**The Use of ‘Unregistered’ Placements to Provide Care for Children and Young People with the Most Complex Emotional and Behavioural Needs: A National Survey of Regional Forensic Child and Adolescent Mental Health Teams (FCAMHS)**

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**Introduction**

This study was instigated by a senior clinician in an FCAMHS team with experience of visiting children and young people[[1]](#footnote-1) in ‘unregistered’ placements. Following one such recent visit, the clinician felt powerless to influence the situation within the placement which was considered grossly inadequate in terms of meeting the young person’s needs and providing them with safe and supportive care. Even following escalation of such concerns on general and safeguarding grounds with senior local authority colleagues and those in the wider professional network involved with the young person’s care, it became clear that although such concerns were recognised (including within the family court responsible for making an order restricting liberty) all concerned felt powerless to implement change.

It has long been recognised that there is a group of young people with the most complex emotional and behavioural needs who present particular challenges to those seeking to assess need and provide meaningful support and safe environments for them (Bullock et al (1998 (2022)), NSPCC (2014)). Such young people thus require enhanced consideration in terms of their mental health, social, educational and other needs and this needs to be understood at policy and strategic levels as well as in clinical or day-to-day practice.

In recent years there has rightly been increasing emphasis on the recognition and oversight of restrictive practice in a range of secure and non-secure residential settings for young people (e.g. Welsh Government (2022)). This has led, in addition to the use of secure accommodation orders (Children Act (1989), to the increased involvement of the High Court under ‘inherent jurisdiction’ in determining the need for, and oversight of, Deprivation of Liberty (DoL) orders for young people in residential settings other than those specifically designated as ‘secure’ in terms of the level of physical and relational security that they provide (Roe et al, 2022).

Regional Community FCAMHS teams now cover the whole of England. They exist to provide specialist advice and support to all services working with young people in relation to concern about high-risk behaviours towards others and/or involvement with the youth justice system (Hindley et al, 2017). A number of studies have shown that this group of young people have high rates of emotional, mental health and neurodevelopmental difficulties (Chitsabesan et al (2006), Hughes et al (2012), James and McCann (1996), Meltzer et al (2003)). In addition, in many cases, there has frequently been exposure to: adversity and traumatic experience; familial socioeconomic deprivation, mental health and substance misuse difficulties; and educational disruption (Health in Justice (2010), Ryan and Tunnard (2012), Dent et al (2013), NSPCC (2014). Meaningful engagement with such young people can be particularly difficult to establish and requires particularly experienced, coherent and consistent support from those supporting them in residential settings. FCAMHS thus are frequently involved with the most difficult and complex young people in their regional catchments and thus seem well-placed to provide a national snapshot of their experience of ‘unregistered’ placements and the extent to which there was any national consistency or variation in their use and ability to meet need.

There have been recent concerns within FCAMHS teams nationally that significant numbers of the young people with whom they come into contact are increasingly being placed on their own in residential settings where they are receiving care (sometimes including restrictions authorised by a judicial DoL order) without such placements being registered with, and therefore not overseen by an inspection body such as the Office for Standards in Education, Children’s Services and Skills (Ofsted). Such placements are frequently ‘pop-up’ in nature, include staff who may not have previous experience of working with young people, particularly those with the most challenging behaviours; they may also be geographically distant from the child’s home area and therefore also from the professionals in that area who are ultimately responsible for the delivery of care and support.

Such placements are termed ‘unregistered’ because they are not subject to regulatory oversight and, in spite of the fact that they are theoretically considered unlawful, they clearly continue to be used because of the lack of alternative options. It appears that the particular group of young people who are the most difficult to manage, are being placed in ‘unregistered’ settings because of the lack of availability of places for them in settings with regulatory oversight. This may be an unintended consequence of the focus on restrictive practice by inspection regimes in young people’s residential care over recent years, together with lack of availability of places in secure children’s homes.

To investigate whether there appears to be a national pattern associated with use of ‘unregistered’ placements and whether such practice is a particular issue for young people with particularly high risk and complex presentations (that is in those known known to FCAMHS) we undertook a national survey.

**Method**

We developed a questionnaire which was to be circulated and completed by senior colleagues after discussion team members in all 13 regional FCAMHS teams in England. The questionnaire was piloted with colleagues in a FCAMHS team and also with senior colleagues in the national NHSE team with oversight of the national FCAMHS programme.

