

Title	Unregistered and Unregulated Provision for Children in Care
Purpose/scope	This is a guide to staff on how to work with situations where we will be using unregistered and unregulated provision
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Shropshire Children's Services

Unregistered and Unregulated Provision for Children in Care – Guidance for Staff

Background:

Shropshire Council believe that every child deserves a stable loving home where they feel safe to thrive and achieve the best outcomes in life. This is even more important for children and young people in the care system who have often experienced trauma and a lack of stability in their lives.

This guidance provides information for managers, front line practitioners and support staff, on the difference between registered, unregistered and unregulated provision, in relation to children/ young people's placements, including those placements made in a crisis. It outlines the processes undertaken when considering such placements and the risk mitigations in place.

It is Shropshire Council's policy to place young people in regulated provision, unless the young person is over 16 years old and they are looking to promote their independence, alongside high quality support.

Legislation:

This guidance is informed by the following legislation/statutory guidance:

- The Children Act 1989
- The Care Standards Act 2000 (as amended).
- The Children (Leaving Care) Act 2000
- The Children Act 1989 Care Planning, Placement and Case Review 2015

Definitions

Registered provision:

Any service provision that provides care for a child should be registered. Care is not defined in law and is not just about the child's age, but also about a child's vulnerability and the level of help that they need. If a child or young person needs care, then the service they're getting is very likely to need registration as a children's home. If a child or young person is under constant or high level/high ratio supervision, then this is likely to be 'care'.

Unregistered provision;

Unregistered provision is when a child who is being provided with some form of 'care' is living somewhere that is not registered with Ofsted. This is illegal. Once a provider delivers a care element as well as accommodation, they must register as a children's home. It's an offence not to.

The staff at an unregistered provider may not realise that they need to register with Ofsted. This can happen when a supported living provider has extended what they do without recognising that they've crossed the line into providing care. It's also common in short-term arrangements or crisis responses when a placement for a child needs to be found quickly.

If a provider begins providing care as well as accommodation, then they must register. It is a myth that if they only provide care for up to 28 days that they don't need to register.

Unregulated provision

Unregulated provision is allowed in law. This is when children (usually over the age of 16) need support to live independently rather than needing full-time care. Ofsted do not regulate this type of provision. Shropshire Council, has a corporate parental responsibility to make sure that any such provision is safe and suitable for young people to live in.

The government has recently announced reforms to unregulated provision:

- **"We are banning the placement of u16s in unregulated provision** – this provision cannot meet the needs of children of this age. The ban will come into effect in September. Children of this age should be placed in children's homes or foster care."

- **“We are introducing national standards for unregulated settings for 16 and 17 year old looked after children and care leavers.** We will consult on national standards, their impact and cost this year.”
- **“We will legislate to give Ofsted additional powers to take action against illegal unregistered children’s homes.** Ofsted can already prosecute providers for operating children’s homes without being registered, however, this can be costly and time and resource intensive. We want Ofsted to have an earlier legal step to take quicker action to register or close down these homes.”

We recognise that unregulated provision should be used as a stepping stone to independence, and only ever when it’s in a child or young person’s best interests. For many children and young people, it is the right choice. Some children do not want to live with foster parents or live in a children’s home. For some unaccompanied asylum-seeking children this can be the right or best option, but not for all.

Annex A provides a table that sets out criteria to help identify whether the service being proposed or provided is ‘supported accommodation’. This based on Ofsted’s ‘Introduction to children’s homes: a children’s social care guide to registration, July 2018’.

Annex B provides a table that illustrates examples of different types of placements, including differentiations between mobile and static placements, and whether care and/ or support is provided

Supported living:

Nationally, the most common type of unregulated provision is supported living. This is accommodation where children or young people are visited and get some support as they move towards independence. The young person needs ‘support’ rather than ‘care’. Ofsted do not regulate this type of provision as the provider is not offering care.

Supported Lodgings:

Supported lodgings are defined as domestic or private lodgings where there is both an adult (usually called a provider) living on site and an expectation that some level of support is offered. Supported lodgings providers are assessed, vetted and trained for the role.

Regulated Crisis Placement:

These are placements where the young person would be *attached* to a registered home but may be in an unfixed setting such as a narrow boat/caravan.

Unregulated Crisis placements:

These placements are those made available for a child/young person immediately and for a set period, preferably up to 28 days. In exceptional cases, they can be up to 90 days and in these circumstances, the crisis placement would be unregulated.

These can be activity based placements, outward bound placements or placements in a children's home for a limited period. These include an unfixed setting where the accommodation is not permanent (such as a tent) or is constantly moving (such as a narrow boat or motor home/caravan); or where it has no permanent base. These are unlikely to meet the definition of a children's home and will not be required to register with Ofsted.

These placements are used as a last resort only.

Exceptions:

1. If a child/young person is in a regulated placement and the provider is taking the child/young person away for a holiday, the placement they go to for the holiday does not need to be registered, as their main placement is within a regulated placement. This type of arrangement can only be for **up to 28 days**.
2. Some mobile placements are regulated, this only applies to those that registered with Ofsted before May 2017.

