

# Report on care homes for children operating without registration

1 April 2022 –  
31 March 2023

## Contents

Introduction .....	4
Background.....	4
Key findings .....	5
Our process for care homes for children operating without registration .....	6
Number of care homes for children operating without registration .....	7
Placing local authorities .....	8
Reasons for placement in a service operating without registration .....	10
Length of time services operated without registration .....	10
Profile of children living in services operating without registration .....	11
Conclusion .....	13
Appendix 1 – Guidance on registration .....	14
Appendix 2 – Securing Improvement and Enforcement Policy .....	14
Appendix 3 – Revised practice guidance from the President of the Family Division .....	14

## Introduction

1. Ensuring children who are looked after receive high quality care and support to promote their well-being and help them to achieve positive outcomes is a shared aim of local authorities, providers, and Care Inspectorate Wales (CIW).
2. As the regulator of social care in Wales, one of CIW's core functions is to ensure only those people who are judged to be fit and are likely to provide good quality care are registered to do so. The registration process acts as a gatekeeper for those wishing to provide a regulated service and is the first step in how we safeguard people who use services and ensure they receive good quality care. Once a service is registered, ongoing monitoring and inspection by CIW helps ensure providers continue to provide high quality and safe services for people. The Regulation and Inspection of Social Care (Wales) Act 2016 (the 2016 Act) sets out and defines the regulated services which are required to register, including the definition of a care home service.
3. This report is about care home services for children potentially operating without registration (OWR). They are also known as unregistered services. This should not be confused with the term 'unregulated service' as this refers to services that do not require registration with CIW.
4. Our aim in publishing this report is to shine a spotlight on a very complex set of problems with the hope of galvanising collective problem-solving and action by all involved in safeguarding children who are looked after. As always, complex problems can be rarely solved by a single agency and require collaborative effort.
5. This report sets out the data gathered from all incidences of services operating without registration we have been notified of from 1 April 2022 to 31 March 2023.

## Background

6. Local authorities have a duty under section 78 and 79 of the Social Services and Well-being (Wales) Act 2014 (the 2014 Act) to safeguard and promote the well-being of a child who is being looked after; and to provide accommodation. In addition, they have duties under section 75 of the 2014 Act to secure sufficient accommodation for children who are looked after.
7. As we identified in our [national report](#) in 2019, there is a lack of suitable placements able to meet the needs of a small but growing number of children. We know local authorities, often supported by Children's Commissioning Consortium Cymru (4Cs), contact numerous registered providers to source suitable care and support for children. On occasion, providers are reporting high demand (from local authorities in Wales and England) for limited places. At any given time, there may be vacancies in some care homes for children but often these providers are not able to meet the individual needs of the child or young person. This becomes

more problematic when considering compatibility with other children already living in a registered care home.

8. This lack of suitable provision for children whose needs are more complex has led to some local authorities putting together improvised arrangements to meet the immediate needs of these children, sometimes at very short notice, in line with their duties under section 79 of the 2014 Act. On occasion this is achieved by using a vacant council or rental property and pulling together a staff group or by calling on a private provider of children's homes to do this. These arrangements often amount to care homes for children which are operating without registration.
9. Under section 5 of the 2016 Act, it is an offence to provide a regulated service without registration. The 2016 Act contains provisions to make it easier for existing registered providers to add new services to their portfolio by applying for a variation to their registration, rather than having to go through the steps for an entirely new registration as was the case under previous legislation. All local authorities in Wales are registered providers.

## **Key findings**

- There is a lack of appropriate provision for children and young people with the most complex range of needs. This is a long-standing problem and has led to too many children being placed in unregistered services which may reduce opportunities for them to have their needs met and to achieve their personal outcomes.
- In Wales, unlike England, the majority of services operating without registration are being directly provided by local authorities themselves, not by independent sector providers.
- Whilst some children achieve positive outcomes in a temporary service which is operating without registration, some do not, including several moves from one service operating without registration to another. This instability can have a negative impact on children's outcomes.
- Often the premises used for unregistered services and/or the standard of the arrangements made for children falls below those required for registration.
- In many cases, staffing arrangements to provide care and support have been ad hoc and subject to frequent change. The deployment of staff who are not trained to meet the care and support needs of the child or young person and the over reliance on agency staff is of particular concern.
- For some children, stable placements have not been secured for some time, creating uncertainty for the child, and making it difficult for longer term plans to be made for them and their families.