The questionnaire (see Appendix 1, page 10) sought quantitative information about:

* the FCAMHS teams’ caseloads
* the numbers of young people within caseloads who were known to be in ‘unregistered’ placements
* whether young people in ‘unregistered’ placements were subject to additional DoL restriction mandated by a family court
* whether, if placements in formal secure children’s homes were available, the child or young person’s situation would fulfil criteria for a for a secure accommodation order under Section 25 of the Children Act.
* whether any child in an ‘unregistered’ setting had been placed there following discharge from a secure children’s home because their behaviour in that environment had been considered too difficult to manage
* clinicians’ views about the complexity of presentation that ‘unregistered’ placements were being asked to deal with together with views about the ability in general of such placements to manage such presentations and provide the requisite care and general support, educational activity and attention to any emotional or mental health need

In addition, respondents were asked to make any additional comments relating to their experience of young people’s care in ‘unregistered’ settings.

Particular attention was made in the information provided with the questionnaire to ensure that accepted definitions (Ofsted (2019)) of ‘unregistered’ and ‘unregulated’ care placements (frequently confused with one another by professionals) were included:

*An ‘unregistered’ residential placement is one in which ‘care’ which is being provided on a 24 hour basis is not subject to regulatory oversight by a statutory body (Ofsted); such placements are currently frequently created in emergency/urgent circumstances when a young person (any age under 18) requires residential care and there is no availability of a ‘registered’ placement. Such placements are theoretically illegal. They are not to be confused with ‘unregulated’ placements which are those not subject to regulation because they are considered a stepping stone to independent living as part of the young person’s plan; they are usually for young people who are 16 or over and involve some degree of professional support but not continuous care*

Equally, to avoid possible confusion, respondents were also provided with a clarification regarding the use of the term ‘deprivation of liberty’ and its application when used by the family courts:

*This is an order made by a High Court Judge (by ‘inherent jurisdiction’ (Roe et al, 2022) when it is considered that a child/young person cannot be safely supported or cared for without restrictive measures; such orders can apply to any child under 18 and are frequently currently made when a place in secure welfare accommodation (a secure children’s home) cannot be identified or, for whatever reason, when a ‘Secure Accommodation Order‘ (section 25 Children Act) cannot be made. Such orders should not be confused with DoL restrictions made under the Mental Capacity Act (2005).*

**Results**

1. *Response rates*

Completed questionnaires were returned by all 13 FCAMHS teams in England (100% response rate). The information provided related to a snapshot of FCAMHS caseloads in September and October 2022. All responding teams completed all questions within the questionnaire. 13 teams provided general judgements about young people’s needs and 11 about the ability of ‘‘unregistered’ placements’ to meet them. 11 teams also provided additional comments regarding their views and experience of ‘‘unregistered’ placements’ for young people on their caseloads.

1. *Caseload size*

|  |  |  |
| --- | --- | --- |
| National total (n=) | Individual team caseloads (range, n=) | Average team caseload (n=) |
| 1190 | 27-157 | 92 |

1. *Numbers of young people in ‘unregistered’ placements*

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  | N= | Range (N=) | % of caseloads (range, %) | Average (%) |
| **National total** | **61** | **0-11** | **0–14.99** | **4.7** |
| North teams | 11 | 2-5 | 1.8-7.9 | 5.0 |
| Midlands and East teams | 20 | 3-11 | 3.4-9.7 | 5.9 |
| London teams | 13 | 1-10 | `1.6-15 | 8.2 |
| South teams | 17 | 0-9 | 0-7.4 | 5.6 |

1. *Characteristics of young people in ‘unregistered’ placements*

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| National total (N=) | Single person placement (N=/%) | DoL Order in place (N=/%) | Meets criteria for s25 (SAO) but place not available (N=/%) | Previous placement in secure children’s home terminated (N=/%) prior to current ‘unregistered’ placement |
| 61 | 52(85.2) | 30(49.2) | 22 (36.1) | 10 (16.4) |

