

Title: Children's Homes Quality Standards Regulatory Reform IA No:	Impact Assessment (IA)
Lead department or agency: Department for Education	Date: 17/06/2014
Other departments or agencies:	Stage: Consultation
	Source of intervention: Domestic
	Type of measure: Secondary legislation
	Contact for enquiries: Lizzie Sharples 020 7340 8037

Summary: Intervention and Options	RPC Opinion: RPC Opinion Status
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Cost of Preferred (or more likely) Option				
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Measure qualifies as One-Out?	
£-18.23m	£-13.47m	£1.23m	Yes	IN

What is the problem under consideration? Why is government intervention necessary?

The current regulatory framework for children's homes is excessively focussed on process and not on whether homes are delivering services which improve children's outcomes. There are currently high levels of poor quality provision, as highlighted by Ofsted inspections and recent reports on the quality of provision in the market. Government intervention is needed to place children's welfare at the centre of the regulatory framework so that inspection and enforcement are tied directly to how effectively providers' actions improve children's outcomes.

What are the policy objectives and the intended effects?

The objective is to ensure that children's homes provide high quality care and achieve positive outcomes for the extremely vulnerable group of children that they care for. We wish to revise the framework so that provider incentives are focussed on improving child welfare. We wish to support innovation in the sector by giving providers the freedom to strive for these improvements in a cost effective way. We expect to see higher and better levels of support for these children and corresponding improvements in their outcomes. By focussing on outcomes we expect providers to refocus resources in a more effective way.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

Policy option 1. Do nothing to amend the current regulatory framework, expecting that non-regulatory efforts will drive up quality and improve children's outcomes.

Policy option 2. Revise the regulatory framework to set child-focussed quality standards focussed on children's outcomes which providers should strive toward and to streamline and modernise a number of current regulations to remove unnecessary burdens on providers.

Policy option 2 is preferred.

Will the policy be reviewed? It will be reviewed. If applicable, set review date: Month/Year

Does implementation go beyond minimum EU requirements?	N/A			
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	Micro Yes/No	< 20 Yes/No	Small Yes/No	Medium Yes/No
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)	Traded:		Non-traded:	

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible SELECT SIGNATORY: _____ Date: _____

Summary: Analysis & Evidence

Policy Option 1

Description: Do nothing to amend the current regulatory framework.

FULL ECONOMIC ASSESSMENT

Price Base Year 2014	PV Base Year 2014	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low:	High:	Best Estimate: £0m

COSTS (£m)		Total Transition (Constant Price)	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low				
High				
Best Estimate	£0m		£0m	£0m

Description and scale of key monetised costs by 'main affected groups'

The costs of the other options are expressed relative to this do nothing case

Other key non-monetised costs by 'main affected groups'

BENEFITS (£m)	Total Transition (Constant Price)	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low			
High			
Best Estimate	£0m	£0m	£0m

Description and scale of key monetised benefits by 'main affected groups'

The benefits of the other options are expressed relative to this do nothing case.

Other key non-monetised benefits by 'main affected groups'

Key assumptions/sensitivities/risks

Discount rate (%) 3.5

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: £0m	Benefits: £0m	Net: £0m	No	NA

Summary: Analysis & Evidence

Policy Option 2

Description: Revise the children's homes regulatory framework to set high level quality standards that homes must meet.

FULL ECONOMIC ASSESSMENT

Price Base Year 2014	PV Base Year 2014	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low:	High:	Best Estimate: £-18.2m

COSTS (£m)		Total Transition (Constant Price)	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	High	Years		
Low	High			
Best Estimate	£0.4m		£2.1m	£18.2m

Description and scale of key monetised costs by 'main affected groups'

Indicative additional staff training costs to private and voluntary sector providers of homes (£1.53m per year) and to local authority providers (£0.54m per year). Only a proportion of current providers will be affected. One off transitional costs for providers relating to familiarisation (£0.33m for private and voluntary providers and £0.12m for local authority providers).

Other key non-monetised costs by 'main affected groups'

Additional staff resource from private, voluntary and local authority providers to support children's activities and in seeking and securing services for them. Additional expenditure from providers on services and activities for the children. We expect that only a proportion of current providers will be affected for each impact depending on their current provision. Additional costs to Ofsted (and providers) associated with any potential changes in inspection or enforcement activity.

BENEFITS (£m)		Total Transition (Constant Price)	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	High	Years		
Low	High			
Best Estimate	£0.0m		£0.0m	£0.0m

Description and scale of key monetised benefits by 'main affected groups'

Other key non-monetised benefits by 'main affected groups'

Cost savings to private, voluntary and local authority providers via streamlining and/or modernising a number of current regulations. Most importantly, improvements in the welfare and outcomes of the very vulnerable children accommodated by homes.

Key assumptions/sensitivities/risks

Discount rate (%) 3.5

The monetised costs are highly indicative and derived for the purposes of enabling challenge over the consultation. Full monetisation is only possible after the consultation. The evidence base explains why this is the case and sets out how the cost estimates will be derived. In this appraisal, we assume providers bear the full cost impact and do not account for the potential indirect effect of higher fee levels charged to local authority commissioners.

BUSINESS ASSESSMENT (Option 2)

Direct impact on business (Equivalent Annual) £m:		In scope of OIOO?	Measure qualifies as
Costs: £1.2	Benefits: £0.0	Net: £-1.2	Yes
			IN

Evidence Base

1. This is an initial impact assessment which is produced as part of our consultation process. We will revisit this assessment in the light of the outcomes of the consultation and will use the consultation to further expand the evidence base.
2. We welcome evidence based challenge and collaboration from the sector. This initial impact assessment has already benefitted from substantial input from the sector.
3. The assessment has been completed with reference to the Better Regulation Framework Manual.¹ The requirements set out within this manual together make up a framework that puts into practice the Government's Principles of Regulation.
4. The evidence base of this impact assessment is structured as follows:
 - A. Policy Background
 - B. Problem Under Consideration
 - C. Rationale for intervention
 - D. Policy objective
 - E. Description of options considered
 - F. Monetised and Non-monetised costs and benefits of each option
 - G. Evidence that justify the level of analysis used in the IA
 - H. Risks and Assumptions
 - I. Direct costs and benefits to business (following OITO methodology)
 - J. Small and Micro Business Assessment (SMBA)
 - K. Description of implementation plan
 - L. Annex

A. Policy Background

5. There are a total of 68,110 looked after children in England.² Most of these children are cared for by foster parents with a much smaller number placed in children's homes (6,060).³
6. Children's homes care for children or young people in a single setting with the support of professional staff. There is no such thing as a 'typical' children's home. Some homes provide general support for a range of different needs. Other homes offer a specialised service for children or young people with particularly complex needs. Secure homes provide for young people who have committed offences or who need to be held securely for their own welfare.⁴
7. There are a total of 2,050 children's homes. 536 of these are owned by local authorities and 1,514 homes are owned by the private or voluntary sector.⁵ Local authorities pay a negotiated fee to cover provision costs when they place a child in private or voluntary sector provision. Fee levels vary substantially. A freedom of information request sent to local authorities in 2013 revealed that the average price paid for independent sector homes was £2,841 per child per week, with the most expensive places in excess of £9,000 per week.⁶

¹ <https://www.gov.uk/government/publications/better-regulation-framework-manual>

² These figures refer to the 31st March 2013. <https://www.gov.uk/government/publications/children-looked-after-in-england-including-adoption>

³ This figure includes looked after children placed in secure units, homes and hostels subject to the children's homes regulations, and residential special schools.

⁴ <http://www.ofsted.gov.uk/resources/outstanding-childrens-homes>

⁵ These figures refer to the 31st March 2013.

<http://www.ofsted.gov.uk/resources/official-statistics-childrens-social-care-providers-and-places>

⁶ <http://www.pssru.ac.uk/project-pages/unit-costs/2013/index.php?file=stanley-rome>

8. Looked after children are an extremely vulnerable group. 62 per cent of these children enter care due to abuse or neglect.⁷ Those accommodated in children's homes are arguably the most vulnerable. They tend to be older with an average age of 15, they are six times as likely to have mental health problems compared to other looked after children, and three quarters are reported to have been violent or aggressive in the past six months.⁸

Programme of regulatory change

9. There have been a number of regulatory changes within the children's residential care system in recent history. These changes are part of an on-going and substantial programme of reform which was announced on 3 July 2012 by the then Children's Minister Tim Loughton.⁹

10. The programme of reform is designed to address serious failings in the sector, as highlighted by two reports which identified grave weaknesses in the system and evidence of children being exposed to harm and danger.