- Meeting the needs of children who are looked after is a corporate parenting and multi-agency responsibility. We have found not all partners are as engaged in meeting children's needs as they should be.

## **Our process for care homes for children operating without registration**

10. As a result of the increasing number of services operating without registration, we developed a process to enable us to manage these consistently and maintain oversight. This process applied to any type of service potentially operating without registration, not only care homes for children. In July 2023, in discussion with key stakeholders, we reviewed and revised our process.
11. Section 5 of the 2016 Act states it is an offence to provide a regulated service or services in Wales without being registered to do so. Our role is to enforce the requirements of the regulatory regime.
12. It is incumbent upon CIW to apply the law and regulations equally to all providers and operate a level regulatory playing-field between local authority providers and private providers. However, in relation to children who are looked after, we recognise the responsibilities of a local authority are significantly different to those of a private provider. As a corporate parent, local authorities have a legal responsibility to keep the children they look after safe and to meet their needs. In contrast, a private provider can choose whether it sets up a service to care for a child or decline to make the arrangement. In addition, the operation of a care service by a local authority is not a commercial undertaking.
13. We also understand the significant pressures on local authorities in finding suitable placements for young people with the most complex needs. We are equally aware of the difficulties in finding placements for young people subject to welfare secure orders.
14. The only formal action we can take against an unregistered provider is criminal enforcement. As the service is not registered, we cannot use our civil enforcement powers. We also have powers to review the performance of local authorities in discharging their statutory social services responsibilities, which includes safeguarding children and ensuring placement sufficiency.
15. We aim to take a proportionate and case-by-case approach to all enforcement decisions. Any action taken by us will accord with our [values and principles](#). In particular, the voice and well-being of people will be at the heart of our decisions, underpinned by a rights-based approach (this means we champion people's rights and seek feedback from people about their experience and the outcomes it helps them achieve). We will be fair and take a proportionate approach, taking into account the circumstances and facts of each individual case.

**Number of care homes for children operating without registration**

16. Table 1 provides information on the number of notifications received from local authorities regarding services that were potentially care homes for children operating without registration during the period 1 April 2022 to 31 March 2023. Following each notification, our enforcement team conducted an initial review to enable us to decide whether the notification should proceed to our Improvement and Enforcement Panel. Services are not referred to panel if the evidence suggests it did not meet the threshold requiring registration, for example services providing accommodation and support only to young people aged over sixteen. This type of service does not require registration with CIW, whereas those providing accommodation and care do.

<b>Table 1: Number of notifications of potential care homes for children OWR</b>	
<b>Total number of notifications of potential care homes for children operating without registration</b>	<b>189</b>
Proceeded to Improvement and Enforcement Panel	108
Did not proceed to Improvement and Enforcement Panel	81

17. As Table 2 illustrates, not all services considered at the Improvement and Enforcement Panel go on to be determined as operating without registration. This may be for a number of reasons, for example evidence is received that shows only accommodation and support is being provided with no care being provided.

<b>Table 2: Outcome of Improvement and Enforcement Panels for care homes for children</b>	
Determined as not operating without registration	16
Determined to be a care home for children operating without registration	92
<b>Total number of services considered by the Improvement and Enforcement Panel</b>	<b>108</b>