1. *Qualitative responses*
2. Question 7: Could you rate your team’s view, in terms of general, relative case complexity within your caseload the complexity of the cases of young people in such ‘unregistered’ settings? (0=Straightforward, 10= highly complex – please provide **an overall group rating; not** individual ratings for each child)
3. Question 8: Could you rate your team’s view of the level of care which unregulated placements are **in general** able to provide (in terms of meeting a young person’s specific mental health, social, education and supervisory needs) (0=unable to meet needs in all aspects, 10= able to meet need in all aspects)

|  |  |  |
| --- | --- | --- |
|  | **Question 7: perceived level of young person’s need** **(0=Straightforward, 10= highly complex** | **Question 8: ability of placement to meet perceived need****(0=unable to meet needs in all aspects, 10= able to meet need in all aspects)** |
| Responses (N/13) | 13 | 11\* |
| Range of scores | 8-10 | 2.5-5 |
| **Mean score** | **8.8** | **3.4** |

\* one team did not offer an opinion; a second team did not offer a general view in this section

1. Unstructured additional comments provided by individual teams

These contributions were offered by teams across England on the basis of their general experience of ‘unregistered’ placements.

**Positive outcomes for young people**

* Four teams reported positive outcomes for 4 young people but of these 3 cited single cases where this had occurred as an exceptional outcome in the light of their more general negative experiences in such circumstances. The team reporting the fourth case did not report a general view of outcomes in ‘unregistered’ settings
* Of the latter, 3 teams commented that a successful outcome was influenced because of the ‘positive attitudes’ of the staff team towards the young person and professionals working with them; there was also mention of ‘provision of activities’ and ‘social skills’ support being available.

**Concerns about young people’s situation**

Expressions of concern far outweighed positive reports.

Numerous FCAMHS teams reported the following themes:

* placements were frequently away from a young person’s’s home area and sometimes changed location on more than one occasion
* major concerns that residential staff were frequently unqualified and had little experience of working with children and young people, had little or no regular supervision and as a result:
	+ did not understand the young person’s needs with poor responses to challenging behaviour and self-harm and a tendency to over-reliance on physical restraint
	+ struggled with the imposition of boundaries and adopting developmentally appropriate approaches – this reinforced negative cycles of behaviour in the young person
	+ relied overly on numbers of adult carers (up to 5 for a single young person) as a means of physical containment
* placements which initially had been intended as short-term crisis measures (often because of previous sudden placement breakdown) lasted for several months with associated uncertainty in terms of longer-term planning for all concerned; lack of availability of other more suitable placements led to greater emphasis on restrictive practice, absence of a coherent and meaningful plan and subsequent unhelpful disagreement between agencies
* concerns that placements frequently minimised adverse incidents, were inconsistent in their communication with social workers and others involved in a young person’s care and support

**Other concerns**

These included:

* prohibitive cost of such placements in spite of not being able to meet need
* difficulties with establishing meaningful educational support and provision for young people in such circumstances
* unsuitability of physical environments (often rented housing accommodation) and concerns about poor hygiene and dietary arrangements within them
* one team reported that, in addition to 5 care workers supervising one young person in a 3 bedroom semi-detached rented house 2 security staff were also engaged to prevent recurrent absconding and assaults on care staff
* the possibility of unsanctioned restrictive practice

**Discussion**

It is accepted that this study provides a snapshot of a specific population of young people who may need to be considered for ‘unregistered’ placements and that its results would need to be considered with other available information regarding children in such settings. The numbers discussed in this study will be an underestimate of the total numbers of young people in unregistered placements as there will clearly be other children and young people in such settings whose presentations do not bring them into contact with regional community FCAMHS. Nevertheless, information of the kind that the survey provides (ie with high response rates from highly experienced teams) can frequently be difficult to collect particularly in situations where there are high levels of systemic complexity and demands on professionals.

