

# Introduction to children's homes

A children's social care guide to registration

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All providers and managers of children's homes must register with Ofsted unless they meet the requirements for an exemption from registration. This guide explains in more detail what those intending to provide or manage a children's home must consider when deciding whether they need to apply for registration.

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## Introduction

This guide explains in detail what a children's home is and what the law says. It will help you decide whether you need to register as a children's home provider or manager.

Children's home providers and managers must meet a range of legal requirements; this includes a requirement to register with Ofsted. You can see a list of the legislation that contains these legal requirements at the end of this guide.

If you want to apply to us to open a children's home, you should also read our 'Guide to registration for children's social care services',<sup>1</sup> which sets out the process of registration for all children's social care providers.

## What is a children's home?

1. The Care Standards Act 2000 says that 'an establishment is a children's home...if it provides care and accommodation wholly or mainly for children'.
2. The law also says that children are people who are aged under 18 years.<sup>2</sup> A children's home must mainly care for children. This means that most or all of the people who live or stay there must be children. Young people who are aged 18 and over may live or stay there, but they must be in a minority. You can find further guidance about this in Annex B.
3. Children's homes are diverse. Examples of establishments that have to register as children's homes include:
  - homes for children who are looked after by a local authority either as a short-term measure or more long term
  - homes for disabled children and young people, including those with physical and learning disabilities
  - homes for children and young people who have emotional and/or behavioural difficulties
  - homes for children and young people who have a mental health condition
  - homes for children and young people who have a drug and/or alcohol addiction
  - secure children's homes for children who have committed an offence or need the extra protection these homes give to secure their welfare (these

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<sup>1</sup> Guide to registration for children's social care services, Ofsted, 2015; [www.gov.uk/government/publications/guide-to-registration-for-childrens-social-care-services](http://www.gov.uk/government/publications/guide-to-registration-for-childrens-social-care-services).

<sup>2</sup> The Children Act 1989, section 105 (1), HMSO 1989; [www.legislation.gov.uk/ukpga/1989/41/contents](http://www.legislation.gov.uk/ukpga/1989/41/contents).

are registered as children's homes and are also approved by the Secretary of State for the purpose of restricting the liberty of children<sup>3</sup>)

- homes that provide care and accommodation for children who are 16 years and over in order to prepare them for independent living – these homes must register as children's homes unless they provide only accommodation for children and not care<sup>4</sup>
  - homes that provide short breaks
  - homes that are refuges – these are registered as children's homes but must also apply to the Department for Education for a certificate to operate as a refuge.<sup>5</sup> Children's homes registered as refuges are inspected under the Children's Homes (England) Regulations 2015 and The Refuges (Children's Homes and Foster Placements) Regulations 1991
  - residential schools that provide accommodation for pupils for more than 295 days each year, including specialist and mainstream schools (a school must register as a children's home if, within any two-year period, one child or more, who boards at the school or in lodgings arranged by the school, stays for more than 295 days over any 12-month period within those two years; this also applies if the school intends to offer such an arrangement)
  - residential schools that provide accommodation for children and young people who are not pupils of the school
  - permanently moored boats or permanently sited caravans or lodges where children and young people can stay throughout the year with no specified limit on the length of the placement
  - flats or houses that have been designed and adapted specifically to provide care and accommodation for a particular child or young person, where the child or young person's care plan indicates that this is a permanent arrangement.
4. Independent schools and residential special schools registered as children's homes have one registration with Ofsted as a children's home and one registration with the Department for Education as a school. When a new school intends to provide accommodation for more than 295 days, inspectors from both the social care and education teams try to carry out the two separate registration visits required under the corresponding legislations at the same time.

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<sup>3</sup> In accordance with The Children (Secure Accommodation) Regulations 1991, HMSO, 1991; [www.legislation.gov.uk/ukxi/1991/1505/contents/made](http://www.legislation.gov.uk/ukxi/1991/1505/contents/made).

<sup>4</sup> See Annex A for more guidance on deciding whether these types of service must register as a children's home.