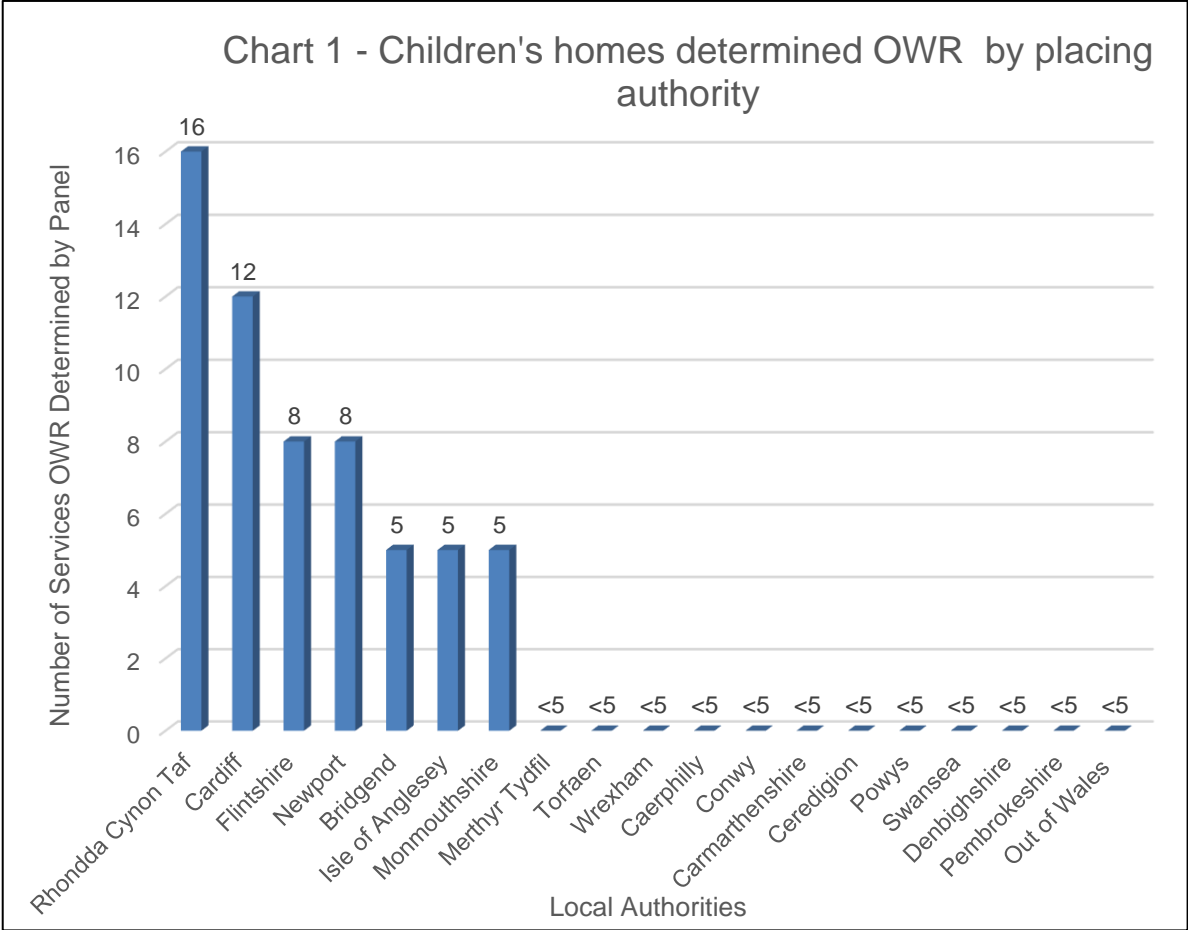
18. Of the ninety-two services determined as operating without registration, a small number became registered. It is important to note not all services who apply to register are successful in their application, as often the premises used do not meet the standards for registration. Of the remaining services, approximately half ceased operating, the remaining services were ongoing on 31 March 2023.
19. By way of context, we registered thirty-one new care homes for children in sixteen of the twenty-two local authorities in Wales during 2022/23. This resulted in forty-five new places available for children. Five of these (16%) were registered by local authorities.