11. The report by the Deputy Children's Commissioner Sue Berelowitz was ordered after the sentencing in May 2012 of nine men who groomed and abused young girls in Rochdale.¹⁰ Her report found growing evidence that children in care are particularly vulnerable to sexual exploitation. It also found that some residential homes are specifically targeted by abusers.

12. The report by the All Party Parliamentary Inquiry into Children Missing From Care found that there was a "scandal" in the care system and called for urgent action to address key failings, including in children's homes. Ministers accepted recommendations in both reports about how to secure improvements and provide better support and safety in children's homes.¹¹

13. Ministers established expert groups to analyse the issues and to make recommendations.¹² The *Task and Finish Group on Out of Area Placements* focused on issues relating to the placement of children or young people at a distance from their home area. The *Expert Group on Quality* had a broad remit to develop an action plan to drive up the quality of provision being delivered within children's homes.

14. The findings and recommendations of these groups were reported on 23 April 2013.¹³

Initial regulatory changes

15. Following this report, the Department consulted on proposals to amend regulations. The Government's response to these consultations was published on 3 January 2014.¹⁴ The measures came into force on 27 January and 1 April 2014.

16. This initial programme of regulatory reform has sought to make improvements to the operation of the current system. Among other things, the measures have looked to ensure that:

- **children's homes are located in safe areas.** Via a requirement that homes conduct an annual risk assessment of the area in which they are located.
- **children's homes and local authorities effectively safeguard children at risk of going missing.** Via a requirement that homes have clear policies for preventing children from going missing and protocols regarding how to respond when children do go missing.

⁷ <https://www.gov.uk/government/publications/children-looked-after-in-england-including-adoption>

⁸ <http://www.education.gov.uk/childrenandyoungpeople/families/childrenincare/a00224323/quality-child-homes-report>

⁹ <https://www.gov.uk/government/news/urgent-reforms-to-protect-children-in-residential-care-from-sexual-exploitation>

¹⁰ http://www.childrenscommissioner.gov.uk/content/publications/content_580

¹¹ <http://www.childrenssociety.org.uk/what-we-do/policy-and-lobbying/parliamentary-work/appg-inquiry-children-who-go-missing-or-run-away-c>

¹² <http://www.education.gov.uk/childrenandyoungpeople/families/childrenincare/a00224323/quality-child-homes-report>

¹³ <http://www.education.gov.uk/childrenandyoungpeople/families/childrenincare/a00224323/quality-child-homes-report>

¹⁴ <https://www.gov.uk/government/consultations/changes-to-the-childrens-homes-regulations-2001-as-amended-and-the-care-standards-act-2000-registration-england-regulations-2010>; <https://www.gov.uk/government/consultations/improving-safeguarding-for-looked-after-children-changes-to-the-care-planning-placement-and-case-review-england-regulations-2010>

- At the heart of these measures is a desire to ensure the protection and enhancement of the welfare of the vulnerable children accommodated by children's homes.

On-going action to improve the operation of the children's residential care system

- Despite the progress outlined above, the Government has been clear that what has been achieved so far is only the first phase of a larger programme of work to improve the quality of children's homes. It is our view, shared by Ofsted, that more change is needed.
- This view was echoed by the Education Select Committee in its report into the recent reforms.¹⁵ Their inquiry reviewed whether the Department's initial programme of regulatory change is appropriate and sufficient and whether the reforms are likely to prove effective or further measures are needed. Their report concluded that the "reforms are a welcome step in the right direction towards improving the safety and welfare of children in residential homes. However, as the Government has acknowledged, further change is needed and we hope that our report has provided a useful indication of some of the issues that still need to be addressed."
- The Department's response to the Education Select Committee agreed that more is needed and the reforms proposed here are a key route through which some of these issues will be addressed.

B. Problem Under Consideration

- During the course of the initial programme of regulatory change it became clear that the **structure and content** of the current regulatory framework **itself** is constraining our ultimate objective of ensuring that children's homes deliver services that best enhance the welfare of the children they accommodate.

The current children's homes regulatory framework

- The current framework is comprised of three components.¹⁶ These are laid out in table 1 below.

Table 1: Current children's homes regulatory framework

Children's Homes Regulations 2001 (as amended)	These prescriptively detail the way in which children's homes must be managed. All children's homes must meet these regulations.
National Minimum Standards (NMS)	These link to the Children's Homes Regulations 2001 (as amended). They set out 12 child-focussed standards and 13 standards for providers that focus on how the home should be managed.
Statutory guidance	The Children Act 1989 Guidance and Regulations Volume 5 sets the wider context for local authorities as the providers and commissioners of children's homes and explains the requirements set out in the Children's Homes Regulations 2001 (as amended). It does not apply to private and voluntary sector providers of children's homes.

- Ofsted are the regulatory authority for children's social care services. They register providers, inspect them, and, where necessary, take action to enforce compliance with the relevant regulations. Their inspection framework and compliance handbook are tied to the regulatory framework set out above.
- Ofsted give consideration to the entire framework when **inspecting** homes.¹⁷ That is, they consider a provider's performance against the Children's Homes Regulations 2001 (as amended), the National Minimum Standards (NMS), and the statutory guidance (where the provider is a local authority).

¹⁵ <http://www.parliament.uk/business/committees/committees-a-z/commons-select/education-committee/news/publication-childrens-homes-report/>

¹⁶ <http://www.education.gov.uk/childrenandyoungpeople/families/childrenincare/childrenshomes/a00191997/childrens-homes-regulations-guidance-and-national-minimum-standards>

25. Homes typically have one full inspection and one interim inspection each year. In full inspections, homes are rated as either outstanding, good, adequate, or inadequate against: overall effectiveness, outcomes for children and young people, quality of care, safeguarding children and young people, and leadership and management. In interim inspections, the judgements are made on a three point scale: improved effectiveness, maintained effectiveness, or declined in effectiveness.
26. Ofsted have a range of powers to enforce compliance with the law.¹⁸ Importantly, however, they can only take **enforcement** action against providers who breach the Children's Homes Regulations 2001 (as amended). They **cannot** take enforcement action against providers who fall short of meeting the NMS.
27. Ofsted can use non-statutory actions such as making requirements or recommendations after an inspection. Potential statutory actions include compliance notices. These set out the things that the provider must do and by when to meet the Regulations. Failure to do this is categorised as an offence. Stronger statutory actions include prosecution, restricting accommodation in the home, or cancellation of the provider's or the registered manager's registration. As a policy, Ofsted take action at the lowest possible level to ensure compliance with the legal requirements.

The problem with the current framework

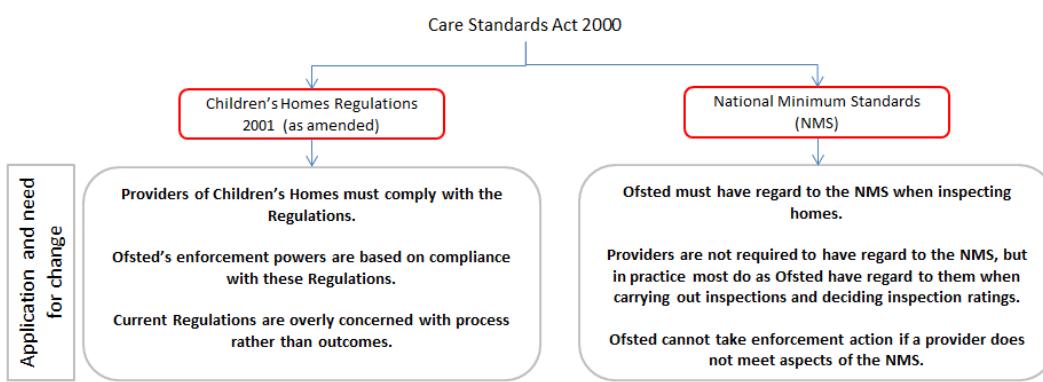
28. Evidence from Ofsted inspection reports highlights high levels of poor quality provision within the sector. For example, there were 2,008 full inspections of children's homes between 1 April 2012 and 31 March 2013 and 29 per cent of these homes were rated as either adequate or inadequate in overall effectiveness.¹⁹
29. The All Party Parliamentary Inquiry into Children Missing From Care also reported that "Children in residential care homes are mostly older children, often extremely vulnerable and with complex needs. Many have experienced serious abuse or neglect. These children require high quality support and therapeutic care. Yet the variable – and often poor – quality of some children's homes and other care placements was identified as a major issue by many of the submissions to the Inquiry (p.47)."²⁰
30. A central problem contributing to this is the current regulatory framework. It is:
 - insufficiently focused on whether homes are delivering services which improve children's outcomes;
 - and overly focussed on detailed requirements on how homes must operate.
31. These problems are summarised in the figure below.