Care Quality Commission registered homes

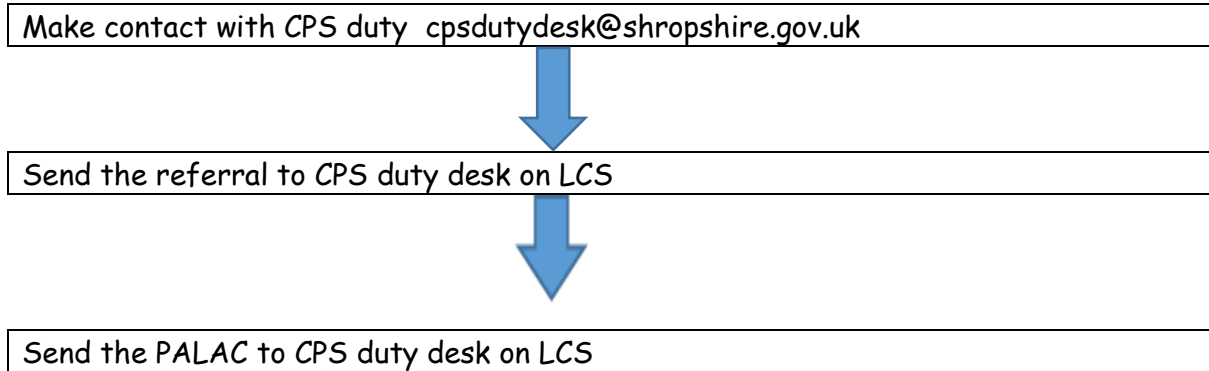
There are circumstances when it may be appropriate for a care home to be registered with Care Quality Commission (CQC) rather than as a children's home with Ofsted. If a child is placed in accommodation because of their need for nursing care or personal care, it is likely this will be a care home that should register with CQC. Whereas, if the primary reason for placing a child in that accommodation is care that is not nursing care or personal care it is likely this will be a children's home that should register with Ofsted.

How this will Impact the Placements' Process

1. The placement process is initiated by the referring social worker completing the Children's Placement Service (CPS) referral form on the LiquidLogic Children's System (LCS) and forwarding this to the CPS Duty Team.
2. Social Workers to complete the Ofsted Annex A template to determine that support rather care is appropriate to meet the child/young person needs. As per the Annex A checklist. This should be signed off the Service Manager and uploaded to LCS once placement is confirmed. A template for completion is included as Annex A1.
3. This referral must contain the relevant vital information which the CPS Duty Team use to approach appropriate prospective carers or providers about the child and allow an appropriate decision to be made.
4. The referral form will include details of the needs and circumstances of the child or young person, and specify any aspects of service provision that can best meet these needs.

5. Verbal or written agreement to accommodate will have been already provided to the referring social worker by their respective Head of Service. This may have been given by phone, email or in person.
6. The referral form is the first priority if a crisis/ emergency placement is to be sought.
7. A 'Pathway to accommodation into local authority care' (PALAC) form must now be completed by the referring social worker and sent via LCS to the CPS duty team.
8. The CPS Duty team, will look initially at registered placement options, unless there is a clear steer in the referral form to consider unregulated provision options. The rationale for considering unregulated provision will need to be clearly stated in the referral, together with approval from the appropriate Head of Service.
9. The CPS Duty Team will exhaust all regulated options in line with the care plan prior to considering an unregulated or crisis placement.
10. The CPS Duty Team will identify placement options on the PALAC and return the form to the social worker for them to seek final authorisation and placement choice. If the decision is to pursue an unregulated or crisis placement, agreement to this must be sought from the appropriate service manager responsible for the care plan.
11. Final approval will be needed from the Assistant Director.

Flow Chart, the basic procedure:



Provider checks prior to placement being made.

Checks on an agreed placement offer need to be made by the social worker requesting the placement. These checks can include:

- Gather Statement of Purpose, latest Ofsted Report and last 3 months or details of CQC Registration
- Regulation 44 reports (regulated placements only)
- Contract Schedule 6 (previously known as Appendix 6 or a Property self-declaration form) is submitted by the provider which gives details of
- Insurances and policies & procedures – Safeguarding, Child Exploitation, Missing from Home, Information Governance, Safer Recruitment

Where we have gathered previous information on providers over time, CPS duty will collate information to be able to share with social workers.

Wherever possible, the social worker should visit the placement to assess the suitability for a young person.

Prior to placing in an unregulated setting

- Before placing a looked after child in an unregulated setting the **social worker** must be satisfied that the accommodation is suitable (as set out in Schedule 6 of the Care Planning, Placement and Case Review Regulations (2010))
- Arrange for the young person to visit the accommodation (unless not reasonably practicable)
- Inform the Independent Reviewing Officer.
- The social worker must also request information from the provider in relation to any other young people who are placed in the provision and use this information to determine whether the placement being put forward is suitable.

