies/improving-public-services/community-planning>

¹²⁸ Scottish Government: These are our bairns: a guide for community planning partnerships on being a good corporate parent <https://www.gov.scot/publications/bairns-guide-community-planning-partnerships-being-good-corporate-parent/pages/7>

except in the case of residential schools where a range of independent providers exist to cater for the range of special needs of children (totalling 395 children in 2018).

Key challenges

The key challenges are outlined above and involve the generally poorer outcomes that children in care experience in terms of educational attainment, employment and life chances.

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