¹⁷ <http://www.ofsted.gov.uk/resources/inspections-of-childrens-homes-evaluation-schedule-and-grade-descriptors-april-2014>; <http://www.ofsted.gov.uk/resources/inspection-of-childrens-homes-framework-for-inspection-april-2014>

¹⁸ <http://www.ofsted.gov.uk/resources/social-care-compliance-handbook>

¹⁹ This is the most recent full year of inspection ratings available. <http://www.ofsted.gov.uk/resources/official-statistics-childrens-social-care-inspections-and-outcomes>

²⁰ <http://www.childrenssociety.org.uk/what-we-do/policy-and-lobbying/parliamentary-work/appg-inquiry-children-who-go-missing-or-run-away-c>



32. The view of Ofsted is that the current NMS are insufficiently child outcomes focussed. When introducing Ofsted's 2012/13 Social Care Annual Report in October 2013, Sir Michael Wilshaw (Her Majesty's Chief Inspector) noted:

*We inspect all homes twice a year against the government's national minimum standards. But the standards themselves are part of the problem. They lead to inspections which are focused too much on compliance rather than the progress and experiences of children.*²¹

33. With only half of the NMS directly focused on children's outcomes, they do not sufficiently prioritise the key areas that homes need to focus on to support positive outcomes. In addition, as "minimum standards" they encourage a damaging tick-box approach where providers can focus on demonstrating they have done everything on the list rather than improving outcomes of each individual child.

34. The current framework does not enable Ofsted to take enforcement action where providers are not meeting the NMS.

35. Providers themselves have noted that the framework is insufficiently focussed on children's outcomes. In the field work that fed into the report of the *Expert Group on Quality*, a number reported that "Ofsted assessments are variable across homes and do not spend enough time focusing on how far the child has progressed from when they entered the home (p.27)."²²

36. A related problem is a lack of consistency across the sector in defining the types of outcomes to strive towards for children. Providers have complained that different local authorities adopt different monitoring frameworks when assessing the service being supplied by homes.²³ The shift to an outcomes-based inspection framework will lead to greater consistency in how quality is defined and assessed. This is something that research conducted by OPM on behalf of the Local Government Association (LGA) highlighted as an issue earlier this year.²⁴

C. Rationale for intervention

37. The current Children's Homes Regulations 2001 (as amended) prescribe how a children's home must be managed. Ofsted inspects and enforces against these regulations. These regulations are currently focussed on required processes that homes must engage in. They are not directly focussed on homes supplying services that best improve children's outcomes. This is the fundamental problem. Intervention is needed so that a consistent set of children's outcomes is placed at the centre of the regulatory framework and so that Ofsted can inspect and enforce against how well homes perform against these. The needs of this group of children are of such complexity that support of the highest quality is needed for them to fulfil their potential.²⁵ The measure seeks to promote activity by providers that will improve

²¹ <http://www.ofsted.gov.uk/resources/social-care-annual-report-201213-hmci-speech>

²² This included fieldwork in 20 local authorities completed in late 2012 where workshops were held with approximately 130 providers in total. <http://www.education.gov.uk/childrenandyoungpeople/families/childrenincare/a00224323/quality-child-homes-report>

²³ <http://www.education.gov.uk/childrenandyoungpeople/families/childrenincare/a00224323/quality-child-homes-report>

²⁴ http://www.local.gov.uk/safeguarding-children/-/journal_content/56/10180/4086610/ARTICLE

²⁵ <http://www.ofsted.gov.uk/resources/outstanding-childrens-homes>

child welfare and aims to allow owners of homes flexibility so that they can strive for these welfare improvements in the most cost effective way.

D. Policy objective

38. The policy objective is to ensure that children's homes are providing high quality care and setting high aspirations for children which enable them to achieve their full potential. We want to support innovation in the sector by removing overly bureaucratic requirements so that homes have more freedom to decide how they operate in order to achieve positive outcomes for children. The success of the measure will be assessed by reference to changes in Ofsted inspection reports. Over time and through improvements in home quality we expect to see a much higher proportion of good and outstanding Ofsted judgements as a result of this change.

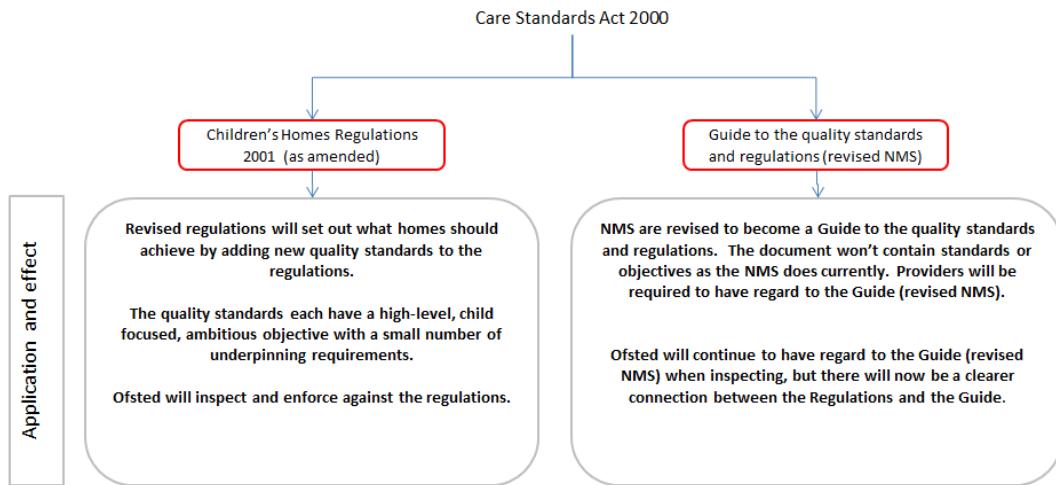
E. Description of options considered

Policy Option 1: Do nothing to amend the current regulatory framework

39. Leaving the current regulatory framework in place would mean that the problems outlined above would persist. For this reason, this policy option is not preferred.

Policy Option 2: Revise the children's homes regulatory framework to set quality standards that homes must meet

40. Under this option, we propose to revise the regulatory framework.
41. These proposed changes have been developed by the Department for Education in collaboration with Ofsted.
42. They have been developed in consultation with our external advisory group which includes representatives from providers, children's charities and academics. We have also consulted Ofsted's residential care sub-group comprising representatives from providers across the sector as well as individual providers who have expressed an interest in being involved in the work.
43. The format and content of the regulations we intend to consult on have already benefitted from substantial input from these representatives. Given this extensive pre-consultation development work, we are well placed to consult on a single proposed set of changes to the regulatory framework.
44. Changes to the statutory guidance (noted in table 1 above) are being considered in a separate piece of work and are not appraised here. The statutory guidance does not apply to private or voluntary sector providers of children's homes.
45. The changes proposed are depicted below.