Senior Managers must review the current assessment of the young person's care and/or support needs, the Placement Request and the proposed Placement Plan. confirm that the proposed placement is appropriate in line with Regulation 27 (other arrangements) provisions. This will be confirmed by completion of an Ofsted Annex A Form and uploaded to LCS. Completion will be monitored by the Quality Assurance arrangements.

Monitoring of Unregulated / Crisis Placements

At point of an unregulated placement being confirmed

1. CPS Duty will send an email to Social Worker and all relevant managers to advise that an unregulated placement has been made so additional oversight can be undertaken
2. Decision will be taken as to whether we should undertake quality assurance visits to monitor the progress of a placement. The arrangements for this are included in the Quality Assurance policy.
3. Regular performance reports will include the numbers of young people from Shropshire placed in unregulated placements
4. The use of unregulated provision will be monitored by the Assistant Director, commissioning and contracts manager and service manager via monthly placement forum meetings.

SW visits to placement

1. As per the placement plan, the social worker/ personal advisor will visit the provision wherever possible prior to the Young Person's move and assist the Young Person with the move.
2. The social worker or personal advisor will visit the Young Person within 3 days of their move and thereafter, weekly until their looked after review. Visits may be more frequent based on the needs of the Young Person.
3. It is recommended that the social work visits will be more frequent in an unregulated or crisis setting either for the duration of the short-dedicated timescale for the placement, or in the initial stages of the placement. As a minimum in line with statutory requirements, to review how it is meeting the needs and highlight any concerns if they arise.

Ongoing Quality Assurance Monitoring of Unregulated Placements

Please refer to the Quality Assurance Policy for further details of the ongoing quality assurance monitoring arrangements which include arrangements for:

- Weekly/Monthly desk top monitoring
- Quarterly reporting/rag rating
- Quality Assurance visits
- Responding to concerns raised

Annex A – Ofsted Supported Accommodation Check List

- This table sets out criteria to help identify whether the service being proposed or provided is 'supported accommodation'.
- The table below sets out each criteria in the form of a question, and suggests whether a 'yes' or 'no' answer means care is provided, or supported accommodation.
- Where care is provided, this service meets the definition of a children's home and will usually need to register with Ofsted.

Criteria	Yes?	No?
Can young people go out of the establishment without staff permission?	Supported accommodation	Care
Do young people have full control of their own finances?	Supported accommodation	Care
Do young people have control over what they wear and of the resources to buy clothes?	Supported accommodation	Care
Are young people in charge of meeting all of their health needs, including such things as arranging GP or specialist health care appointments? Are young people in full control of their medication?	Supported accommodation (note that young people may ask for advice and help on their health, but if the decisions rest with the young person, the establishment is not providing care)	Care
Does staff have any access to any medical records?	Care	Supported accommodation
Can young people choose to stay away overnight?	Supported accommodation (note that being expected to tell someone if they are going to be away overnight does not indicate providing care, but needing to ask someone's permission does)	Care
Is there a sanctions police that goes beyond house rules and legal sanctions that would be imposed on any adult?	Care	Supported accommodation

Criteria	Yes?	No?
If the establishment accommodates both adults and young people, do these under 18 have any different supervision, support, facilities or restrictions?	Care	Supported accommodation
Are there regularly significant periods of time when young people are on the premises with no direct staff supervision?	Supported accommodation	Care
Do staff have any responsibility for aftercare once a young person has left?	Care (note that some supported accommodation services will offer some support to help young people get established in their next accommodation – this is not care.)	Supported accommodation
Does the establishment's literature promise the provision of care or relate to specific care support provided to all residents.	Care	Supported accommodation
Does the establishment provide or commission a specialist support service, which forms part of the main function of the establishment?	Care	Supported accommodation

Annex A1

Template for completion and upload to LCS.



Annex%20A1%20template.docx

Annex B: Easy reference guide

Guide to the different types of regulated and unregulated placements, including differentiations between mobile and static placements, and whether care and/ or support is provided

CARE+STATIC PLACEMENT = REGULATED

Any placement where care is delivered in a static place and is not registered with Ofsted is an unregistered placement and therefore illegal.

Examples of such unregulated placements are:

- Crisis placement in a home (Providers such as Short Breaks)
- Residential short/ long term placements
- Post 16 placement where care is being provided in line with Ofsted Annex A Introduction to children's homes: a children's social care guide to registration (July 2018) - Provision which is registered with Ofsted

CARE+MOBILE PLACEMENT = UNREGULATED

Does not need to be registered with Ofsted.

Examples of placements are:

- Crisis placement on a constantly moving barge (It is very rare that this type of provision would be used for a Shropshire child)

SUPPORT+STATIC PLACEMENT = UNREGULATED

Does not need to be Ofsted registered.

Examples of placements are:

- Post 16 placement in a shared house with communal facilities (SAAIL)
- Post 16 placement with a supported lodgings host
- Post 16 placement in self-contained flat with floating support (Just One)
- Post 16 placement in solo occupancy building with staff (**staffing ratio of 1:1 + at all times would translate to care.** Young person must have free time (i.e. regularly significant periods of time when on the premises with no direct staff supervision) if the placement is providing support and not care.