<sup>5</sup> Under section 51(1) of The Children Act 1989, HMSO, 1989; [www.legislation.gov.uk/ukpga/1989/41/contents](http://www.legislation.gov.uk/ukpga/1989/41/contents).

5. The law sets out some types of accommodation that are not children’s homes and do not have to register with us as children’s homes (some may need to register with Ofsted as another type of establishment or agency). These include:
- a place where children live with their parents, relatives or foster carers
  - bail or probation hostels
  - hospitals or clinics
  - schools, unless children are accommodated there for more than 295 days a year
  - further education colleges and 16 to 19 academies
  - a place used to provide childcare, unless children live there for more than 27 days a year<sup>6</sup>
  - residential holiday schemes for disabled children<sup>7</sup>
  - young offender institutions and secure training centres
  - places where children (other than disabled children) are accommodated while on holiday or taking part in leisure, sporting, cultural or educational activities where each individual child stays there for less than 28 days in any 12-month period<sup>8</sup>
  - places where young people of 16 or 17 are accommodated while undergoing training or apprenticeships, while on holiday or taking part in leisure, sporting, cultural or educational activities
  - residential family centres.

## Unregulated establishments

6. As well as the types of accommodation set out in paragraph five that the law specifically says are not children’s homes, some other establishments and types of accommodation are not required to register with Ofsted. These are sometimes known as ‘unregulated settings’. Placing authorities are responsible for ensuring that any placements in an unregulated setting are suitable for the child or young person.

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<sup>6</sup> This exemption does not apply where the establishment provides care and accommodation for children who are wholly or mainly of a description set out in section 3(2) of the Care Standards Act 2000. This includes children who are ill, disabled or infirm. Days where a child is in the care of a parent or relative, and childcare is not provided for nine hours or more, are not included in calculating the 27 days.

<sup>7</sup> As set out in Regulation 2 of the Residential Holiday Schemes for Disabled Children (England) Regulations 2013.

<sup>8</sup> Where these services are for disabled children they may need to register with Ofsted as a residential holiday scheme for disabled children. See *Introduction to residential holiday schemes for disabled children* (140084), Ofsted, 2014; [www.gov.uk/government/publications/introduction-to-residential-holiday-schemes-for-disabled-children](http://www.gov.uk/government/publications/introduction-to-residential-holiday-schemes-for-disabled-children).

7. A service where the accommodation is not permanent (such as a tent) or is constantly moving<sup>9</sup> (such as a boat, narrow boat or motorised caravan), or has no permanent base is unlikely to meet the definition of a children's home and will not be required to register with Ofsted.
8. Examples of other arrangements that do not require registration include:
  - A provider has a registered children's home and operates an outreach service at different premises. This is provided solely for the children living in the children's home. The premises used for the outreach service does not require a separate registration. This is because the children have a permanent bed in the children's home. They stay in the outreach premises for a fixed amount of time for focused work, for example to help move to independence or to work through specific issues.
  - A provider owns a number of establishments, all of which apart from one are registered as children's homes. The unregistered establishment is used solely for holiday accommodation for children on a rotational basis. If the provider then chooses to use the holiday accommodation for care and accommodation other than a holiday, this establishment may require registration.
  - A local authority is providing care and accommodation for refugees and asylum seekers. The primary purpose of this is to assess their ages to determine what service the child/adult is entitled to. This will ensure that adults posing as children are not placed with children, and so registration is not required.
9. Annex C provides more guidance on what to consider when deciding whether an establishment needs to register. It explains what Ofsted may do when we find an establishment that meets the definition of a children's home but is not registered.

## Registration

10. Any establishment that can be defined as a children's home must register with us under the Care Standards Act 2000 before it can open. It is an offence to run a children's home without the appropriate registration. This helps to prevent unsuitable people from owning, operating, managing or working within children's homes.
11. A person, partnership or organisation that wishes to open a children's home must demonstrate how they meet a number of legal requirements. These include those within the Care Standards Act 2000, Care Standards Act 2000 (Registration)(England) Regulations 2010 and the Children's Homes (England)

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<sup>9</sup> These types of arrangements have previously been referred to as 'mobile settings.'