46. There are three main proposed changes to the current regulatory framework.
47. The **first** is the creation of quality standards within the Children's Homes Regulations. Each quality standard will have a child-focused objective and a small number of underpinning requirements that say what must be done to meet each of the overarching standards. These quality standards will set out in regulations what children's homes should seek to achieve, focusing on positive objectives based on improving children's outcomes.
48. The quality standards have been developed by using and improving material in the existing NMS. However, the quality standards set out higher aspirations and improve their focus on the child outcomes.
49. The standards will cover the following areas: quality and purpose of care, voice of the child, education, enjoyment and achievement, health and well-being, positive relationships, protection of children, leadership and management, and care planning.
50. An example of how this looks is depicted in box 1 below. This shows the enjoyment and achievement quality standard. The draft below is not a finalised regulation and the wording may change for the consultation.
51. Part (1) is the child focussed objective. Namely, that "children living in the home take part in and benefit from a variety of activities that develop and reflect their interests and skills."
52. Part (2) is the underpinning requirements that would be needed to meet the standard. For example, in order to meet the standard, it is a pre-requisite that the children in the home have access to activities that meet their individual interests.

Box 1.The draft enjoyment and achievement standard

- (1) The enjoyment and achievement standard is that children living in the home take part in and benefit from a variety of activities that develop and reflect their interests and skills.
- (2) The enjoyment and achievement standard is met if the registered provider ensures that—
 - (a) each child living in the home has access to a wide range of activities that enable the child to pursue his or her individual hobbies and interests as recorded in his or her placement plan;
 - (b) staff support each child—
 - (i) to develop his or her interests and skills within the home and through available activities;
 - (ii) to participate in activities that he or she enjoys and which meet and expand his or her interests and preferences;
 - (iii) to make a positive contribution to the home and the wider community, including making and sustaining friendships with children outside the home; and
 - (c) staff make appropriate and reasonable decisions about the day-to-day arrangements for each child, in line with the child's placement plan, which give the child an appropriate degree of freedom [, as a good parent would,] to enjoy activities outside the home and to make choices about his or her leisure time.

53. Therefore, while the standards are child-centred and outcomes-focused, they also provide a workable framework for Ofsted to practically inspect and enforce against. The underpinning requirements relate more closely to processes and actions needed to meet each standard.
54. The **second** feature is the essential regulations that appear within the current Children's Home Regulations 2001 (as amended) on management and administrative processes (e.g. notice of absence, appointment of liquidators etc.). Regulations on these processes will be retained. However, we intend to streamline and/or modernise a number of the current regulations. This will reduce bureaucratic requirements on providers and will be cost beneficial. For example, currently there is a requirement on providers to hold paper records. We propose to consult on allowing electronic storage.
55. This new proposed structure to the children's homes regulations lets us emphasise the quality standards as new and distinct from the regulations on essential management and administrative processes.
56. The **third** change is a redraft of the current NMS. This will become a Guide to the quality standards and regulations and will complement the new children's homes regulations, explaining and supplementing the requirements stated there. Providers will have to have regard to the Guide and, unlike now, it will not contain separate standards. Because the Guide explains the re-drafted regulations, rather than being a free standing set of different or additional requirements, we do not attach any distinct impact to the Guide in this appraisal. We will consult on the new Guide alongside the draft regulations.
57. This policy option is preferred.

Why revising the regulatory framework is the only way to achieve the policy objective

58. The problems identified above are due to the structure and content of the current regulatory framework. Therefore this policy option is preferred because changes to the regulatory framework are the only possible way of addressing these problems and achieving our policy objective. Children's homes are **required** to meet the regulations and Ofsted inspect and enforce against this. At present, the regulations themselves are insufficiently focused on children's outcomes. As a result, Ofsted cannot require homes to improve the care they provide to children on the basis that they are not achieving positive outcomes. They can only make recommendations linked to children's outcomes based on the current NMS. The only way to address this problem is by changing the regulations themselves as described in this policy option.

59. Alternative approaches such as, for example, revising the current NMS to make them more focused on outcomes or introducing statutory guidance, would be insufficient because Ofsted can only make requirements and take enforcement action in relation to the regulations. In addition, it's most logical for the regulatory framework to be centred on and around the regulations, supplemented by the NMS. Making changes to the supporting material without changing the regulations themselves would create further incoherence in the framework. For these reasons, such alternative options are not considered in this appraisal as they are not genuine policy options.

Non-regulatory actions to drive improvement

60. In addition to this essential regulatory change, the Department is also embarking on a wider programme of non-regulatory action to drive forward improvements in the sector. Some of this work is reviewed in box 2 below. The likely impacts of this work is not appraised here, but is presented to show the (complementary) non-regulatory work to further improve outcomes in this and other related markets. This complementary non-regulatory action will improve outcomes in the system, but is not sufficient as an alternative to the proposed regulatory change as there are problems inherent in the current regulatory framework. To secure the level and scale of improvement needed to support the extremely vulnerable children in children's homes, it is essential to have an approach that improves the full regulatory framework that homes are subject to.

Box 2. Further non-regulatory action

The **children's social care innovation programme** was announced in October 2013. The aim of this initiative is to stimulate and support innovation in the delivery and structures of children's social care and to help spread proven innovations more rapidly. It will achieve this through a number of routes, including supporting individual pilots and change programmes. Both financial and non-financial support will be provided, with the former amounting to £30 million in 2014/15 and a much larger amount in 2015/16. A focus area of the programme is support for adolescents in or on the edge of care. Adolescents in care are disproportionately represented in children's homes. Proposals of interest within this area include new approaches to sub-national commissioning for specialist placements.

The **children's homes data pack** was published in September 2013 and further updates will be produced in the future. This pack is a collection of evidence about children's homes in England. It includes information on local authority usage, the quality of homes, their locations, ownership and cost. The objective of the pack is to increase transparency and accountability as a tool to drive up quality.

[sources](#):

<https://www.gov.uk/government/publications/childrens-services-innovation-programme>

<https://www.gov.uk/government/publications/childrens-homes-data-pack>

F. Monetised and Non-monetised costs and benefits of each option

Policy Option 1: Do nothing to amend the current regulatory framework

61. The costs and benefits of the Policy Option 2 are expressed relative to this do nothing case.

Policy Option 2: Revise the children's homes regulatory framework to set high level quality standards that homes must meet

62. The main groups affected by Policy Option 2 are:

- The private/voluntary sector providers of children's homes
- Local Authorities (most of whom own children's homes)
- Ofsted
- The children and young people accommodated in children's homes

63. We address the costs and benefits for each group in turn.

64. We focus on the proposed changes to the Children's Homes Regulations 2001 (as amended) to appraise the costs and benefits of this option. As noted above, the redrafted national minimum standards will explain and compliment the re-drafted regulations rather than set separate standards for homes. Given this, they generate no additional costs or benefits to the actions generated ultimately by the new regulations.

Cost to the private/voluntary sector providers of children's homes

Introduction to the focus group session

65. There are 1,514 children's homes owned by the private or voluntary sector.²⁶ There are 449 distinct owners of these homes.

66. Department officials held a focus group session with private and voluntary sector provider representatives on 19 May 2014 to identify and quantify the potential resource implications to children's homes due to the proposed changes.

67. The representatives have substantial experience in the management of residential provision and in training and consultancy across the sector. They also captured the diversity of the market, with a proportion of the attendees having expertise in specialist provision including short breaks and provision for children with special educational needs and disabilities.

68. The session introduced drafts of the new quality standards to the attendees and explained the history of their development. The representatives were also sighted on these drafts prior to the day. This was followed by a detailed discussion on the potential **additional resource impact that would be incurred by homes in order to comply fully with the new standards.**

69. The first impressions of the representatives were that the standards set high and challenging objectives for homes to accomplish in order to improve child welfare.

70. The representatives were able to collectively identify the underpinning requirements which could have a potential resource impact. They also outlined the nature of that impact. They found it more challenging to quantify or monetise the impacts.

71. One reason for this was the wording of the draft requirements. A number of them did not explicitly prescribe the required 'level' of provider activity. For example, one draft requirement refers to staff in homes taking 'effective' action. Clearly, the level of action a provider of a home would class as 'effective' is a somewhat subjective judgment.

72. Another reason was because detailed provider level activities are not prescribed in the requirements. For example, one draft requirement states "each child is supported by staff to achieve their educational or training goals." The draft regulations do not prescribe the explicit activities which might be involved in that support. This is because the level of activity will need to be tailored to the specific needs of the child.