This study provided information about the situation of 1190 young people known to FCAMHS teams. Its results highlight the following:

* 61 (4.9%) were in ‘unregistered’ placements; although there was some variation between individual teams in terms of proportion of young people in such settings (0-15%) this was much less pronounced when data was collated in terms of 4 national regions (5-8%); the highest level of ‘unregistered’ placements was reported by a London team (15%) and London also registered the highest regional numbers of young people in such settings (8%)
* high proportions of young people were in single-person placements (85%) and almost half (49%) were subject to judicially sanctioned DoL orders allowing specific areas of restrictive practice
* significant proportions of young people (34%) in ‘unregistered’ placements were considered by FCAMHS teams to be eligible for a place in a secure children’s home under a Secure Accommodation Order (S25, Children Act) were such a place available;
* almost a fifth of young people (16%) in ‘unregistered’ settings had experienced termination of a placement in a secure children’s home ‘because they were considered too disruptive or too difficult to care for’
* ratings of the level of need of young people placed in ‘unregistered’ settings were consistently high (range 8-10/10; mean 8.8) whilst similar ratings of such placements being able to meet ‘a young person’s specific mental health, social, education and supervisory needs’ was very low (2.5-5/10; mean 3.4)
* some individual instances (n=4; 6.6%) were reported where there had been a positive outcome for a young person in an ‘unregistered’ placement but these were clearly in a very significant minority

In summary, there are clearly significant numbers of the most hard-to-care for children being placed in ‘unregistered’ residential placements (which are theoretically considered unlawful) where the levels of care being provided are considered highly inadequate in terms of safety and ability to meet need. Very high proportions of young people (85%) were being cared for in single-person settings without contact with peers and, whilst such provision may be required on a short-term basis in some cases, such circumstances should be considered exceptional and developmentally highly undesirable in the longer term (particularly since education, if provided in such settings, is usually delivered virtually or via 1;1 tuition within the placement itself). In addition, in almost half of such settings, staff who have frequently little experience of providing care are being asked to oversee restrictive practice as authorised by the family courts.

In this sample of high risk, high concern young people a third of those in ‘unregistered’ settings were considered likely to be eligible for purpose-built secure children’s homes under formal Children Act statutory provision with close regulatory oversight and regular formal review of the need for such provision to continue. Such settings also have more experienced residential staff, clear safeguarding process, formal on-site education provision and access to mental health and other physical health services. (There is no suggestion that such settings would be appropriate for all young people and two thirds of those in this study (66%) would normally require high levels of care and support in non-secure regulated settings). One particularly concerning issue to arise from this study was that there were significant numbers (16%) of children in ‘unregistered’ settings because their placement in a secure children’s home had been terminated; this was not because secure provision was no longer considered necessary but because their behaviours were considered too challenging or disruptive for the very settings designed to meet their needs.

Young people with the most challenging behaviours and complex needs require consistent and safe care and support in environments which are physically and relationally able to provide this (Rose (2014). (Interestingly, the only ‘unregistered’ settings in this study able to provide positive outcomes were those in which this kind of support was reportedly available).This is not to suggest that all such children require a formal secure setting but it would seem clear that greater rather than no regulatory oversight, enhanced staffing skills and experience together with the capacity to manage situations in a developmentally appropriate way should be evident if additional restrictive measures are to be put in place to manage concerns about the young person’s well-being or that of others.

This study reinforces the impression of many experienced professionals in a range of different agencies (health, social care, education, youth justice and the family courts) that the current situation represents an unintended consequence of range of differing influences which may include:

* reluctance of non-secure regulated residential placements to accept young people who may be particularly disruptive for fear of affecting their rating by a regulatory body
* the reluctance of secure children’s homes to accept children who most need to be placed with them, or their difficulty with managing particularly disruptive young people (in spite of relatively low levels of bed occupancy nationally (66% for the year 2022 (Department for Education, 2023))

Thus it is that social work teams, health professionals, education providers and the courts, in spite of all being aware of the unsuitability of many ‘unregistered’ placements, are obliged to continue to make use of such settings in the absence of any available alternative.

The issue highlighted in this study is one which at the time of data collection appeared to have been largely hidden from general awareness and the author contends that if the situation of young people in such situations were brought to greater public awareness there would be considerable concern. The process of finalising this paper has coincided unknowingly with the publication of a judgement by Sir Andrew Macfarlane (President of the Family Division) longstanding lead for family court judges in England and Wales (Re X (Secure Accommodation: Lack of Provision (2023)). The judgement highlights similar levels of concern about the lack of clearly coordinated provision and process in relation the meeting of the needs of the most challenging young people and cites several cases which have come to the attention of the courts and for which proposals to address need have been considered highly unsatisfactory by all parties. Sir Andrew focuses particularly on the lack of national coordination of secure children’s home provision for children on welfare grounds and in the course of his consideration of the issue received assurances from the Secretary of State for Education in relation to this.