Regulations 2015. They must also take account of the 'Guide to the children's homes regulations including the quality standards' issued by the Department for Education. At the end of this guide, we tell you where you can find and obtain copies of these documents.

12. In summary, a children's home must have:
  - a registered provider and, where the provider is an organisation such as a company or local authority, a person known as a 'responsible individual' who represents the organisation to Ofsted
  - a registered manager who has their own personal registration with Ofsted
  - a statement of purpose that sets out the overall aims of the children's home and the objectives for children who live there or those provided with short breaks – the law sets out the information that the statement must contain in regulations; you can find these in schedule 1 of The Children's Homes (England) Regulations 2015
  - a children's guide, which explains what a child can expect from the home's care, including the support each child is entitled to, how they can make a complaint and how they can access advocacy support; the guide must be in a form that is appropriate to the age, understanding and communication needs of the children
  - a number of policies and procedures – these are set out in The Children's Homes (England) Regulations 2015.
13. Each children's home must hold a separate registration. Occasionally, a children's home may have a 'satellite' home. This is normally where buildings occupy the same site or are next to one another. If your children's home has more than one building you should contact us on 0300 123 1231 to see if it requires more than one registration.
14. There is also more information on registration in our 'Guide to registration for children's social care services'.

## Inspection

15. Newly registered children's homes that register between 1 April and 30 September in any given year receive at least one inspection between 1 October and 31 March. Those that register between 1 October and 31 March in any given year will receive their first inspection between 1 April and 30 September of the following inspection period.
16. We inspect children's homes that were judged inadequate or require improvement to be good at their last full inspection at least twice in each year-long inspection period (from 1 April to 31 March). We carry out at least one full inspection of homes that were judged as outstanding or good during the year-long inspection period. We conduct an initial risk assessment for every

children's home judged as good or outstanding at the start of the inspection year to inform an initial decision of whether these homes will be subject to a second inspection (an interim inspection) in addition to a full inspection. This frequency of inspections is set in regulation.<sup>10</sup>

17. Inspections are intended not only to check that children's homes meet the legal requirements, but also to raise standards and drive improvement. This means improving the outcomes for children and young people. Inspectors will evaluate what difference the children's home makes to children and young people's experiences and how the home helps them to progress.
18. For more information please see our 'Social care common inspection framework (SCCIF): children's homes, including secure children's homes'.<sup>11</sup>

## Complaints and concerns about providers

19. We may receive complaints or concerns about a children's home. When we receive a complaint, we do not act as a complaint adjudicator. We do not investigate if complaints are upheld, partially upheld or are unsubstantiated. Instead we consider whether information within the complaint translates to wider concerns about the registered provider or manager's ability to continue to meet the relevant regulations and to take account of the 'Guide to the children's homes regulations including the quality standards', and remains suitable for registration. Where providers and/or managers do not, we may take enforcement action as described in the 'Compliance and enforcement' section below.
20. For more information about how we deal with complaints about providers, please see the leaflet 'Concerns and complaints about social care providers'.<sup>12</sup>

## Compliance and enforcement

21. Children's home providers and managers must comply with the requirements of the regulations and take account of the 'Guide to the children's homes regulations, including the quality standards'.
22. We investigate all instances that suggest the registered provider or registered manager of a children's home does not meet their legal obligations. Where we find non-compliance, we take the necessary action to ensure children's safety

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<sup>10</sup> The Her Majesty's Chief Inspector of Education, Children's Services and Skills (Fees and Frequency of Inspections) (Children's Homes etc.) Regulations 2015, as amended.

<sup>11</sup> Social care common inspection framework (SCCIF): children's homes, including secure children's homes, 2017; [www.gov.uk/guidance/social-care-common-inspection-framework-sccif-children-s-homes-including-secure-children-s-homes](http://www.gov.uk/guidance/social-care-common-inspection-framework-sccif-children-s-homes-including-secure-children-s-homes).