73. The issue above is a consequence of moving from a prescriptive framework towards an outcomes-focused framework which sets high standards but has confidence in the professional judgement of the sector to engage in those activities they feel best supports and promotes children's welfare. The Guide to the quality standards and regulations is expected to enable providers to better identify the range of activity that will be required because it will explain and supplement the requirements stated in the regulations.

The draft requirements with a potential cost impact

74. Table 3 in the annex records the requirements identified by the group as having a potential resource implication along with the type of implication and factors that will influence its size.

²⁶ These figures refer to the 31st March 2013.

<http://www.ofsted.gov.uk/resources/official-statistics-childrens-social-care-providers-and-places>

75. The size of the impacts will vary across homes because the current quality of homes in the market varies dramatically. For example, we expect that homes routinely rated as outstanding by Ofsted will feel no, or marginal, additional (on-going) impact across the entire set of changes because they are already delivering a high standard of service. The largest impact will be felt by the worst performing homes. We will test this hypothesis during the consultation.
76. In summary, there were three main broad potential types of resource impact identified by the focus group.

Staff training

77. The first was additional **staff training**. This was the predominant resource impact for requirements around supporting and maintaining positive relationships, protecting children, and home leadership. The achievement of these standards necessitate a workforce with a deep understanding of the specific needs and previous experiences of the children accommodated by children's homes and a workforce which has the skill and competence to address those needs. We believe that this will be largest cost impact out of the three types of impact identified and will test this over the consultation.
78. This identified impact was expected because commitment to staff development was a strong factor identified by Ofsted in a report that explored how a sample of 12 children's homes achieved and sustained outstanding care over a period of three years.²⁷ Relevant training can be delivered through a number of routes. It can be delivered by external parties (either on or off site). It can also be delivered internally, either through formal training delivered by existing staff to others or by more informal on-the-job coaching, supervision and feedback.

Staff resource

79. The second resource impact was additional **staff resource**. This relates to two different things here. First, additional time spent by staff engaging in activities to support the children and young people. For example, one requirement relates to children having access to resources to support their educational learning. Focus group attendees noted that this access may need to be accompanied with staff time in order to support children as they use these resources.
80. The other effect within this category is additional time spent by staff in seeking and securing services delivered by other agencies. This was noted frequently given that a number of requirements relate to children being able to access such services. For example, staff will be expected to seek access to secondary health services where appropriate and educational services if children are excluded from school. Homes will be expected to engage with local partners with the aim of securing access to these services, but will not be held responsible for whether that provision is actually made available because that would be the responsibility of the relevant service provider.

Home expenditure

81. The third impact was additional **expenditure** on services or activities for the children. This size of this impact for a given home was highly uncertain. Firstly, this is because it depends on the range of provision that a home currently provides for its children. For example, if a home currently provides a very limited range of resources to support children's educational learning, then they are likely to need to purchase additional resources to comply with the requirements. Similarly, the requirement for children to be 'supported by staff to participate in activities that meet and expand their individual preferences and interests' implies a potential increase in a homes' budget for external activities for children. However, the size of this impact is dependent on the specific individual preferences and interests of the children at the home.

Contract negotiation

82. Another potential resource impact suggested by the group was more time required in negotiating the individual placement agreement between the local authority and the home. The suggestion was that

²⁷ <http://www.ofsted.gov.uk/resources/outstanding-childrens-homes>

quality standards may encourage a closer scrutiny by local authorities (as the 'purchaser' of the service) on the services offered to children placed in a home and how these services relate to expected improvements in the children's outcomes. An indicative estimate given by the group was an additional half hour of senior manager time per placement.

83. We plan to test the direction or existence of this impact over the course of the consultation. The introduction of quality standards will naturally place more emphasis on child level outcomes to be achieved by a provider. This would imply additional resource in specifying and measuring those outcomes as part of the agreement between the placing authority and the provider. On the other hand, the quality standards will introduce a single nationally consistent set of outcome measures into the system. As such, we expect there to be more standardisation across local authorities in the specific outcomes that are set. This would imply a potentially lower resource cost relative to the current situation where local authorities typically all adopt different monitoring frameworks (see par 36 above).

Summary of the on-going impact to private/voluntary sector providers due to the quality standards

84. The focus group session has enabled us to **identify** the specific requirements relating to additional resource implications. It has also enabled us to identify the 'type' of cost relating to each. The types of cost are staff training to improve competencies which will benefit child welfare; staff resource spent supporting children and securing services to benefit them; and potential expenditure on services and activities for the children. The output of the focus group has moved us considerably closer to quantification and monetisation of the resource implications.
85. The group were able to offer some estimates which would contribute towards full monetisation of these effects. In particular, the costs of specific external training packages for staff and management and the price paid for external services such as psychological support and the use of advocacy services. However, we are not yet able to use the information collected from the group to derive **reliable** overall cost estimates because of two reasons.
86. **Providers need additional detail on the quality standards in order to robustly quantify the size of the impacts.** As noted in paragraphs 70 to 72 above, the focus group attendees found quantification difficult due to wording issues and non-prescription in the activities that the provider would have to engage in to meet each standard. We believe that this concern will be lessened over the course of the consultation. First, provider feedback will be sought in order to identify and amend any specific wording in the standards that is insufficiently precise in order to enable providers to understand and know what is needed to meet the requirement. Second, the new Children's Homes Regulations will be introduced alongside a draft Guide to the regulations and quality standards (this replaces the current NMS). This Guide will explain them in more detail and will be consulted on alongside the revised regulations. Provider feedback will also be sought on the wording within the Guide. The focus group attendees were not sighted on the draft Guide as it was still in development at the date of the session. Providers will be much better placed to reliably aid the quantification and monetisation of the identified requirements with a resource implication post-consultation.
87. **We need to survey a sample of providers in order to estimate how the impacts vary across homes.** We expect the cost impact of the quality standards to vary across homes. First, this is because Ofsted inspections ratings vary widely. We expect a much larger impact for poor performers. Secondly, the size of many impacts is strongly dependent on the individual circumstances of the home. This issue was highlighted by the focus group. For example, the ease of access to public services like education, CAHMS, and sexual health services will vary across homes based in different local authorities. Similarly, the existing level of partnership working between homes and other relevant agencies or establishments will vary.
88. In section G we formally layout a plan to derive robust cost estimates over the course of the consultation.

Indicative estimates and assumptions for the on-going resource impact to private/voluntary sector providers due to the quality standards

89. The Better Regulation Framework Manual (p. 58, 59; p.62) recommends quantification and monetisation of impacts as far as possible at consultation stage, even if the numbers are indicative.²⁸ This serves the useful purpose of enabling stakeholders to challenge the assumptions behind the indicative estimates.
90. In line with this recommendation, we present an indicative estimate of the cost of the additional **staff training** due to standards. This estimate was not tested with focus group attendees. We believe that this will be the largest cost impact to providers out of the three identified.
91. We assume that 16 percent of private or voluntary sector child's homes will face no staff training impact. We base this estimate on the finding that 16 percent of children's homes were rated as outstanding by Ofsted in their overall effectiveness between 1 April 2012 and 31 March 2013 and the assumption that these homes already offer sufficiently high levels of training such that their training levels will not change following the introduction of the new quality standards.²⁹ There are 1,514 children's homes owned by the private or voluntary sector. We therefore estimate that 1,272 homes will face a staff training impact. We will test this assumption over the consultation.
92. We assume that the average current annual spend on staff training and CPD by the private and voluntary sector homes affected is £6,000 per year/per home. This assumption is informed by emerging findings from a census of children's homes which has been commissioned by the Department. This is a highly indicative estimate for two reasons. First, it's based on a sample of 380 homes that were able return a cost estimate for the question relating to staff training and CPD. Second, the census did not ask an open ended question regarding spend. Rather, it banded the potential responses. To date, 150 homes have reported that they spend more than £6,000 per year. 230 homes have reported that they spend less than this figure. Based on this distribution, we use £6,000 as a highly indicative average.
93. Finally, we assume that these homes will incur a 20 per cent uplift in their staff training and CPD in order to comply with the standards. That is, we assume that the cost impact per home is £1,200 per year. In total, this implies a total cost of £1,526,400 to the private/voluntary sector through additional staff training per year (e.g. 1,272 homes x £1,200 per home).
94. Over the consultation we will test whether and to what extent the cost impact varies across providers. For example, the cost impact may be relatively larger for homes currently rated as adequate or inadequate compared to those rated as good. We can test this assumption by directly asking homes how much they currently spend on training and the staff training cost uplift that they may expect.
95. We chose not to derive indicative estimates for additional **staff resource** or additional **expenditure** on services or activities for the children. These impacts are likely to be more variable in size across individual homes. We are unaware of any readily available data which would give a baseline for the current levels of expenditure on services or activities for children.