### **Placing local authorities**

20. The general provisions in part 6 of the 2014 Act places duties on local authorities to safeguard and promote the well-being of looked after children. Where care homes operate without registration, the safeguards that come with registration are not in place and therefore extra vigilance and oversight is needed by the local authority. This may be particularly true when an unregistered care home is staffed by agency workers. It is important to note care agencies are not registered by CIW and there is currently no requirement for agency workers to be registered with Social Care Wales. As such, further safeguards are absent.
21. Some local authorities have rarely needed to set up an unregistered care home for children and of those that have, many sought to promptly find a stable placement. A minority of local authorities have more frequently set up a temporary service operating without registration; or have not actively taken steps to minimise the length of time children are living in these arrangements. This results in significant drift in regularising arrangements for some children and creates uncertainty for the child, and their family.
22. On occasion some local authorities have used the same property on multiple occasions for different children. We have also seen examples where a child has been moved from one service operating without registration to another when the placement either breaks down or ceases for some other reason, such as a short-term accommodation rental coming to an end. We are concerned many children who are looked after will already have a history of instability and adverse childhood experiences. Further periods of instability in multiple unregistered placements are likely to impact negatively on outcomes for these children and young people.

23. It is important to note most notifications received about services operating without registration are in relation to one child only; however, sometimes one notification is in relation to more than one child being placed in the service, and therefore the number of children concerned can be higher than the number of care homes for children operating without registration, as is the case for the period of time reflected in this report.

24. Chart 1 shows the local authorities who placed children in a care home that CIW determined as operating without registration in Wales from 1<sup>st</sup> April 2022 – 31<sup>st</sup> March 2023.



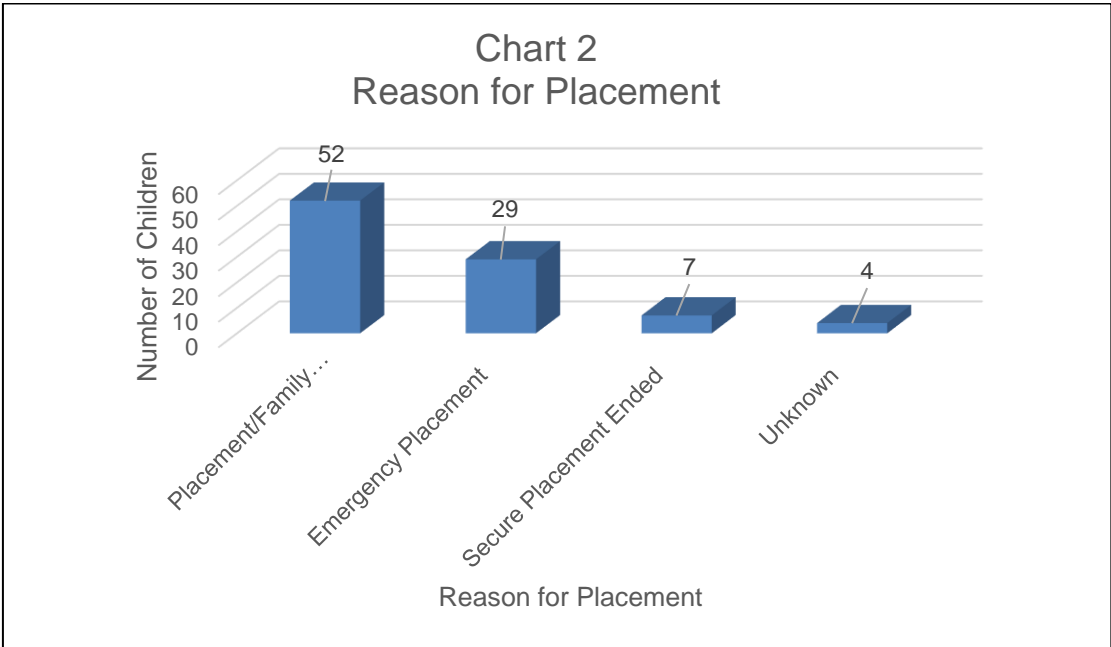
25. Whilst providing or securing accommodation, some local authorities commissioned independent providers or care agencies to provide care. In 2022/23 we determined fourteen independent providers were involved in providing care in services operating without registration on eighty-one occasions. This included one care agency which was used to provide agency care workers on forty-five occasions.