<sup>12</sup> Concerns and complaints about social care providers (070090), Ofsted, 2011; [www.gov.uk/government/publications/raise-a-concern-or-complaint-about-a-social-care-provider](http://www.gov.uk/government/publications/raise-a-concern-or-complaint-about-a-social-care-provider).



and well-being and compliance with the law. In most cases, we achieve this by simply telling providers and/or managers in writing what they need to do to put things right. Where providers and or managers cannot or will not improve or there is a breach of a legal requirement that we deem is serious, we have a range of statutory enforcement powers including restricting admissions to a home, suspending a home's operations, issuing a compliance notice, cancelling a provider's registration or prosecuting for an offence.<sup>13</sup>

23. Our 'Social care compliance handbook' provides more information about this and is available on our website. There is a link to this under the 'Further information' section of this guide.

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<sup>13</sup> A compliance notice sets out the actions that a provider must take by a certain date to meet relevant regulations.

## Further information

Our guidance is available, on our website at [www.gov.uk/government/organisations/ofsted](http://www.gov.uk/government/organisations/ofsted), by calling us on 0300 123 1231, or by writing to us at the following address:

Piccadilly Gate  
Store Street  
Manchester  
M1 2WD.

For more information on how to **apply for registration**, see our 'Guide to registration for children's social care services' at [www.gov.uk/government/publications/guide-to-registration-for-childrens-social-care-services](http://www.gov.uk/government/publications/guide-to-registration-for-childrens-social-care-services).

For more information about what **changes to a registration** we need to be informed about, see 'Changes to children's social care services that are inspected and /or registered by Ofsted' at [www.gov.uk/government/publications/changes-to-childrens-social-care-services-that-are-registered-andor-inspected-by-ofsted](http://www.gov.uk/government/publications/changes-to-childrens-social-care-services-that-are-registered-andor-inspected-by-ofsted).

For more information on **inspection**, see the 'Social care common inspection framework (SCCIF): children's homes, including secure children's homes ' at [www.gov.uk/guidance/social-care-common-inspection-framework-sccif-children-s-homes-including-secure-children-s-homes](http://www.gov.uk/guidance/social-care-common-inspection-framework-sccif-children-s-homes-including-secure-children-s-homes).

To **complain** about a social care provider, please see 'Concerns and complaints about social care providers' at [www.gov.uk/government/publications/raise-a-concern-or-complaint-about-a-social-care-provider](http://www.gov.uk/government/publications/raise-a-concern-or-complaint-about-a-social-care-provider).

To see how we **investigate** information and bring about **compliance** please see our 'Social care compliance handbook' at [www.gov.uk/government/publications/social-care-compliance-handbook-from-september-2014](http://www.gov.uk/government/publications/social-care-compliance-handbook-from-september-2014).

## Legislation

Please note: it is an applicant's responsibility to check that this is the most up-to-date legislation available and if any further amendments apply. The legislation listed below may have been amended since publication and the amendments may not be shown on the versions you can find using these hyperlinks.

- The Care Standards Act 2000: legal definitions of all agencies and establishments that we register;  
[www.legislation.gov.uk/ukpga/2000/14/contents](http://www.legislation.gov.uk/ukpga/2000/14/contents).
- The Care Standards Act 2000 (Registration)(England) Regulations 2010;  
[www.legislation.gov.uk/uksi/2007/694/contents/made](http://www.legislation.gov.uk/uksi/2007/694/contents/made).
- The Her Majesty's Chief Inspector of Education, Children's Services and Skills (Fees and Frequency of Inspections) (Children's Homes etc.) Regulations 2015; [www.legislation.gov.uk/uksi/2015/551/contents/made](http://www.legislation.gov.uk/uksi/2015/551/contents/made)
- The Children's Homes (England) Regulations 2015;  
[www.legislation.gov.uk/uksi/2015/541/contents/made](http://www.legislation.gov.uk/uksi/2015/541/contents/made)
- The Children (Secure Accommodation) Regulations 1991;  
[www.legislation.gov.uk/uksi/1991/1505/contents/made](http://www.legislation.gov.uk/uksi/1991/1505/contents/made).
- The Refuges (Children's Homes and Foster Placements) Regulations 1991;  
[www.legislation.gov.uk/uksi/1991/1507/contents/made](http://www.legislation.gov.uk/uksi/1991/1507/contents/made).
- Residential Holiday Schemes for Disabled Children (England) Regulations 2013; [www.legislation.gov.uk/uksi/2013/1394/contents/made](http://www.legislation.gov.uk/uksi/2013/1394/contents/made).
- Care Standards Act 2000 (Extension of the Application of Part 2 to Holiday Schemes for Disabled Children) (England) Regulations 2013;  
[www.legislation.gov.uk/uksi/2013/253/contents/made](http://www.legislation.gov.uk/uksi/2013/253/contents/made).