Transitional costs

96. There will be transitional costs associated with providers having to familiarise themselves with the revised framework, reviewing the activities and actions conducted by their setting and deciding whether any changes are needed, and then communicating this to staff.
97. As noted above, the provider representatives at the focus group had understandable difficulty in digesting the **draft** standards and then in 'operationalising' them. This implies a potentially large transitional cost.

²⁸ <https://www.gov.uk/government/publications/better-regulation-framework-manual>

²⁹ <http://www.ofsted.gov.uk/resources/official-statistics-childrens-social-care-inspections-and-outcomes>

98. However, we believe this will be mitigated by two factors. First, the **finalised** standards will be developed with consultation feedback. We will seek feedback to test that providers understand the standards. Second, the new Children's Homes Regulations will be introduced alongside a Guide to the regulations and quality standards. This will explain them in more detail. The focus group attendees were not sighted on the draft Guide.
99. We assume eight hours of manager time per home to engage in this transitional activity as an indicative estimate. We will test this assumption with providers during the consultation. We will also test whether transitional costs will differ across homes of different sizes or specialisms. The hourly value of home manager resource is estimated as £26.49 (2012/13 prices) per hour based on salary and salary on costs.³⁰ This gives a total transitional cost of £320,847 (2012/13 prices) to private and voluntary sector home providers (e.g. 1,514 homes x £26.49 unit cost x 8 hours).

Changes in inspection and enforcement activity

100. Our methodological approach to costing the impact on providers outlined above is based on the assumption of 100 per cent compliance. This assumption is recommended in the impact assessment toolkit contained within the Better Regulation Framework Manual (p. 70).³¹
101. Any changes in inspection or enforcement activity conducted by Ofsted due to the introduction of this measure will only materialise if there is a change in actual compliance levels against the regulations. Full compliance would imply zero enforcement activity by Ofsted.
102. We outline in detail the route through which non-compliance would generate additional inspection and enforcement activity when discussing the expected costs to Ofsted below. Therefore we do not repeat that discussion here. At this stage it is not possible to forecast the number of providers who may not comply following the introduction of the new framework. However, we will test and gain insight into this over the consultation.
103. Any additional non-compliance that does occur due to the regulatory change would be accompanied with an increase in inspection activity by Ofsted. Specifically, homes have to accommodate an additional full inspection instead of an interim inspection if they receive an inadequate rating against overall effectiveness due to non-compliance with the regulations. Inspectors spend two days on site in full inspections and one day on site for interim inspections. In addition, if a home receives an inadequate rating they also have to respond to Ofsted (in writing) detailing what they have done to comply with the requirement identified.

Benefits to the private/voluntary sector providers of children's homes

104. The focus group concluded with an open discussion on aspects of the current Children's Homes Regulations 2001 (as amended) that the representatives believed could be streamlined or modernised to reduce burdens.
105. This informed what we intend to consult on. We intend to consult on removing:
 - requirements on providers to hold paper rather than electronic records. This will enable providers to reduce storage space and will save them time.
 - requirements for homes to provide a telephone for children to make and receive phone calls in private so long as children are able to do this through the use of mobile phones.
106. We will use the consultation to ask a large number of providers to recommend other things that could be removed or streamlined and the focus will be on reducing unnecessary burdens on providers. We will also use the consultation to clarify the benefits that these changes will have on providers, with an aim to monetising the benefits.

³⁰ Curtis, L. (2013). Unit costs of health and social care 2013. Personal Social Services Research Unit. This is the unit cost of a home care manager and is based on salary and salary on-costs. This estimate is consistent with hourly unit cost estimates for registered manager's given through informal conversations with children's homes providers (a range from £20 to £30 per hour).

³¹ <https://www.gov.uk/government/publications/better-regulation-framework-manual>

107. An additional benefit to providers associated with the changes proposed here will be the existence of a coherent regulatory framework. The new framework will have the children's homes regulations accompanied by a Guide that explains the regulations. Under the current framework, they have regulations and NMS which are not directly related. The new framework will provide greater clarity in the standards homes are required to meet.

Costs and benefits to Local Authorities

108. There are 536 local authority owned children's homes.³² We expect the cost and benefit implications for these homes to largely mirror that for private/voluntary sector homes.

109. The reason for this is that there is no statistically significant link between local authority (LA) or private/voluntary ownership and Ofsted ratings.³³ This implies that there are no overall differences across the sectors in current levels of home quality. As such, there are no reasons to expect differences in the resource impact across the sectors associated with the new regulatory framework.

110. The only draft requirement identified by the focus group as potentially varying across the sectors related to ensuring appropriate education or training support for residents of the home that are excluded from school or absent. For this, a potentially closer connection with local authority education services was suggested for local authority run homes. We will test this over the course of the consultation. A closer connection with other local services would imply a relatively lower staff resource for local authority owned homes for this requirement.

111. As above, we can derive an indicative monetised impact on **staff training** cost analogous to the approach used for private or voluntary sector owned homes. Namely, we assume that 16 percent of local authority run homes will face no staff training impact. This implies that 450 local authority owned homes will be affected. We also assume that the cost per affected home is £1,200 per year. This implies a total cost of £540,000 to local authority owned homes. This is a highly indicative estimate and is derived for the purpose of enabling stakeholders to challenge the assumptions behind the estimate. We leave the impacts leading to additional **staff resource** or additional **expenditure** on services or activities for the children un-monetised at this stage.

112. The **transitional costs** to local authority providers are also monetised analogously. We assume eight hours of manager time per home to familiarise themselves with the revised framework, review the activities and actions conducted by their setting, to decide whether any changes are needed, and then to communicate this to staff. The hourly value of manager time is estimated as £26.49 (2012/13 prices). This gives a total transitional cost of £113,588 (2012/13 prices) to local authority owned homes.

Costs to Ofsted

113. Ofsted are the regulatory authority for children's social care services. They produce inspection and compliance frameworks that are tied to the regulatory framework set by the Department for Education.³⁴ In addition, they inspect providers, and, where necessary, take action to enforce compliance with the relevant regulations.

114. We identified the time required by Ofsted to update their social care compliance handbook, framework for inspection, and evaluation schedule and grade descriptors for inspections as a potential cost due to the regulatory changes. However, Ofsted have noted that they originally intended to update their framework for inspection, evaluation schedule and grade descriptors for inspections in April 2014. They delayed this decision due to the forthcoming changes proposed here and now intend to produce an update in April 2015. Given this, there are no additional costs associated with this activity. Ofsted have

³² These figures refer to the 31st March 2013.

<http://www.ofsted.gov.uk/resources/official-statistics-childrens-social-care-providers-and-places>

³³ <https://www.gov.uk/government/publications/childrens-homes-data-pack>

³⁴ <http://www.ofsted.gov.uk/resources/inspections-of-childrens-homes-evaluation-schedule-and-grade-descriptors-april-2014>;

<http://www.ofsted.gov.uk/resources/inspection-of-childrens-homes-framework-for-inspection-april-2014>;

<http://www.ofsted.gov.uk/resources/social-care-compliance-handbook>

indicated that they **may** update their social care compliance handbook due to the changes. However, this is dependent on the detail of the full and final package of regulatory reform. We will be better able to assess whether such an update is likely to take place after the consultation.