The findings of this study describe the perception of the current situation from the point of view of experienced clinical teams working ‘on the ground’ with young people in the most complex situations. Whilst the findings come from a different perspective to those voiced by the judiciary, the substantive message is strikingly similar and would thus seem to add credibility and further inform understanding of the situation. It is hoped that this study will help raise awareness of the level of professional concern that exists in relation to the use of ‘unregistered’ placements for the most challenging children and young people. Any improvement to the current situation is likely to require a broad systemic approach involving senior professionals across agencies (including the courts) rather than specific adjustments in individual areas such as secure children’s homes alone; such an approach is likely to need to extend to collaborative thinking at a governmental level particularly between departments responsible for health, social care and education.

Whilst it may be said that it is not for professionals principally involved with addressing ‘mental health need’ to be commenting on what has traditionally been regarded as a ‘social care’ issue, it has been the experience of highly specialist FCAMHS teams that specific mental health treatments and interventions can be difficult to put in place in the absence of close attention to a child or young person’s more basic and pressing needs such as consistency, safety, prosocial relationships and education. Indeed, in line with Maslow’s hierarchy of need (Maslow, 1943), such day-to-day considerations frequently prove to be the necessary ‘mental health’ intervention for a distressed young person. The results of this study suggest that for young people in the great majority of ‘unregistered’ placements such day-to day needs are not considered to be being meaningfully addressed.

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**Appendix: 1**

**National FCAMHS Survey re Children in ‘unregistered’ Care Placements**

**Name of FCAMHS team:**

**Clinical Lead:**

**(Response to be completed by FCAMHS Clinical Lead in Consultation with Team)**

|  |  |
| --- | --- |
| 1. How many children/young people are currently on your FCAMHS team’s caseload (whether for advice, consultation or direct input)? |  |
| 2. Of those children how many are currently placed in ‘unregistered’\* residential placements? |  |
| 3. Of the ‘unregistered’ placements, how many are for a single young person? |  |
| 4. How many of the young people in ‘unregistered’ placements are subject to a Deprivation of Liberty Order\*\* made by a judge to allow restrictive practice? |  |
| 5. Of the young people who are in ‘unregistered’ placements and subject to DoL orders\*\*, how many would be eligible for a ‘secure accommodation order’ (S25 Children Act) if a place were available? |  |
| 6. Have any of the children currently in an ‘unregistered’ placement been ‘given notice’ in the last year by a secure children’s home because they were considered too disruptive or too difficult to care for? |  |
| 7. Could you rate your team’s view, in terms of general, relative case complexity within your caseload the complexity of the cases of children in such ‘unregistered’ settings? (0=Straightforward, 10= highly complex – please provide **an overall group rating; not** individual ratings for each child) |  |
| 8. Could you rate your team’s view of the level of care which unregulated placements are in general able to provide (in terms of meeting a child’s specific mental health, social, education and supervisory needs) (0=unable to meet needs in all aspects, 10= able to meet need in all aspects) |  |
| 9. Please add here any comments you and your team would like to add about your views or experience of this issue: |  |

\*an ‘unregistered’ residential placement is one in which ‘care’ which is being provided on a 24 hour basis is not subject to regulatory oversight by a statutory body (Ofsted); such placements are currently frequently created in emergency/urgent circumstances when a young person (any age under 18) requires residential care and there is no availability of a ‘registered’ placement. Such placements are theoretically illegal. They are not to be confused with ‘unregulated’ placements which are those not subject to regulation because they are considered a stepping stone to independent living as part of the young person’s plan; they are usually for children who are 16 or over and involve some degree of professional support but not continuous care

\*\*this is an order made by a High Court Judge (by ‘inherent jurisdiction’) when it is considered that a child/young person cannot be safely supported or cared for without restrictive measures; such orders can apply to any child under 18 and are frequently currently made when a place in secure welfare accommodation (a secure children’s home) cannot be identified and a ‘Secure Accommodation Order‘ (section 25 Children Act cannot be made). Such orders should not be confused with DoL restrictions made under the Mental Capacity Act.

1. The term ‘young people’ will be used to designate ‘children and young people’ under 18 throughout this paper [↑](#footnote-ref-1)