## Guide to the children's homes regulations, including the quality standards

Guide to the children's homes regulations, including the quality standards, DfE, 2015;  
[www.gov.uk/government/publications/childrens-homes-regulations-including-quality-standards-guide](http://www.gov.uk/government/publications/childrens-homes-regulations-including-quality-standards-guide).

## Non-statutory guidance

Children's homes regulations amendments 2014;  
[www.gov.uk/government/publications/childrens-homes-regulations-amendments-2014](http://www.gov.uk/government/publications/childrens-homes-regulations-amendments-2014).

## Annex A – supported accommodation

This annex sets out criteria, which may be useful to a provider of accommodation to young people over the age of 16, to help identify whether the service being proposed or provided is 'supported accommodation' and would therefore not require the provider and manager to register under the Care Standards Act 2000, rather than a children's home, which would require the provider and manager to register.

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.

| 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?<br>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 decisions rest with the young person, the establishment is not providing care.)       | Care                    |
| Do 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 policy that goes beyond house rules and legal sanctions that would be imposed on any adult?  | Care  | Supported accommodation |

| <b>Criteria</b>  | <b>Yes?</b>   | <b>No?</b>              |
|--|---|-------------------------|
| If the establishment accommodates both adults and young people, do those 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 B – children’s homes that provide care and accommodation for adults**

A children’s home may provide care and accommodation for adults. This guidance clarifies how we will inspect and regulate a children’s home in this position.

A children’s home is required by law to provide care and accommodation ‘wholly or mainly’ for children.<sup>14</sup> This does not prevent a home from accommodating a young adult or adults, provided that it accommodates more children than adults. A child is a person aged under 18.

We recognise that a children’s home may, at particular times, have larger numbers of young adults aged 18 or over living at the home than children. Children and young people living at a children’s home are often vulnerable and may have disabilities. It is therefore not always right for a young person to leave a children’s home by their 18th birthday and it may be in a young adult’s best interests to remain at a children’s home.

The reasons for this may include:

- where the young person’s moving-on placement has fallen through and the placing authority is seeking alternative arrangements
- where the young person is in education and wishes to finish their course
- where the young person wishes to remain with siblings who are also accommodated at the home, or
- where there is agreement, including the young person’s, that they are not yet ready to leave and a focused plan is in place to achieve this.

### **Guidelines for judging if a home is meeting our ‘wholly or mainly’ policy**

We have developed the following guide, which sets out the principles that we will apply in judging whether a children’s home meets the ‘wholly or mainly’ requirement. We will apply these principles pragmatically with consideration to the circumstances in each case and the needs and best interests of children and other individuals living at the home.

‘Wholly or mainly’ applies over a reasonable period of time, rather than on any given day.

- In the majority of cases, we will determine whether a home is ‘wholly or mainly’ for children over a 12-month period. That is, for the majority of time in any 12-month period, a home must accommodate more children

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<sup>14</sup> Care Standards Act 2000. 121.-(1) ‘child’ means a person under the age of 18; [www.opsi.gov.uk/acts/acts2000/ukpga\\_20000014\\_en\\_12#pt9-ch2-l1g121](http://www.opsi.gov.uk/acts/acts2000/ukpga_20000014_en_12#pt9-ch2-l1g121).

than young adults, even if at times during the 12-month period it does not. In order to maximise flexibility for providers, we will accept **any** 12-month period for this definition; it is not restricted to calendar or academic years.