115. There will be an increase in Ofsted **inspection** activity **if** there is an increase in inadequate ratings in overall effectiveness in full inspections following the introduction of the new regulatory framework. If a children's home is rated as inadequate then Ofsted inspectors return to complete a further full inspection of the home rather than an interim inspection.³⁵ Full inspections are more resource intensive to Ofsted (four days full tariff with two days on site as opposed to two days full tariff with one day on site). If Ofsted continue to find inadequacy in a home following the further full inspection then they may continue with additional monitoring visits. This would be associated with additional resource.
116. It is difficult to forecast whether there will be an increase in inadequate ratings as it depends on how homes respond to the introduction of the standards. We expect that homes currently rated as good or outstanding are less likely to be judged as inadequate following the introduction. This is due to the current quality of their provision and our expectations around their ability to adapt to satisfy the new requirements. 16 percent of current homes are rated as outstanding and 56 percent are rated as good.³⁶
117. We predict that any additional inspection activity that may occur will most likely relate to a **proportion** of the homes currently rated as adequate. 24 percent of current homes fall into this category. There are a total of 2,050 children's homes (1,514 private/voluntary and 536 local authority owned).³⁷ This implies that a maximum of 492 homes may be subject to increased inspection activity. Homes currently rated as inadequate will not face any additional inspection activity due to the measure.
118. We emphasise that this potential impact would be transitional. A primary purpose of the Ofsted inspection regime is to advise providers how to improve their service. For example, following an inadequate rating, Ofsted inspectors detail the requirements in the regulations that the home have not met. Inspectors may also make additional recommendations to help the home improve the quality of their care further.³⁸ Given this, it is likely that any initial increase in inspection activity will serve the purpose of improving standards. This will reduce the level of resources required for inspection activity further into the future.
119. Forecasting any short run changes in **enforcement** activity is more speculative. Ofsted only take enforcement action against homes if there is a significant incident or concern relating to child welfare at the home or where the home continues to fail to comply with a requirement set out by inspectors following an inadequate rating. Additional enforcement action will therefore only occur **if** there is an increase in inadequate ratings in inspections **and if** providers do not comply with requirements attached to these inspections.
120. We plan to use the consultation to gain more insight into provider's views of likely compliance both in the long and short run. For reasons outlined above, this will only be possible by sighting providers on the exact wording of the standards and Guide to the regulations and quality standards. If additional non-compliance is expected we will use the information collected to derive the costs to Ofsted (and providers) associated with the additional inspection and enforcement activity.
121. Finally, there will be a **transitional** cost to Ofsted social care inspectors and their managers relating to familiarisation with the new regulatory framework. Ofsted have indicated that these staff members are likely to require up to four days of training. Ofsted have also indicated that other members of staff such as compliance officers and administrators may also require training. We will place a value on this activity in the final stage impact assessment.

³⁵ <http://www.ofsted.gov.uk/resources/inspection-of-childrens-homes-framework-for-inspection-april-2014>

³⁶ This is based on full inspection ratings between 1 April 2012 and 31 March 2013. This is the most recent full financial year of inspection outcomes published.

<http://www.ofsted.gov.uk/resources/official-statistics-childrens-social-care-inspections-and-outcomes>

³⁷ These figures refer to the 31st March 2013.

<http://www.ofsted.gov.uk/resources/official-statistics-childrens-social-care-providers-and-places>

³⁸ <http://www.ofsted.gov.uk/resources/inspection-of-childrens-homes-framework-for-inspection-april-2014>

Benefits to the children and young people accommodated in children's homes

122. The most substantial and important impact of these changes are to the welfare of children and young people accommodated in children's homes. These children are some of the most vulnerable in our society with much poorer outcomes than their peers.
123. As an illustration, nationally collected data shows that approximately 37 per cent of looked after children achieve 5+ A* - C GCSEs and equivalents at key stage 4. This compares to approximately 80 per cent for non-looked after children. 68 per cent of looked after children have a special educational need and 6 percent of looked after children aged 10 to 17 had been convicted or subject to a final warning or reprimand during the year ending 31 March 2013.³⁹
124. A recent report by Roger Morgan, the Children's Rights Director for England, also reveals concerning outcomes based on the opinions of 276 children living in homes.⁴⁰ For example, 25 per cent of them report not 'being well or very well protected from abuse.' Forty two percent reported they were bullied and twenty percent reported they were victims of discrimination.
125. These reforms will require homes to provide higher quality care that is more focused on children's outcomes. Homes will be required to offer care that is tailored to each child's individual needs. They will be required to focus more on supporting children to fulfil their potential and achieve positive outcomes. Outcomes include children's health and well-being, educational achievement and ability to develop developing positive relationships and behaviours.
126. Some children in excellent homes already benefit from such provision. These changes will ensure that all homes are required to provide high quality care and so more children will benefit.

G. Evidence that justify the level of analysis used in the IA

127. We engaged in a day long focus group with sector experts to identify and attempt to quantify and monetise the resource implications of the changes. The output of this session enabled the identification of the draft requirements with resource implication, but did not enable full robust monetisation. There are two reasons for this.
128. First, the quality standards do not prescribe the specific activities (and level of activity) a provider would have to undertake to comply with the regulations. Evidence from the focus group made it clear that the exact wording of the standards and the draft Guide to the regulations and quality standards (which will replace the National Minimum Standards) would be needed before a provider would be able to accurately assess the resource impact. As the consultation will be used to finalise the draft wording of the quality standards and draft Guide, it is not possible to derive a robust cost estimate until after the consultation.
129. Second, the cost impact will vary across homes due to current variation in home quality and variation in the individual circumstances of homes. This implies that gathering views of a wide range of homes (as opposed to a group of provider representatives) will be necessary to monetise impact.
130. All the required data is not readily available to accurately monetise the cost impact of this measure. Rather, the only viable route is to derive estimates via a detailed cost based questionnaire sent to providers and via questions posed in the consultation document itself.
131. Utilising a questionnaire sent to a range of providers at this stage would be highly burdensome on providers and would deliver highly uncertain cost impacts. The focus group made it clear that providers will require the finalised draft quality standards and Guide to make a reasonably well informed judgement on the cost impact. Given this, we propose to adopt this approach to inform the final stage

³⁹ These estimates refer to children who have been continuously looked after for at least 12 months at 31 March 2013. Estimates are not currently available for children who have been looked after exclusively within children's homes.
<https://www.gov.uk/government/publications/outcomes-for-children-looked-after-by-las-in-england>

⁴⁰ <http://www.ofsted.gov.uk/resources/childrens-care-monitor-201314>

impact assessment rather than adopting it both pre- and post-consultation. The questionnaire will present the requirements with cost impact (as identified by the focus group) and will also give more detail on the type of activities that would be required to satisfy the requirements.

132. Within this appraisal we have inserted a number of assumptions which we will test over the course of the consultation. We have indicatively monetised the additional cost of staff training and the transitional costs associated with familiarisation. Feedback on the assumptions adopted to do this will also be used to inform the final stage impact assessment.

H. Risks and Assumptions

133. In monetising future costs we have assumed that the number of children's homes in the future remain at current levels. This assumption has been informed by evidence of provision levels over the past three years. There were a total of 2,092, 2,090, and 2,050 homes at March 2011, March 2012, and March 2013, respectively. The number of private and voluntary sector owned homes has also been stable over this period. Namely, there were 1,487, 1,523 and 1514 private and voluntary sector homes over those dates. Changes in the number of homes in the market via attrition and new entry will lead to different realised impact values. We will explore the possibility of changes in the size of the business population due to the policy proposal over the consultation in light of provider feedback.

134. In monetising costs to private and voluntary sector children's homes, we have assumed that they fully bear the resource implications of the regulation changes. It is likely, however, that a proportion of these costs will be passed back to local authorities through an increase in the fees charged by these homes. We interpret this latter effect as an indirect impact.

135. We assume that familiarisation costs for new providers into the market are the same under the intervention and do nothing option.

I. Direct costs and benefits to business (following OITO methodology)

136. This measure is in scope of OITO and is classified as an IN under the methodology. There will be direct benefits to business via a streamlining of a number of process based regulations in the Children's Homes Regulations 2001 (as amended). However, the direct costs to business in order to comply with the quality standards will be higher.