26. We were also notified of a further fifteen children who were looked after by a local authority in Wales but were living in services potentially operating without registration in England. These services do not come under Welsh regulations, but we do share this information with the English regulator, Ofsted.



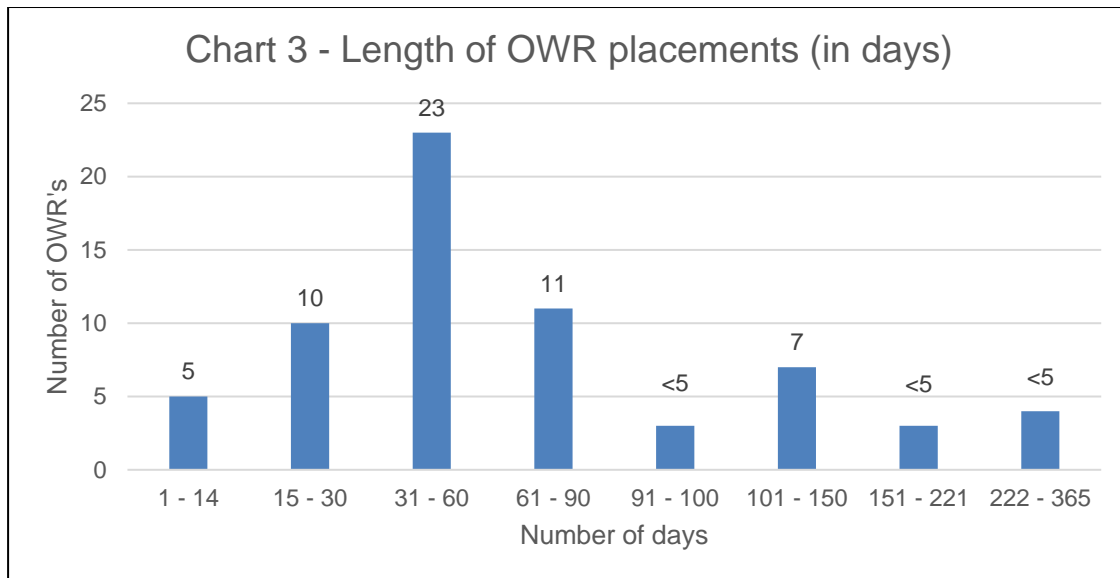
**Reasons for placement in a service operating without registration**

27. Chart 2 shows most care homes for children operating without registration commenced due to placement or family breakdown and where the local authority was unable to find a suitable registered placement to meet the needs of the child or young person at short notice.



**Length of time services operated without registration**

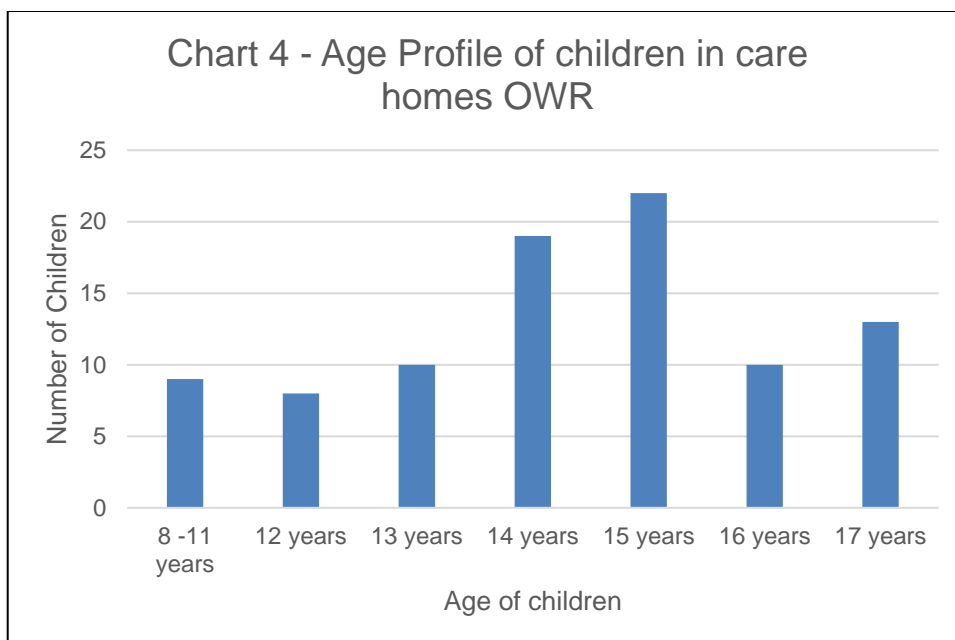
28. Chart 3 illustrates most services operated without registration for 31 to 60 days. However, in some instances, the arrangements to operate without registration persisted for long periods of time and we have been concerned the provider has not taken sufficient steps to register the service or find an alternative home for the child.