- We may, in limited cases, extend the period of time that we will judge 'wholly or mainly' over from a 12-month to an 18-month period (after a young person has turned 18) where this aligns with the young adult's leaving school arrangement. This is to recognise that young adults with disabilities are entitled to receive secondary education up to the June following their 19th birthday.
- A provider must identify and minimise the risk to and impact on children of every young adult living at the home.
  - There may be circumstances in which it is appropriate for a home to accommodate both children and adults. However, there may be instances where the presence of adults living in a home may have a detrimental impact on children accommodated there. As a result, we expect **all** providers (regardless of whether they are using the flexibility in the 'wholly or mainly' policy or not) to identify the risk and impact of every young adult living at the home on any children at the home. We expect providers to take action to minimise the risks and any negative impacts on children.
- Every young adult at a home must have a regularly updated and reviewed moving-on plan and care plan.
  - Every young person in the home must have a regularly updated and reviewed moving-on plan and care plan, including a transition plan if the young person will require support from adult social care. This is to ensure that homes use the 'wholly or mainly' policy in the best interests of young people and not as a way of bypassing the law or allowing young people to stay beyond a reasonable period of time.

## **Annex C – unregulated and unregistered providers**

Where an establishment meets the definition of a children's home but is not registered, Ofsted may decide what action to take on a case-by-case basis.

Ofsted will carry out an investigation of each individual case. The investigation will include assessing the permanency of the arrangement and the purpose of the provision of care and accommodation. Following the investigation, we consider whether or not to take any regulatory action.

There may be instances where placements are made (usually in an emergency) when it has been difficult or even impossible for the local authority to find registered accommodation that would accept the child.

If at any time the permanency and purpose of the arrangements change, Ofsted will review its position. If the placement becomes subject to drift and delay, and the child is staying at fixed premises and the placement has become a more permanent placement, then Ofsted will reconsider its response.

The following are indicators of a permanent placement (this is not intended to be a complete list):

- the child is registered with local services and a school
- the provider and/or placing authority does not have the permanent/future plan, the reason for the placement, whether the risks have reduced, or whether the identified piece of work has been completed
- no firm dates for transition to a permanent placement are known
- the establishment is identified in the care plan, which has been reviewed at a statutory review
- more than one child is living at the establishment
- the child has all their possessions with them and has routines.

If the establishment requires registration, the provider must submit a complete application to register as a children's home within 10 days of the placement starting. While the application is processed, we will decide on a case-by-case basis what action, if any, we choose to take.

Ofsted will consider the application and carry out the appropriate checks and interviews. If the decision is to not grant registration, the home must stop operating.

If the provider continues to operate, it would be operating an unregistered setting and be liable for prosecution.



## Questions to consider on whether an establishment needs to register

Inspectors and providers should consider each of the following factors to help work out the permanency and purpose of an arrangement and whether it needs to register. No one factor in itself determines the need for registration and/or what action Ofsted may choose to take about an unregistered establishment.

- Is this establishment offering an emergency arrangement?
- Is this a short-term crisis placement for a specific child with a clear rationale?
- How long is this arrangement intended to last?
- What are the permanent plans/arrangements for the child/children using this service?
- Is this time-limited arrangement reasonable and legitimate, given the specific circumstances?
- What are the overall plans for the service? Will it continue accommodating other children?
- Is this a short-term service based in a non-permanent structure? For example, in a tent or a yurt.
- Is this service intended solely to undertake a specific piece of time-limited work with a child or children, away from their permanent placement?
- Is this a service that offers placements to a range of local authorities or placements to a series of different children?
- Are the same children receiving ongoing care and accommodation from the same provider, albeit in different establishments?
- Could this be considered the child's permanent home?



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