137. The costs and benefits to the private and voluntary sector providers of children's homes are summarised in table 2 below.

Table 2: Summary of costs and benefits to business

Impact	Value (2014 prices)
transitional cost associated with manager familiarisation ¹	£327,264 cost (one off)
Staff training ²	£1,526,400 cost (on going annually)
Staff resource ³	un-monetised cost at this stage
Home expenditure ³	un-monetised cost at this stage
Streamlining and modernising a number of current regulations ³	un-monetised benefit at this stage

Note:

¹ values expressed in 2014 prices using the GDP Deflator Series

<https://www.gov.uk/government/publications/gdp-deflators-at-market-prices-and-money-gdp-march-2013>

² This is an indicative estimate based on a number of assumptions. These assumptions will be tested over the consultation.

³ We will derive values for these impacts in the final stage impact assessment.

138. Over a ten year appraisal period, the business net present value is £-13.5m and the net cost to business per year (EANCB on 2009 prices) is £1.23m.

J. Small and Micro Business Assessment (SMBA)

139. A register of the employment level of each children's home provider does not exist. We have, however, been able to estimate the number of small and micro businesses affected via assumptions derived from research and new analysis of unpublished provider level data.
140. Emerging findings from a census of children's homes indicates that an average of three members of staff per place in a children's home is a reasonable assumption. Using this assumption, we can use unpublished Ofsted data showing the owner of each private or voluntary sector home and the registered number of places at each home to estimate the number of employees of each provider.
141. There are 1,514 children's homes owned by the private or voluntary sector and 449 providers of these homes.⁴¹ We estimate that 344 of these providers are small businesses (employing up to 49 FTE employees). 56 of these providers would be classed as micro-businesses (employing up to 10 employees).
142. These estimates are an upper bound as a proportion of these providers offer more than residential care for children as a key service. For example, some also deliver outreach services. This implies that their employment levels are likely to be higher than we have estimated. We will explore this in more detail over the course of the consultation and refine our estimate downwards.
143. Small and micro businesses cannot be exempt from the measure proposed here.
144. First, a large part of the intended benefit of the measure cannot be achieved without including them. Small businesses are estimated to own 589 children's homes. This is approximately 40 per cent of all the private and voluntary sector homes in the market.
145. Second, this measure looks to revise the children's homes regulatory framework as a whole. Full exemption would imply the existence and operation of two different regulatory frameworks for two different sections of the private and voluntary sector. This is not feasible in practice. It would also arguably be non-equitable and immoral to have a system where only a proportion of providers are required to focus on improving the outcomes of the children they care for.
146. Options for mitigating the burdens on small and micro business will be explored with Ofsted and these providers over the consultation. While small and micro businesses cannot be offered full or partial exemption, more support could be offered to these businesses prior to implementation to help them understand what compliance looks like and what activities they will have to engage in. This activity would reduce uncertainty for these providers and will potentially help them to implement any required changes more cost effectively.

K. Description of implementation plan

147. We plan to consult by late August 2014 with a view to the final regulations being laid by late February 2015. We intend to bring the regulations into force for April 2015 to fit with Ofsted's inspection cycle.

⁴¹ These figures refer to the 31st March 2013.

<http://www.ofsted.gov.uk/resources/official-statistics-childrens-social-care-providers-and-places>

L. Annex

148. Table 3 below records draft requirements with a potential resource implication to the providers of children's homes. It also identifies factors which will influence the size of the resource costs. The most obvious factor is existing home quality. This is not listed in the table as it applies to all of the identified requirements.
149. There are three broad potential 'types' of resource impact and these are highlighted in the table. **Staff training** refers to delivery of on or off site training to improve the skills and capability of staff. **Staff resource** refers to time spent by staff either directly engaging in activities to support the children in the home and also time spent by staff seeking and securing services delivered by other agencies on behalf of the children. **Expenditure** refers to additional expenditure on services or activities for the children or on the infrastructure of the home itself.

Table 3: Description of potential resource impacts of the new quality standards

Draft underpinning requirement with a potential resource impact	Potential type of impact identified and factors influencing the size of the effect
Each child is supported by staff to achieve their educational or training goals, as recorded in their care or placement plan (personal education plan). Each child regularly attends education or training provision and has access to a range of resources to support their learning.	<ul style="list-style-type: none"> - Potential additional staff resource to support children to use learning resources. - Potential additional staff resource to support education or training goals and/or staff training dependent on the scope of support required. - Potential additional expenditure on resources and equipment if needed to secure adequate access.
Any child excluded from school, or not in school and of compulsory school-age, is supported by staff to return to full time education as quickly as possible and to access appropriate educational or training support throughout the time that they are excluded.	<ul style="list-style-type: none"> - LAs currently have duties to arrange suitable full-time education for a child permanently excluded from school. This implies that the additional resource effect may differ across homes in different areas depending on how well their LA fulfils this duty. - Potential additional staff resource in seeking LA education support. Potential staff training on steps to follow and to support children excluded for five days or fewer to engage in educational or training activities set by their education provider. - LA owned homes may have closer contacts in education therefore lower additional cost impact for them.
Each child is supported by staff to participate in activities that meet and expand their individual preferences and interests.	<ul style="list-style-type: none"> -Depends on what the preferences and interests of the children are. May necessitate additional expenditure (via the home's budget for external activities) or additional staff resource in supporting children as they participate in activities.
The home seeks to enable each child to access NHS secondary health care services including CAMHS and sexual health services where appropriate.	<ul style="list-style-type: none"> -Potential additional staff resource in seeking CAMHS and sexual health services access.
Staff understand how children's previous experiences and present emotions can be communicated through behaviour and have the skills and competence to interpret these and develop positive relationships with children.	<ul style="list-style-type: none"> -Potential additional staff training.
Everyone in the home understands that bullying by or of any adult or child in the home is unacceptable. Staff are trained to recognise any indications or incidents of bullying and deal with them proactively and positively.	<ul style="list-style-type: none"> -Potential additional staff training.
Each child is effectively protected by staff who have been trained in and demonstrate safe care practice and knowledge, skills and competences that meet the needs of each child, including how to support their safety when they are outside the home. Every member of staff understands their individual roles and responsibilities to protect children, including what action to take whenever there is a serious event.	<ul style="list-style-type: none"> -Potential additional staff training due to the requirement of understanding the needs of each individual child.
The registered person and others with management responsibilities have training, qualifications, knowledge and experience relevant to vulnerable children which enables them to deliver evidence based practice in the management of the home and the leadership of care.	<ul style="list-style-type: none"> -Potential additional staff training for managers.
Each child can access all areas of the home and any limitations to this are designed to safeguard children's welfare.	<ul style="list-style-type: none"> -Potential additional expenditure via infrastructure spend on home reconfiguration. -Will vary across homes though depending on current layouts.
The home has arrangements for the maintenance, keeping and confidential storage of records. Each child, and their parents, is informed about the purpose of record keeping and children are supported to access their files and contribute to their records.	<ul style="list-style-type: none"> -Potential additional staff training. Online resources are available for this type of training.
Staff develop and maintain effective partnership working with all relevant agencies and establishments involved in the care and protection of children in their area. If another agency's or establishment's response is inadequate, in the context of their expected role, the home proactively challenges them to seek to ensure each child's needs are met in line with the child's care plan.	<ul style="list-style-type: none"> -Potential additional staff resource in engaging with relevant other agencies.
Each child receives personalised care that meets their individual needs as recorded in their placement plan and that takes account of their individual characteristics and background. This includes, where appropriate, promoting children's recovery from abuse or neglect.	<ul style="list-style-type: none"> -Potential additional staff training.
The home explains in a manner appropriate to each child the process of making representations or complaining about their care. The home demonstrates how it responds to and acts upon complaints. This includes having a process in place to enable children to access to advocacy support to ensure that their voice is listened to in any matter concerned with their care.	<ul style="list-style-type: none"> -Potential additional staff resource in seeking and securing access to advocacy services for homes currently without this process in place. -Potential additional expenditure for an advocacy service if one is not currently in place. One attendee noted £3,000 per home. However, this would be only where a home cares for non-looked after children. Looked after children already have the right to an advocate under statutory guidance for local authorities.