**Profile of children living in services operating without registration**

29. Children and young people living in a service operating without registration are often those with the most complex emotional and behavioural needs, some of whom may benefit from support in a single person service (or foster placement). For some, the breakdown of their existing placement was a result of events that led a provider to decide they could no longer safely care for the child at the same time as meeting the needs of other children living at the home.

30. Chart 4 shows the age of the children living in unregistered care home settings. Most children are 14 or 15 years old. However, there have been examples of children under the age of ten being placed in these types of arrangements.



31. Table 3 shows, for those placements in services operating without registration that started and ended within the timeframe of this report, the range of children's ages and how long they lived at that service. Whilst the length of time children are living at a service operating without registration is of general concern, we are particularly concerned about the suitability and impact of this on younger children.

Table 3	Length of placements							
	1 - 14	15 - 30	31 - 60	61 - 90	91 - 100	101 - 150	151 - 221	222 - 365
Age of child								
9 years								
10 years								
11 years								
12 years								
13 years								
14 years								
15 years								
16 years								
17 years								

32. We have been told by some local authorities the child or young person has been able to achieve some stability from intensive staffing arrangements in a service operating without registration, but as shown above, most of the placements are temporary and so any stability is often short lived.

## Conclusion

33. As a regulator, we are naturally concerned about services operating illegally. However, our primary concern is outcomes for children and the potential risks to their safety and well-being when being cared for in an unregistered service. These have been described to us by local authorities as 'the least worst option' for some children. Not only do children lack the safeguards that come with a service being registered, but access to education and healthcare support can be made more problematic by living at a temporary address. In addition, the majority of children will have to move to another service and as such be subject to the further disruption this entails.
34. We understand emergency situations will arise where a local authority has a duty of care towards a child who needs care and accommodation. We have been considering approaches to this from across the UK and Ireland. For example, in Ireland there is in effect an exemption for a short period of time whilst suitable arrangements are put in place. Changes to legislation are a matter for Welsh Ministers, not CIW.
35. We know local authorities are keen to avoid placing children in unregistered services. We are aware work is underway to review the experience of children who have had to live in an unregistered service to understand any themes and trends that have led to this situation, with a view to identifying pan-Wales solutions.
36. We will be paying particular interest to the commissioning plans of local authorities who must work with their partners to ensure sufficiency of services to meet the care and support needs of children and young people. We recognise solutions may need to be at a regional or even national level. The issues highlighted in this report should be of interest to Regional Partnership Boards and Regional Safeguarding Boards.

## **Appendix 1 – Guidance on registration**

### **[Guide to Registration Regulation and Inspection of Social Care \(Wales\) Act 2016](#)**

Pages 32-33 of the guidance provides information on the definition of a care home.

## **Appendix 2 – Securing Improvement and Enforcement Policy**

Our 'Securing Improvement and Enforcement policy' explains what we will do if services are not providing good quality care or are not meeting the requirements of the law.

We use our enforcement powers to ensure that providers make the necessary improvements, and we check these have happened.

### **[How we enforce | Care Inspectorate Wales](#)**

## **Appendix 3 – Revised practice guidance from the President of the Family Division**

### **[Revised practice guidance on the Court's approach to unregistered placements](#)**